



SECTION: Locking In

INDEX NO.: L100-130

TITLE: How to Administer Locked-In Money as a Pension

PUBLISHED: Bulletin 6/1 (Spring 1995)

EFFECTIVE DATE: When Published [No longer applicable - replaced by L200-100]

How to Administer Locked-in Money as a Pension

The pension legislation of each jurisdiction in Canada which regulates employment pension plans permits, in specified circumstances, the transfer of locked-in pension money to tax-sheltered arrangements outside a Registered Pension Plan (a "RPP"). Transferees, the financial institutions and other businesses that receive locked-in money, are charged with the responsibility of administering that money as a pension. Many plan administrators and transferees are uncertain about what the statutory requirements are and how they affect a former plan member's access to the locked-in money.

All locked-in money is dedicated to the provision of lifetime retirement income. However, no two pension statutes in Canada have identical rules concerning the use and ongoing administration of locked-in money. The key to understanding the rules that determine how any individual transfer amount must be administered, is knowing which pension legislation governs the transfer. The legislation of that same jurisdiction will continue to apply after the transfer.

Employment Pension Plans - Standards Legislation in Canada

Employment pension plans must be registered under the statute of one of the following federal or provincial jurisdictions in Canada:

Alberta	<i>Employment Pension Plans Act</i>
British Columbia	<i>Pension Benefit Standards Act</i>
Manitoba	<i>Pension Benefits Act</i>
New Brunswick	<i>Pension Benefits Act</i>
Newfoundland	<i>Pension Benefits Act</i>
Ontario	<i>Pension Benefits Act</i>
Prince Edward Island	<i>Pension Benefits Act</i>
Quebec	<i>Supplemental Pension Plans Act</i>
Saskatchewan	<i>Pension Benefits Act</i>
federal (Canada)	<i>Pension Benefits Standards Act (Canada)</i>

The *Pension Benefits Standards Act* (Canada), (the "PBSA (Canada)") is the federal statute which regulates pensions for plan members who work in "included employment". Transfers of locked-in money made on behalf of persons who worked in "included employment" must be administered as required by the PBSA Canada. "Included employment" is work in any undertaking or business that is within the legislative authority of Parliament (i.e., radio broadcasting, transportation, banking, etc.). A complete definition of included employment is contained in the PBSA (Canada). Pension plan members who are employed in the Northwest Territories and the Yukon Territories are covered by the PBSA (Canada).

Provincial statutes regulate pensions for plan members who are employed in those provinces and who do not work in included employment. The administration of locked-in money transferred on behalf of a person who terminates employment in a specific province continues to be subject to that provincial statute. If a plan member does not actually report to work in any one province, that individual is considered to be employed in the province in which the employer who pays the individual's remuneration is located.

Pension Plans with Members in More than One Province

If all the members of a pension plan are employed in one province, the plan must be registered under the statute of that province. That statute will regulate how the plan is funded and administered in general. The statute will also regulate how and when portability options become available to the members of the plan. All locked-in transfers from the pension plan must be administered as required by the statute of the jurisdiction of registration.

Similarly, if all of the members of a pension plan are employed in included employment, the plan must be registered under the PBSA (Canada). All matters related to that plan are subject to the requirements of the PBSA (Canada).

The administration of a pension plan and of locked-in transfers made from that plan becomes more complex where all plan members are not employed in one province or are not all employed in included employment. Where plan members work in two or more provinces or where only some members work in included employment, the pension plan is registered in the province where the majority of the plan members are employed. If the plurality of the members work in included employment, the pension plan is registered under the PBSA (Canada). Under these circumstances, the statute of the jurisdiction of registration applies with respect to only the members in that jurisdiction.

For example, where a pension plan registered under the *Pension Benefits Act* (Ontario) (the "PBA (Ontario)") has members who work in included employment or who are employed in other provinces of Canada, the Ontario statute regulates all matters including portability for only the Ontario members. Locked-in money transferred with respect to the Ontario members remains subject to the PBA (Ontario). This means that any transfer to a Locked-in Retirement Account (a "LIRA") or to a Life Income Fund (a "LIF") is permitted only where the LIRA or LIF issued by a financial institution meets Ontario's requirements.

For the same plan, the statutes of any other applicable jurisdictions regulate when and what transfer options are available to the remaining members of the pension plan. For instance, the authority to permit a transfer of locked-in money for a plan member who terminates employment in Manitoba will come from the *Pension Benefits Act* (Manitoba). Transferred money must be administered as required by the statute that permits the transfer in the first place.

The Responsibilities of the Plan Administrator and the Transferee

Some jurisdictions maintain approved lists of financial institutions that provide LIRAs and LIFs which meet the requirements of their respective statutes. When a transfer is being made on behalf of an individual who is subject to the legislation of one of those jurisdictions, the plan administrator may not complete a transfer to any financial institution, LIRA or LIF that does not appear on the appropriate approved list.

Where a jurisdiction does not maintain an approved list of LIFs or LIRAs, information concerning the pension legislation that regulates the administration of locked-in money must be provided by the administrator of the transferor plan. Ontario does not maintain a list of approved LIFs and LIRAs and financial institutions. A plan administrator who is making a transfer with respect to an Ontario member, former member or a spouse of one of these individuals is subject to subsection 20(3) of the Regulations under the PBA (Ontario). The plan administrator cannot complete the transfer until the transferee has agreed to continue administration in accordance with the requirements of the PBA (Ontario).