

DIRECTIVE NO. 18

Issued, effective March 1, 2021, pursuant to Section 44.1 of the *Pension Benefits Act, 1997*

DATED at St. John's, Newfoundland and Labrador the 2nd day of February, 2021



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Acknowledging Potential Impacts of Unlocking due to Financial Hardship

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 locked-in retirement savings arrangement;
 - (c) “Income Tax Act” means the *Income Tax Act* (Canada);
 - (d) “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 locked-in retirement savings arrangement 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;
 - (e) “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;
2. An application for a withdrawal due to financial hardship may be made to the financial institution providing:
 - (a) a Locked-In Retirement Account in accordance with the requirements of Directive No. 4;
 - (b) a Life Income Fund in accordance with the requirements of Directive No. 5; or
 - (c) a Locked-in Retirement Income Fund in accordance with the requirements of Directive No. 17.

3. Where an owner makes an application to the financial institution for a withdrawal due to financial hardship from a retirement savings arrangement referenced under section 2, the owner shall be required to confirm in writing they have been advised of and understand the potential impacts of making the withdrawal as set out in this directive.

Potential Impacts of Withdrawing Locked-In Funds due to Financial Hardship

4. The potential impacts of making a financial hardship withdrawal include the following:
 - (a) an early withdrawal from a locked-in retirement savings arrangement may result in fewer financial resources to support the owner in retirement, and by completing the application the owner acknowledges that the Provincial Government of Newfoundland and Labrador does not commit to offsetting this potential loss of future pension income;
 - (b) if the owner is a former member of a pension plan, an early withdrawal from a locked-in retirement savings arrangement may result in a lower benefit to the owner's principal beneficiary, designated beneficiary, or estate upon the owner's death or upon marriage breakdown;
 - (c) if an application coincides with a time of volatility in financial markets, the account value in the locked-in retirement savings arrangement may change significantly. Selling certain investments at this time may result in investment losses that cannot be recovered within the short-term;
 - (d) a withdrawal is not required to be taken as cash, subject to any requirements under the Income Tax Act, but a cash withdrawal from a locked-in retirement savings arrangement is taxable as income for the calendar year the money is received;
 - (e) tax may be withheld by the financial institution but the amount withheld may be insufficient and the owner may be required to pay additional tax when filing a tax return for the calendar year the money is received;
 - (f) once withdrawn, money cannot be re-contributed to the locked-in retirement savings arrangement in the future and, subject to any requirements under the Income Tax Act, any RRSP room would not be reinstated, which can affect the owner's ability to accumulate tax-sheltered savings for retirement;
 - (g) a withdrawal of funds from a locked-in retirement savings arrangement may result in a total annual income in the year of withdrawal that could disqualify the owner or the owner's principal beneficiary from federal and provincial social support programs;
 - (h) in accordance with the requirements for a Locked-In Retirement Account, a Life Income Fund, or a Locked-in Retirement Income Fund, a withdrawal due to financial hardship may affect the owner's ability to make other withdrawals within the same calendar year from the same or another locked-in retirement savings arrangement, such as a small balance withdrawal; and

- (i) once funds are withdrawn from a locked-in retirement savings arrangement, they are no longer protected by the Act from being assigned, charged, attached, anticipated, or given as security, and may no longer be exempt from execution, seizure, or attachment.

5. This Directive shall take effect on March 1, 2021.