



## Schedule 4: Nova Scotia LIF Addendum (Pension Benefits Regulations)

Note: This document is Schedule 4 to the *Pension Benefits Regulations* (Nova Scotia). It forms part of the regulations and must be read, construed and interpreted in conjunction with the *Pension Benefits Act* and its regulations.

### 1. Definitions for this Schedule

In this Schedule,

“**Act**” means the *Pension Benefits Act*;

“**domestic contract**”, as defined in Section 2 of the regulations, means a written agreement referred to in and for the purpose of Section 74 of the Act, or Section 14 of the *Pooled Registered Pension Plans Act*, that provides for a division between spouses of any pension benefit, deferred pension, pension, LIRA or LIF, and includes a marriage contract as defined in the *Matrimonial Property Act*;

“**federal Income Tax Act**”, as defined in Section 2 of the regulations, means the *Income Tax Act* (Canada) and, unless specified otherwise, includes the regulations made under that Act;

“**owner**” means any of the following persons, as set out in subsection 205(2) of the regulations, who has purchased a LIF:

- (i) a former member who is entitled to make a transfer under clause 61(1)(b) of the Act,
- (ii) a spouse of a person who was a member, and who is entitled to make a transfer under clause 61(1)(b) of the Act,
- (iii) a person who has previously transferred an amount under clause 61(1)(b) of the Act into a LIRA or LIF,
- (iv) a person who has previously transferred an amount into a LIF as a result of a division of any pension benefit, deferred pension or pension under Section 74 of the Act,
- (v) a spouse who is entitled to transfer a lump sum as a result of a division of any pension benefit, deferred pension or pension under Section 74 of the Act;
- (vi) if the funds in the account of a pooled registered pension plan are used for the purchase, a person who transfers the amount in accordance with the *Pooled Registered Pension Plans Act* and the *Pooled Registered Pension Plans Regulations*;

“**regulations**” means the *Pension Benefits Regulations* made under the Act;

“**spouse**”, as defined in the Act, means either of 2 persons who:

- (i) are married to each other,
- (ii) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity,
- (iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or, if they have ceased to cohabit, have cohabited within the 12-month period immediately preceding the date of entitlement, and
- (iv) are domestic partners within the meaning of Section 52 of the *Vital Statistics Act*, or
- (v) not being married to each other, are cohabiting in a conjugal relationship with each other, and have done so continuously for at least:
  - (A) 3 years, if either of them is married, or
  - (B) 1 year, if neither of them is married;

“**temporary income**” means income payments from a LIF that, in accordance with Section 9 of this Schedule, are paid to an owner before they turn 65 years old;

“**Superintendent**”, means the Superintendent of Pensions, as defined in the Act.

### 2. Fiscal year of LIFs

- (1) In this Schedule, “fiscal year” means the fiscal year of a LIF.
- (2) A fiscal year must end on December 31 and must not be longer than 12 months.

### 3. Reference rate criteria

A reference rate in this Schedule for a fiscal year must meet all of the following criteria:

- a) it must be based on the month-end nominal rate of interest earned on long-term bonds issued by the Government of Canada for November of the year immediately before the beginning of the fiscal year, as compiled by Statistics Canada and published in the Bank of Canada Review as CANSIM Series V122487, with the following adjustments applied successively to that nominal rate:
  - (i) an increase of 0.5%,
  - (ii) the conversion of the increased rate, based on interest compounded semi-annually, to an effective annual rate of interest,
  - (iii) the rounding of the effective interest rate to the nearest multiple of 0.5%;
- b) it must not be less than 6%.

Note Re Requirements of the *Pension Benefits Act* and *Regulations*

### Prohibitions on transactions from Section 91 of Act

Under Section 91 of the Act and Section 12 of the *Pooled Registered Pension Plans Act*, money held in a LIF must not be commuted or surrendered in whole or in part except as permitted by this Schedule and the regulations including, without limiting the generality of the foregoing, the following Sections of the regulations:

- Sections 211 through 230, respecting withdrawal in circumstances of financial hardship
- Section 231, respecting withdrawal in circumstances of considerably shortened life expectancy
- Section 232, respecting withdrawal in circumstances of non-residency
- Section 233, respecting withdrawal of small amounts at age 65
- Section 198, respecting the transfer of an excess amount, as defined in that Section.

