Government of Newfoundland and Labrador
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Pension Benefit Standards Division

DIRECTIVE NO. 17

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Locked-in Retirement Income Fund Requirements

1. In this Directive:

(a) "Act" means the Newfoundland and Labrador *Pension Benefits Act, 1997*;

(b) "financial institution" means the savings institution or insurance company providing a LRIF;

(c) "fiscal year" means a fiscal year of the LRIF;

(d) "Income Tax Act" means the *Income Tax Act* (Canada);

(e) "LRIF" means a registered retirement income fund established in accordance with the Income Tax Act that is locked-in in accordance with the Regulations and meets the conditions set out in this Directive, known as a Locked-in Retirement Income Fund;

(f) "life annuity contract" means an arrangement made to purchase, through a person authorized under the laws of Canada or a province to sell annuities as defined in the Income Tax Act, a non-commutable pension, in accordance with Directive No. 6, that will not commence before that person attains the age of 55 years, or if that person provides evidence to the satisfaction of the financial institution that the plan or any of the plans from which the money was transferred provided for payment of the pension at an earlier age, that earlier age;

(g) "list" means the appropriate list of retirement savings arrangements established and maintained under section 18 of the Regulations;

(h) "owner" means the member or former member of a pension plan who has made a transfer pursuant to section 40 of the Act to a LRIF and, unless otherwise stated, includes the principal beneficiary or former principal beneficiary of the member or former member if the principal beneficiary or former principal beneficiary is entitled to a pension benefit as a result of the death of the member or former member or as a result of marriage breakdown;

(i) "principal beneficiary" means the spouse of a member or former member, or where the member or former member has a cohabiting partner, the member or former member's cohabiting partner, as defined in the Act;

(j) "Regulations" means the *Pension Benefits Act Regulations* under the Act;

(k) "YMPE" means the Year's Maximum Pensionable Earnings under the Canada Pension Plan for a specified calendar year.

2. A financial institution must file with the Superintendent a specimen certified copy of a LRIF and any amendments for review and approval.

3. The Superintendent will maintain a list of financial institutions approved by the Superintendent as offering acceptable LRIF products.

4. The conditions on which a transfer of locked-in money to a LRIF under section 40 of the Act and any subsequent transfer to a financial institution of money so transferred are to be made as set out in this Directive.

5. A LRIF may be purchased with respect to an entitlement to a pension under a pension plan by:

(a) a member or former member of the pension plan who has obtained the written consent of his or her principal beneficiary, if any; or

(b) the principal beneficiary or former principal beneficiary of a member or former member if the principal beneficiary or former principal beneficiary is entitled to a pension benefit as a result of the death of the member or former member or as a result of marriage breakdown.

6. An administrator of a pension plan or a financial institution providing a Locked-In Retirement Account, Life Income Fund, or LRIF shall not affect a transfer to a LRIF provided by a financial institution unless the transferor has:

(a) ascertained that the transferee financial institution's name and LRIF are currently on the list of approved retirement savings arrangements; and

(b) advised the transferee financial institution in writing that, subject to Part VI of the Act, no withdrawal, commutation, or surrender of money is permitted except as otherwise provided for under this Directive.

7. The transferee financial institution under section 6 shall not permit any subsequent transfer except where:

   (a) a transfer would be permitted under the Act; and

   (b) the subsequent transferee agrees to administer the amount transferred as a pension benefit in accordance with the Act.

8. The transferee shall advise in writing any subsequent transferee that the amount transferred must be administered as a pension benefit under the Act.

Establishing the LRIF

9. A contract establishing a LRIF shall incorporate the applicable definitions set out in the Act, Regulations, and section 1 of this Directive, as necessary, and shall include the following provisions:

   (a) the name and address of the financial institution providing the LRIF;

   (b) a description of the owner's power, respecting investment of the assets in the LRIF;

   (c) a statement that the owner agrees not to assign, charge, anticipate, or give as security money payable under a LRIF except as permitted under the Act;

   (d) all contracts are subject, with any necessary modifications, to the division of pension benefits on marriage breakdown provisions in Part VI of the Act;

   (e) a description of the method for determining the value of the LRIF. This valuation method must be the one that is to be used to establish the LRIF's value upon the death of a person entitled to payment, upon the establishment of a life annuity contract or upon a transfer of assets from the LRIF;

   (f) the fiscal year of the LRIF must end on the 31st day of December and must not exceed twelve months;

   (g) the pension benefit payable to a former member who has a principal beneficiary at the date the pension commences shall be a joint and survivor pension benefit with at least 60% continuing to be payable to the survivor for life after the death of the former member unless the principal beneficiary waives the entitlement in the form and manner required by the Superintendent; and

   (h) if money is paid out contrary to the Act or this Directive, the financial institution will provide or ensure the provision of a pension benefit equal in value to the pension benefit that would have been provided had the money not been paid out.

