



FSRA is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines and FAQs.

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.

Follow FSCO on social media



- About Pensions >
- Actuarial >
- Consultations >
- Family Law >

You are here: [Home](#) > [Pensions](#) > [Questions & Answers](#) > Frequently Asked Questions - Unlocking by Non-resident Former Member -Section 50.0.1 of the PBA [PRINT](#)

Frequently Asked Questions - Unlocking by Non-resident Former Member -Section 50.0.1 of the PBA

Q1. Does section 50.0.1 of the PBA require pension plans to allow a non-resident former member to unlock and withdraw the commuted value of his or her deferred pension?

A1. Section 50.0.1 provides that a pension plan may allow a non-resident former member to unlock and withdraw the commuted value of his or her deferred pension. A pension plan is not required to provide this option to its former members – it is not a minimum standard.

Should a plan sponsor wish to provide this option, the plan sponsor must amend the plan terms to allow the administrator to pay the unlocked commuted value of a deferred pension directly to a non-resident former member. The plan administrator must ensure that all requirements of section 50.0.1 are met.

Q2. What are the requirements for paying the commuted value of a deferred pension directly from a registered pension plan to a non-resident former member under section 50.0.1 of the PBA?

A2. Section 50.0.1 allows a pension plan to provide for payment of the commuted value of a deferred pension to a former member if:

- the former member is a non-resident of Canada for the purposes of the Income Tax Act (Canada); and
- if the former member has a spouse, the spouse waives any rights to a spousal survivor benefit by signing a waiver, in the form approved by the Superintendent, and delivering it to the plan administrator.

The Superintendent approved form is Form 4.2 – Waiver of Survivor Benefit from a Registered Pension Plan by Spouse of Non-resident Former Member.

Q3. Can other persons with an entitlement under a pension plan (i.e. an active member or retired member) unlock and withdraw the commuted value of his or her pension entitlement on the basis of being a non-resident of Canada?

Asset Transfers >

Financial Hardship >

Legislation: Act & Regulations >

Locked-In Accounts (LIFs and LIRAs) >

Enforcement Actions >

Other Pension Information >

Pension Policies >

Plan Administrators >

Publications & Resources >

Archived >

Careers >

Explore FSCO

Contact Us >

 **Scheduled Online Service**

Disruption Notice

Please consult our [outage schedule](#) for more details.

A3. No, section 50.0.1 only allows a non-resident former member to unlock and withdraw the commuted value of his or her deferred pension (and only if the pension plan so provides and all requirements of section 50.0.1 are met). The definition of “former member” is contained in section 1.1 of the PBA.

Q4. Does section 50.0.1 apply to funds previously transferred to a locked-in account (i.e. a LIF, LRIF or LIRA) by a former employee who is now a non-resident?

A4. No, section 50.0.1 only applies to deferred benefits held within a pension plan. It is not applicable if a non-resident former employee previously transferred their pension entitlements to a locked-in account (i.e. a LIF, LRIF or LIRA). Any non-resident wishing to unlock funds from a locked-in account must comply with the existing prescribed requirements for non-resident unlocking as set out in the applicable Schedule 1, 1.1, 2 or 3 to the General Regulation 909.

Q5. Must a former spouse provide a spousal waiver?

A5. No, section 50.0.1 only requires a waiver to be provided by an individual that is defined to be a spouse for the purposes of the PBA. Therefore, a waiver from a former spouse (i.e. someone who is divorced from, or no longer living common law with, the former member) is not required.

Q6. Is a spousal waiver required if the former member is living separate and apart from his or her spouse due to a breakdown in the spousal relationship?

A6. No, if the non-resident former member is living separate and apart from his or her spouse due to a breakdown in the spousal relationship, the spouse does not have any rights to a spousal death benefit under section 48 of the PBA and will not have any rights under section 44 of the PBA should the former member’s benefit be paid in deferred pension form. Therefore, a spousal waiver is not required in these circumstances.

Q7. How should an administrator determine if a former member is a non-resident for the purposes of the Income Tax Act (Canada)?

A7. If a pension plan provides former members with such an option under section 50.0.1 of the PBA, the plan administrator must seek their own legal advice as to how best to determine whether a deferred member is a non-resident for the purposes of the Income Tax Act (Canada). It is recommended that plan administrators develop and document the process used for making such a determination. Plan administrators may wish to consider the existing prescribed requirements for a non-resident unlocking a locked-in account.

Q8. What forms must be used to allow a non-resident former member to unlock his or her deferred pension pursuant to section 50.0.1?

A8. If a plan sponsor chooses to amend a pension plan to provide non-resident former members with such an option, then plan administrators must develop their own processes and forms in order to:

- document any unlocking and withdrawal of the commuted value of a deferred pension by a non-resident former member;
- determine and document whether a former member is a non-resident for purposes of the Income Tax Act (Canada);

- determine and document whether a spousal waiver is required;
- determine and document whether there is any entitlement of a former spouse to a portion of the deferred pension; and
- document that all requirements of section 50.0.1 have been met.

Section 50.0.1 provides that any required spousal waiver be in the form approved by the Superintendent. The Superintendent approved form is Form 4.2 – Waiver of Survivor Benefit from a Registered Pension Plan by Spouse of Non-resident Former Member.

Q9. What are the tax consequences for a non-resident former member unlocking and withdrawing the commuted value of his or her deferred pension?

A9. Former members should be encouraged to obtain legal and tax advice regarding any tax consequences of unlocking and withdrawing the commuted value of his or her deferred pension.

Plan administrators should seek legal and tax advice regarding any obligations to withhold tax before making any such payment to a non-resident former member.