



---

SECTION: Life Income Fund/Locked-In Retirement Account

INDEX NO.: L050-703

TITLE: Spousal Consent Form, O. Reg. 909, Schedule 1, paragraph 1, s. 1

APPROVED BY: The Pension Commission of Ontario

PUBLISHED: Bulletin 5/4 (Winter 1995)

EFFECTIVE DATE: When Published [No longer applicable - replaced by L200-300]

---

### **Transferring Locked-in Money to a LIF With the Consent of a Spouse**

Administrators of pension plans shall not comply with an election to transfer locked-in money to an Ontario Life Income Fund (a "LIF") unless and until three conditions are satisfied:

1. The spouse, if any, of the member or former member making the election provides written consent to the transfer.
2. The individual making the election is eligible to commence receiving pension payments in accordance with the terms of the pension plan.
3. The transferee has agreed to administer the amount transferred and all interest and/or investment gains as required by the *Pension Benefits Act* (the "PBA") and the Regulation under the act.

The administrator of a Locked-in Retirement Account (a "LIRA" - commonly referred to as a locked-in RRSP) who receives a direction to transfer money to a LIF must also ensure that these conditions are satisfied.

The authority for an administrator to refuse to comply with a request to transfer money to a LIF unless the spouse has consented in writing is contained in paragraph 1, section 1 of Schedule 1 to the Regulation. Whether written consent is provided is solely at the option of the spouse. The consent condition is not a requirement for a spouse to provide consent to waive the spouse's interest in the funds being transferred.

The PBA provides spouses (married and common law) with an interest in assets held under a LIF contract. That interest takes the form of specific legislated survivor entitlements and a limited entitlement in the event of marriage breakdown.

Spouses who are not living separate and apart from the owner of the LIF at the owner's date of death are automatically entitled to receive the balance of the LIF as an unlocked death benefit. A 60 per cent joint and survivor annuity must be purchased where a spouse is not living separate and apart from the owner of the LIF when the LIF assets are used to purchase an annuity.

A former or estranged spouse has an entitlement under the PBA to a limited amount of assets held in a LIF as a marriage breakdown settlement. However, that entitlement is effective only when a court order or domestic contract under the *Family Law Act* (Ontario) is provided to the administrator. Assets transferred on marriage breakdown must continue to be administered as locked-in assets.

When a former member of a pension plan wishes to begin receiving income from locked-in funds, that individual must transfer the funds to a LIF or to an insurance company to purchase an immediate life annuity. If a transfer to a LIF is made, annual payouts from the LIF and any investment losses may reduce the amount of any future survivor benefit or marriage breakdown settlement. A spouse may choose to withhold consent to a transfer for that reason.

When the former pension plan member chooses to purchase an annuity, the annual amount of the pension and any subsequent survivor pension are guaranteed. Investment losses, if any, are absorbed by the insurance company.

When the LIF option is chosen, it is possible that the annual payout from the LIF may exceed the annualized pension which would have been available from an annuity. Consequently, the balance of the LIF may not be sufficient to buy the same guaranteed amount of pension and survivor pension that would have been payable had the owner initially chosen the annuity option. Because the owner of the LIF retains control of the investments in a LIF, investment losses will also reduce the balance of the LIF.

In order to eliminate any misunderstanding of the consent condition, administrators may wish to use a prepared form. Use of a form similar to that suggested below will help the administrator provide a complete and consistent explanation of the consent condition every time a transfer to a LIF is requested.

**Suggested Consent Form**

**Spousal Consent to a Transfer to a Life Income Fund (LIF)**

I, \_\_\_\_\_ am the spouse, as defined in the *Pension Benefits Act*, of  
*name of spouse*

\_\_\_\_\_ who has requested a transfer of locked-in money from  
*name of pension plan member/former member*  
*or owner of a Locked-in Retirement Account (LIRA)*

\_\_\_\_\_  
*name of pension plan or financial institution administering LIRA*

I am aware that the administrator of a pension plan or of a LIRA may not comply with a request to transfer locked-in money to a LIF unless the written consent of the spouse is obtained.

I am aware that there is no requirement under the *Pension Benefits Act* and Regulation 909 for a spouse to provide such written consent. It is solely at the option of the spouse whether to provide written consent.

I understand that by providing written consent, I am not waiving my rights under the *Pension Benefits Act* and Regulation 909 to survivor benefits or benefits which may be available on marriage breakdown.

I understand that as a spouse who is not living separate and apart from the owner of the LIF at the owner's date of death, I will be entitled to receive a death benefit of either the balance of the LIF as an unlocked lump sum payment or as an immediate or deferred life annuity.

I understand that as a spouse who is not living separate and apart from the owner of the LIF when LIF assets are used to purchase a life annuity, the annuity must provide a survivor pension of at least 60 per cent of the pension received by my spouse.

I understand that, in the event of marriage breakdown prior to the date an annuity is purchased, no more than 50 per cent of the LIF assets may be transferred to my LIRA or LIF, or to purchase an immediate or deferred life annuity.

I understand, in the above situation, any interest I may have in the assets held in the LIF is effective only where a court order or domestic agreement under the *Family Law Act* is provided to the administrator.

\_\_\_\_\_  
*Spouse's signature and address*

Dated at \_\_\_\_\_ in the Province of \_\_\_\_\_  
*city/town* *province*

this \_\_\_\_\_ day of \_\_\_\_\_ 199\_\_\_\_\_  
*date* *month* *year*

\_\_\_\_\_  
*Witness' printed name, signature and address*

*Prior to completing this form, a spouse should consider obtaining independent legal advice concerning individual rights and the effect of consent.*