Periodic Payments out of the LRIF

10. A LRIF specimen contract shall provide as follows:

(a) payment out of the LRIF must not begin before the earlier of age 55 or the earliest date on which the member could receive a pension benefit under the Act or the originating pension plan from which money was transferred and not later than the last day of the second fiscal year;

(b) the owner must decide the amount to be paid out of the LRIF each year, either at the beginning of the fiscal year of the LRIF or at another time agreed to by the financial institution and the decision expires at the end of the fiscal year to which it relates;

(c) if the owner does not decide the amount to be paid out of the LRIF for a year, the minimum amount determined under paragraph (h) shall be deemed to be the amount paid;

(d) the amount of income paid out of the LRIF during a fiscal year must not exceed the “maximum”, being the greater of (i), (ii), and (iii) as follows:

(i) the amount of the investment earnings, including any unrealized capital gains or losses, earned from the time the LRIF was established to the end of the most recently completed fiscal year and, with respect to any money in the contract that is derived directly from money transferred from a Life Income Fund, the amount of the investment earnings, including any unrealized capital gains or losses, earned in the Life Income Fund in the final complete fiscal year, less the sum of all income paid to the owner from the LRIF;

(ii) the amount of the investment earnings, including any unrealized capital gains or losses, of the LRIF in the immediately previous fiscal year; and

(iii) if the payment is being made in the fiscal year in which the LRIF was established or in the fiscal year immediately following its establishment, 6% of the fair market value of the LRIF at the beginning of that fiscal year.

(e) subject to paragraph (f), an owner is entitled to receive additional temporary income where:

(i) the maximum amount of income the owner is entitled to receive for the calendar year in which the application is made, calculated as “B” under paragraph (f), is less than 40% of the YMPE for the calendar year in which the application is made; and

(ii) the owner has not reached his or her 65th birthday at the beginning of the fiscal year in which the owner makes application for additional temporary income;

(f) the amount of the additional temporary income paid out of the LRIF in a fiscal year must not exceed the "maximum" using the following formula:

A – B

in which

A = 40% of the YMPE for the calendar year in which an application is made.

B = the maximum amount of income the owner is entitled to receive from all Life Income Funds, LRIFs, life annuity contracts and pension plans governed by the Act or the pension benefits legislation of a designated province, as defined in the Act, or of Canada, excluding income from a pension under the Canada Pension Plan and excluding any withdrawals due to financial hardship from a retirement savings arrangement, for the calendar year in which the application is made;

(g) An application for additional temporary income under paragraph (e) shall be:

(i) on a form approved by the Superintendent;

(ii) where the owner is a former member of a pension plan, accompanied by the written consent of the principal beneficiary of the former member; and

(iii) submitted to the financial institution at the beginning of the fiscal year of the LRIF, unless otherwise permitted by the financial institution;

(h) the amount of income paid out of the LRIF during a fiscal year must not be less than the minimum amount prescribed for registered retirement income funds under the Income Tax Act;

(i) for the initial year of the LRIF, the "maximum" in paragraphs (d) and (f) shall be adjusted in proportion to the number of months in that fiscal year divided by 12, with any part of an incomplete month counting as one month;

(j) if a part of the LRIF corresponds to amounts transferred directly or indirectly from another LRIF or a Life Income Fund of the owner during the fiscal year, the "maximum" in paragraphs (d) and (f) shall be deemed to be zero in respect of the part transferred in; and

(k) notwithstanding paragraph (j), the financial institution may allow money to be paid to the owner provided that the total amount received by the owner from all financial institutions in respect of that part transferred in during the fiscal year does not exceed the "maximum" in paragraphs (d) and (f) for that part. In this case, the financial institution must receive information, in writing, from the prior financial institution(s) which confirms the amount already paid in the fiscal year in respect of that part of the LRIF.