Pursuant to subsection 91(2) of the Act and subsection 12(2) of the *Pooled Registered Pension Plans Act*, any transaction that contravenes Section 91 of the Act or Section 12 of the *Pooled Registered Pension Plans Act* is void.

### Values of assets in LIFs subject to division

The value of the assets in a LIF is subject to division in accordance with all of the following:

- an order of the Supreme Court of Nova Scotia that provides for the division of any pension benefits, deferred pension or under Section 74 of the Act, or a division of the funds in a pooled registered pension plan account under Section 14 of the *Pooled Registered Pension Plans Act*
- a domestic contract that provides for the division of a pension benefit, deferred pension under Section 74 of the Act, or a division of the funds in a pooled registered pension plan account under Section 14 of the *Pooled Registered Pension Plans Act*
- the regulations

### Money held in LIFs

The following requirements are set out in the *Pension Benefits Act* and are applicable to LIFs governed by this Schedule:

- Money held in a LIF must not be assigned, charged, or given as security except as permitted by subsection 88(3) of the Act, Section 90 of the Act, subsection 12(3) of the *Pooled Registered Pension Plans Act* or Section 13 of the *Pooled Registered Pension Plans Act*, and any transaction purporting to assign, charge, anticipate or give the money in the LIF as security is void.

- Money held in a LIF is exempt from execution, seizure or attachment except for the purpose of enforcing a maintenance order as permitted by Section 90 of the Act or Section 13 of the *Pooled Registered Pension Plans Act*.

**4. Periodic payments of income out of LIFs**

- (1) An owner must be paid an income from their LIF, the amount of which may vary, annually.
- (2) Income payments from a LIF must begin no earlier than:
  - a) the earliest date that the owner would have been entitled to receive a pension under any pension plan from which the money was transferred; or
  - b) if all of the money in a LIF is derived from sources other than a pension benefit provided in respect of any employment of the owner, the date the owner turns 55 years old.
- (3) Income payments from a LIF must begin no later than the end of a LIF's 2<sup>nd</sup> fiscal year.

**5. Amount of income payments from LIFs**

- (1) Subject to the minimum amount in Section 6 of this Schedule, an owner of a LIF must establish the amount of income to be paid during each fiscal year at the beginning of the fiscal year and after they have received the information required by Section 14 of this Schedule.
- (2) Except as provided in subsection (5), an owner of a LIF must notify the financial institution providing the LIF of the amount to be paid out of the LIF each year and any owner who does not do so is deemed to have selected the minimum amount determined under Section 6 of this Schedule.
- (3) The owner's notice required by subsection (2) must be given either
  - a) except as provided in subsection (5), at the beginning of the fiscal year;
  - b) at a time agreed to by the financial institution providing the LIF.
- (4) The owner's notice required by subsection (2) expires at the end of the fiscal year to which it relates.
- (5) If a financial institution providing a LIF guarantees the rate of return of the LIF over a period that is greater than 1 year, the period must end at the end of a fiscal year and the owner may establish the amount of income to be paid during the period at the beginning of the period.

**6. Minimum annual LIF withdrawal**

- (1) The amount of income that is paid out of a LIF during a fiscal year must not be less than the minimum amount prescribed for a registered retirement income fund by the federal *Income Tax Act*, determined on the basis of the owner's age or the age of the owner's spouse if the spouse is younger than the owner.
- (2) Despite Sections 7, 8, 10, 11 and 12 of this Schedule, if the minimum amount specified by subsection (1) is greater than the maximum amount determined under those Sections for a fiscal year, then the minimum amount under subsection (1) must be paid out of the LIF during the fiscal year.

**7. Pro-rating amount of withdrawal if initial fiscal year less than 12 months**

If the initial fiscal year is less than 12 months long, the maximum amount determined under Sections 8, 10, 11 and 12 of this Schedule must be adjusted in proportion to the number of months in that fiscal year divided by 12, with any part of an incomplete month counting as 1 month.

**8. Maximum annual life income from LIF that does not provide for temporary income**

The maximum annual amount of life income to be paid each year from a LIF from which no temporary income is paid is determined by the following formula: maximum payable = F × B in which:

F = is the factor in Schedule 5: Life Income Fund—Factor F that corresponds to the reference rate for the fiscal year and the owner's age at the end of the previous year

B = the balance of the LIF at the beginning of the fiscal year, increased by any money transferred to the LIF after the beginning of that fiscal year and reduced by any money transferred from another LIF, to the LIF, in the same year.

