



SECTION:	Locking In
INDEX NO.:	L100-051
TITLE:	Shortened Life Expectancy - PBA s. 49 - Regulation 909 s. 51.1
APPROVED BY:	Superintendent of Financial Services
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REPLACES:	L100-050

This policy replaces L100-050 (Shortened Life Expectancy) as of the effective date of this policy.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

*Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fSCO.gov.on.ca. All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

Background

Section 49(1) of the PBA allows a pension plan to permit variation in the terms of payment of a pension or deferred pension to members and former members (including retired members) with a mental or physical disability that is likely to considerably shorten life expectancy. This option is available only if the plan contains such a provision.

The PBA was amended in 1999 to add a new provision (section 49(2)), deeming a pension plan to permit variation in the terms of payment of a pension or deferred pension in the circumstances and with such conditions as are set out in the Regulations. The associated regulation limits the applicable circumstance to where a former member (including a retired member) has an illness or physical disability that is likely to shorten life expectancy to less than two years.

A former member may make an application to withdraw the commuted value of his or her pension or deferred pension by submitting an application to the pension plan administrator under either section 49(1) or 49(2), as applicable.

Application under section 49(1)

There is no prescribed form to be used when applying under this section. If the pension plan has this provision, the member or former member (including a retired member) can make a written submission to the plan administrator to withdraw the commuted value of the pension or deferred pension, due to shortened life expectancy.

The application must meet the requirements established by the plan administrator and the plan terms. The plan criteria for such a withdrawal may be different from the legislative requirements specified under section 49(2) of the PBA and section 51.1(2) of the Regulation. For example, a pension plan may define a person who has a shortened life expectancy as one whose mental or physical disability is likely to shorten life expectancy to less than 5 years. Members applying under this section should contact their plan administrator or refer to their Employee Booklet for information. A member or former member will need to provide certification from a physician licensed to practice medicine in Canada and, if applicable, spousal consent to support the application.

Application under section 49(2)

An application under this section must be:

- signed by the former member;
- filed with the plan administrator;
- for the withdrawal of the entire commuted value of the former member's pension or deferred pension from the pension fund and;
- accompanied by the following documents:
 - a) A statement signed by a physician licensed to practice medicine in Canada that, in the opinion of the physician, the former member's illness or physical disability is likely to shorten his or her life expectancy to less than two years; and
 - b) A declaration about a spouse as described below:
 - (i) If the application to the plan administrator is made before the due date of the first installment of the pension, any of the following constitutes a declaration about a spouse:
 - (A) A statement signed by the former member's spouse, if any, consenting to the withdrawal.
 - (B) A statement signed by the former member attesting that he or she does not have a spouse.
 - (C) A statement signed by the former member attesting that he or she is living separate and apart from his or her spouse on the date the former member signs the application to make the withdrawal.
 - (ii) If the application to the plan administrator is made on or after the due date of the first installment of the pension, any of the following documents constitutes a declaration about a spouse:
 - (A) A statement signed by the person, if any, who was the former member's spouse on the due date of the first installment of the pension, consenting to the withdrawal.
 - (B) A statement signed by the former member attesting that on the due date of the first installment of the pension,
 - (I) He or she did not have a spouse,

- (II) He or she was living separate and apart from his or her spouse, or
- (III) A waiver of the entitlement to receive payment of pension benefits in the form of a joint and survivor pension, under section 46 of the PBA by the former member and his or her spouse, was in effect.

In a spousal relationship breakdown situation, section 67.4(8) of the PBA permits an eligible spouse to waive his or her entitlement to a joint and survivor pension after payment of the first installment of the former member's pension is due, and before the pension is divided. FSCO is of the view that such a waiver can also take effect for purposes of section (B).

Note: A declaration about a spouse is not valid if it is signed by the former member or the spouse more than 60 days before the plan administrator receives it.

The administrator must provide the former member with a receipt for the application, stating the date on which the application was received.

Locked-in Retirement Account (LIRA), Life Income Fund (LIF), and Locked-in Retirement Income Fund (LRIF)

Information about application to a financial institution due to shortened life expectancy can be found in [L200-100 \(General Requirements\)](#) and [L200-200 \(Locked-In Retirement Accounts\)](#).