Transferring Assets from the LRIF

11. Except as otherwise permitted in this Directive, all money transferred, including all investment earnings, shall be used to provide a pension benefit and shall not be transferred except:

    (a) before December 31st in the year in which the owner reaches the age at which a pension benefit is required to begin under the Income Tax Act, to transfer the money to the pension fund of a registered pension plan subject to the Act or to a registered pension plan subject to the pension benefits legislation of a designated province, as defined in the Act, or of Canada;

    (b) before December 31st in the year in which the owner reaches the age at which a pension benefit is required to begin under the Income Tax Act, to transfer the money to a Locked-In Retirement Account that meets the requirements of Directive No. 4;

    (c) to purchase a life annuity contract that meets the requirements of the Superintendent;

    (d) to transfer the money to a Life Income Fund that meets the requirements of Directive No. 5; or

    (e) to transfer the money to another LRIF that meets the requirements of this Directive.

Withdrawals from the LRIF

12. Notwithstanding sections 10 and 11, the contract may provide for the withdrawal of money as a lump sum or series of payments if a medical practitioner certifies that due to mental or physical disability the life expectancy of the owner is likely to be shortened considerably, but where the owner is a former member of a pension plan such payment may only be made if the principal beneficiary of the former member has waived the joint and survivor pension entitlement in the form and manner required by the Superintendent.

13. Notwithstanding sections 10 and 11, the contract shall provide for a lump sum payment equal to the value of the entire contract on application by the owner to the financial institution for payment if, at the time the owner signs the application:

    (a) the owner has reached the earlier of age 55 or the earliest date on which the member or former member would have been entitled to receive a pension benefit under the plan from which money was transferred;

    (b) the value of all assets in all LRIFs, Life Income Funds, and Locked-In Retirement Accounts which are held by the owner and subject to the Act is less than 40% of the YMPE for the calendar year in which the application is made;

(c) within the same fiscal year, the owner has not elected to receive additional temporary income under subsection 10(e) or, where part of the LRIF corresponds to amounts transferred directly or indirectly from another LRIF or Life Income Fund, the owner has not elected to receive additional temporary income from that LRIF or Life Income Fund; and

(d) within the same calendar year, the owner has not made a withdrawal due to financial hardship under section 15 from the LRIF or, where part of the LRIF corresponds to amounts transferred directly or indirectly from a Locked-In Retirement Account, Life Income Fund, or another LRIF, the owner has not made a withdrawal due to financial hardship from the original retirement savings arrangement.

14. An application under section 13 shall be:

(a) on a form approved by the Superintendent; and

(b) where the owner is a former member of a pension plan, accompanied by a waiver of the joint and survivor pension entitlement, in the form and manner provided by the Superintendent.

Withdrawals due to Financial Hardship

15. Notwithstanding sections 10 and 11, the contract shall provide for a lump sum withdrawal due to financial hardship, subject to the following:

(a) an application for a withdrawal due to financial hardship under this section must be made directly to the financial institution providing the LRIF;

(b) the owner may apply for withdrawal due to financial hardship once within a calendar year for each category of financial hardship described in subsection 15(c)(i) in respect of each Locked-In Retirement Account, Life Income Fund, or LRIF;

(c) subject to any requirements outlined in this section, an owner is eligible to complete an application to withdraw an amount not greater than the sum of the following amounts:

(i) an amount with respect to one of the following categories:

(A) Low Income: Where the owner's expected total income for the one-year period following the date on which the application is signed, from all sources other than the withdrawal amount, is not more than 66.66% of the YMPE for the calendar year in which the application is signed, the amount determined by subtracting 75% of the expected total income from 50% of the YMPE for the calendar year in which the application for the withdrawal is signed;

(B) Medical Expenses: Where the owner is unable to pay for medical expenses incurred or to be incurred by the owner, the owner's principal beneficiary, or a dependent of either and the medical expenses are not paid by and are not subject to reimbursement from any other source, the amount required to pay these medical expenses;

(C) Disability-related Expenses: Where the owner is unable to pay for disability-related expenses incurred or to be incurred by the owner, the owner's principal beneficiary, or a dependent of either and the expenses are not paid by and are not subject to reimbursement from any other source, the amount required to pay these disability-related expenses;