**9. Withdrawal of temporary income from LIFs**

- (1) A LIF may provide that the owner is entitled to temporary income in accordance with Section and Sections 10 and 11 of this Schedule.
- (2) An owner of a LIF from which temporary income may be paid who is at least 54 years old but under 65 years old at the end of the calendar year before the date they apply, may apply in an approved form to the financial institution that provides a LIF for payment of temporary income from the LIF.
- (3) Temporary income must not be paid under a LIF:
  - a) before the owner is 55 years old; and
  - b) after the end of the year in which the owner turns 65 years old.
- (4) Temporary income is not payable if any portion of a payment out of a LIF is transferred to a registered retirement savings plan or a registered retirement income fund.

**10. Maximum temporary income for fiscal year**

- (1) Except as provided in subsection (2), the maximum temporary income that may be paid during a fiscal year out of a LIF from which temporary income may be paid must be the lesser of the following amounts:
  - a) the amount calculated by the following formula:  
 (50% of the YMPE) - T in which:  
 YMPE = the Year's Maximum Pensionable Earnings for the fiscal year  
 T = the total of bridging benefits and other periodic income paid to the owner from a pension plan or annuity or from temporary income from other LIFs for the fiscal year;
  - b) the amount calculated by the following formula: F × B × D in which:  
 F = is the factor in Schedule 5: Life Income Fund—Factor F that corresponds to the reference rate for the fiscal year and the owner's age at the end of the previous year  
 B = the balance of the LIF at the beginning of the fiscal year, increased by any money transferred to the LIF after the beginning of that fiscal year and reduced by any money transferred from another LIF, to the LIF, in the same year  
 D = the factor in Schedule 6: Life Income Fund—Temporary Income Factor D that corresponds to the owner's age at the end of the previous fiscal year.
- (2) If the amount determined under clause (1)(b) is less than 50% of the Year's Maximum Pensionable Earnings, then the maximum temporary income paid out of a LIF during a fiscal year must be the lesser of the following amounts:
  - a) the amount calculated under clause (1)(a);
  - b) the balance of the LIF at the beginning of the fiscal year, increased by any money transferred to the LIF after the beginning of that fiscal year and reduced by any money transferred from another LIF to the LIF in the same year.

**11. Maximum life income withdrawal from LIFs**

The maximum life income to be paid from a LIF from which a temporary income is paid is determined by the following formula, provided that the maximum must not be less than zero:

maximum payable = (F × B) - (Y ÷ D) in which:

F = the factor in Schedule 5: Life Income Fund—Factor F that corresponds to the reference rate for the fiscal year and the owner's age at the end of the previous year

B = the balance of the LIF at the beginning of the fiscal year, increased by any money transferred to the LIF after the beginning of that fiscal year and reduced by any money transferred from another LIF, to the LIF, in the same year

Y = the maximum annual temporary income determined under Section 10 of this Schedule

D = the factor in Schedule 6: Life Income Fund—Temporary Income Factor D that corresponds to the owner's age at the end of the previous year.

**12. Maximum annual income payable if financial institution guarantees rate of return of LIFs**

- (1) If a financial institution that provides a LIF guarantees the rate of return of the LIF over a period greater than 1 year and the owner establishes the amount of income to be paid during that period, the maximum income that may be paid during each of the fiscal years during the period must be determined at the beginning of each fiscal year in the period in accordance with this Section.
- (2) For each year after the initial fiscal year, the maximum income to be paid for the fiscal year under a LIF described in subsection (1) is equal to the lesser of the following amounts:
  - a) the balance of the LIF at the time of payment in that year;
  - b) the amount determined by the following formula:
 

maximum income =  $(I \times B) \div RB$  in which:

    - I = the maximum income determined for the initial fiscal year under Section 11 of this Schedule
    - B = the balance of the LIF at the beginning of the fiscal year
    - RB = the reference balance determined at January 1 of the year as calculated under subsection (3).
- (3) For the formula in clause (2)(b), the reference balance ("RB") must be calculated by the following formula:
 

RB =  $(PRB - I) + ((PRB - I) \times RR/100)$  in which:

  - PRB = the reference balance:
    - (i) at the beginning of the previous year, or
    - (ii) for the 2nd year of the period, the LIF balance at the beginning of the 1st year of the period
  - I = the maximum income determined for the initial fiscal year
  - RR = the reference rate for the year, if the fiscal year is one of the first 16 fiscal years of the LIF, or by 6% for any other year.