(D) Mortgage Payments: Where the owner or the owner’s principal beneficiary has received a written notice in respect of a default on a mortgage that is secured against the principal residence of the owner or the owner's principal beneficiary which will result in foreclosure or power of sale if the default is not rectified, the amount required to rectify the default;

(E) Rental Arrears: Where the owner or the owner’s principal beneficiary has received a written notice in respect of arrears in the payment of rent for the principal residence of the owner or the owner’s principal beneficiary and the owner or the principal beneficiary could be evicted if the arrears remain unpaid, the amount required to pay the rental arrears; or

(F) First Month’s Rent and Security Deposit: Where the owner is unable to pay the first month's rent and the security deposit required to rent a principal residence for the owner or the owner’s principal beneficiary, the amount required to pay the first month's rent and the security deposit;

and

(ii) the amount of any applicable tax required to be withheld by the financial institution providing the LRIF.

16. An application for withdrawal under section 15 shall be:

(a) on a form approved by the Superintendent and shall include any supporting documentation required by the Regulations, which are specified on the form; and

(b) where the owner is a former member of a pension plan, accompanied by the written consent of the principal beneficiary of the former member, in the form and manner required by the Superintendent.

Withdrawals due to Non-Residency

17. Notwithstanding sections 10 and 11, the contract shall provide for a lump sum withdrawal equal to the value of the entire contract where the owner provides the financial institution providing the LRIF with:

    (a) a statutory declaration in accordance with the *Evidence Act* confirming they have resided outside Canada for at least 2 consecutive calendar years and are residing outside of Canada on the date of signing the declaration; and

    (b) where the owner is a former member of a pension plan, the written consent of the principal beneficiary of the former member, in the form and manner required by the Superintendent.

Death Benefits

18. On the death of a former member of a pension plan who has a principal beneficiary, the surviving principal beneficiary, or where there is no surviving principal beneficiary or the surviving principal beneficiary had waived entitlement in the form and manner required by the Superintendent, a designated beneficiary, or where there is no designated beneficiary, the estate of the member or former member is entitled to a lump sum payment of the full value of the contract.

19. On the death of an owner who is not a former member of a pension plan the full value of the contract shall be paid to the designated beneficiary or, where there is no designated beneficiary, to the owner's estate.

Amending the LRIF

20. Subject to section 21 the financial institution providing the LRIF shall not amend the contract except where the financial institution has given the owner of the LRIF at least ninety days' written notice and an explanation of the proposed amendment.

21. An amendment that would result in a reduction in the owner's benefits under the contract is permitted only where:

    (a) the financial institution is required by law to make the amendment; and

    (b) the owner is entitled to transfer the balance in the LRIF under the terms of the contract that existed before the amendment is made.

22. When making an amendment under section 21 the financial institution shall:

    (a) provide written notice to the owner of the LRIF of the nature of the amendment; and

    (b) allow the owner at least ninety days after the written notice is given to transfer all or part of the balance in the LRIF.

23. Notice under sections 20 and 22 shall either be sent by mail to the owner's address as set out in the records of the financial institution or, subject to receiving the authorization of the owner, be delivered to the owner by electronic means provided that the e-communication is accessible by the owner and capable of being retained to be usable for subsequent reference.

Information to be provided by the Financial Institution

24. In the contract establishing the LRIF, the financial institution must agree to provide the information described in section 25 to the person indicated.

25. At the beginning of each fiscal year, the following information must be provided to the owner:

    (a) in relation to the previous fiscal year: the sums deposited; the amount of the investment earnings, including any unrealized capital gains or losses; the payments made out of the LRIF; and the fees charged;

    (b) the value of the assets in the LRIF;

    (c) the minimum amount that must be paid out of the LRIF to the owner during the current fiscal year;

    (d) the maximum amount of income under subsection 10(d) that may be paid out of the LRIF to the owner during the current fiscal year; and

    (e) if applicable, notification that the owner may be entitled to receive additional temporary income under subsection 10(e) during the current fiscal year.

26. If the balance of the LRIF is transferred as described in section 11, the owner must be given the information described in section 25 determined as of the date of the transfer.

27. If the owner dies, the person entitled to receive the balance must be given the information described in section 25, determined as of the date of the owner's death.

28. This Directive replaces Directive No. 17 last amended January 1, 2007 and shall take effect on March 1, 2021.