**13. Income in excess of maximum**

If income paid to an owner under a LIF during a fiscal year exceeds the maximum that may be paid, the balance of the LIF must not be reduced by the excess unless the payment is attributable to incorrect information provided by the owner.

**14. Information to be provided annually by financial institution**

At the beginning of each fiscal year, a financial institution providing a LIF must provide all of the following information to an owner about their LIF:

- a) with respect to the previous fiscal year:
  - (i) the sums deposited,
  - (ii) any accumulated investment earnings including any unrealized capital gains or losses,
  - (iii) the payments made out of the LIF,
  - (iv) any withdrawals from the LIF made under the following circumstances, in accordance with Sections 211 to 230 of the regulations:
    - (A) a mortgage default circumstance, as defined in clause 212(1)(a) of the regulations,
    - (B) a medical expense circumstance, as defined in clause 212(1)(b) of the regulations,
    - (C) a rental default circumstance, as defined in clause 212(1)(c) of the regulations,
    - (D) a reduced income circumstance, as defined in clause 212(1)(d) of the regulations,
  - (v) any transfers made out of the LIF,
  - (vi) the fees charged against the LIF;
- b) the value of the assets in the LIF at the beginning of the fiscal year;

- c) the minimum amount that must be paid out as income to the owner during the current fiscal year;
- d) the maximum amount that may be paid out as income to the owner during the current fiscal year;
- e) for a LIF that provides for temporary income, and the owner was at least 54 years old but under 65 years old at the end of the previous year,
  - (i) how the owner may apply for temporary income to be paid to them after they turn 55 years old, and
  - (ii) a statement that payment of temporary income will reduce the income that would otherwise be paid to the owner after age 65;
- f) a statement that the maximum amount of income that may be paid to the owner during the fiscal year will not be increased if assets held in another LIF during the year are transferred to the LIF;
- g) if the beginning of the fiscal year is later than the beginning of the calendar year, a statement as to whether any sums deposited were held in another LIF during the year, and the amount of those deposits;
- h) a statement that if the owner wishes to transfer the balance of the LIF, in whole or in part, and still receive the income determined for the fiscal year from the LIF, then an amount must be retained in the LIF that is at least equal to the difference between the income determined for the fiscal year and the income already received from the LIF since the beginning of the fiscal year;
- i) a statement that if the owner dies before the balance in the LIF is used to purchase a life annuity contract or is transferred under Section 15 of this Schedule, then the financial institution must provide the owner's spouse or beneficiary or the personal representative of their estate with the information in clauses (a) and (b), determined as of the date the owner died;
- j) a statement that if the balance of the LIF is transferred to another financial institution or used to purchase a life annuity, then the financial institution must provide the owner the information in clauses (a) and (b), determined as of the date of the transfer or annuity purchase;
- k) a statement that if the balance of the LIF is transferred to another financial institution or used to purchase a life annuity, then the financial institution must comply with Section 209 of the regulations, in accordance with subsection 15(6) of this Schedule.

**15. Transferring assets from LIFs**

- (1) An owner of a LIF may transfer all or part of the assets in the LIF as follows:
  - a) to either of the following:
    - (i) another LIF,
    - (ii) a LIRA, if permitted under the federal *Income Tax Act* or;
  - b) to purchase an immediate life annuity; or
  - c) for an owner who is a member or former member of a pension plan that provides for variable pension benefits, to the owner's variable benefits account in accordance with Section 150 of the regulations, if the transfer is permitted by the plan.
- (2) The date of a transfer under subsection (1) must not be later than 30 days after the owner requests it, unless any of the following apply:
  - a) the financial institution providing the LIRA does not have all the information necessary to complete the transaction, in which case the 30-day period begins to run from the date the financial institution has all the necessary information;
  - b) the transfer is in respect of assets held as securities whose term of investment extends beyond the 30-day period, in which case the 30-day period begins to run from the date the term of investment expires.
- (3) If assets in a LIF consist of identifiable and transferable securities, the financial institution providing the LIF may transfer the securities with the consent of the owner.
- (4) If assets held in a LIF are transferred to another LIF at any time in the current fiscal year, the maximum amount of income that may be paid to the owner of the LIF must not be increased.

