Consultation Document
Unlocking Pension Funds

Purpose of consultations:

The Government of Newfoundland and Labrador is proposing to amend the Pensions Benefit Act (1997) so that funds transferred from a registered pension plan before a person starts receiving a pension or is eligible to receive are not required to be locked-in. Legislation governing when funds can be transferred out of a pension plan would not be changed. The only aspect of the legislation under consideration for change is whether the funds that are transferred out have to be in a locked-in retirement account. However, before making a final decision, the Provincial Government would like to obtain the views of the general public, pension plan sponsors and those involved in the pension industry.

Over the past few years, the Provincial Government has received complaints on a regular basis from individuals who have left an employer with a pension plan and have money in the plan that cannot be accessed because provincial legislation only permits the money to be transferred to a locked-in retirement account. They say that government regulation is preventing them from having access to their money, which is usually required for some urgent reason. Most provinces have addressed this issue to some extent through a variety of means.

Background:

Under the Pensions Benefit Act (1997) and its subordinate regulations, any money that is accumulated in a registered pension plan must remain locked-in. A pension income may begin at the earliest age of 55 or a retirement age specified in the pension plan. Exceptions to the locking-in requirement include situations where a person has accumulated a small balance in the pension plan or if someone's life expectancy is likely to be shortened considerably.

Some individuals who have left an employer believe that they should be able to have access to their own money and manage it as they wish. It should be noted that money accumulated in a Registered Retirement Savings Plan (RRSP) is not locked-in and can be accessed at any time. The question arises as to why money accumulated in a registered pension plan should be treated any different from money accumulated in an RRSP when the member leaves the pension plan due to termination of employment.

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A number of provinces have addressed this issue in recent years in a number of ways, including providing for a partial unlocking of funds and unlocking funds on proof of financial hardship.

The Government of Newfoundland and Labrador is considering all options including the total unlocking of pension funds when an individual terminates membership in a pension plan by leaving an employer and elects to transfer the funds out of the plan. This supports the view that individuals should have control over their own finances and that the majority of individuals will do what is best for their own individual circumstances. For example, it may make more financial sense for some individuals to pay off a mortgage with these funds, while for others it may make more sense to keep all or part of the money in an RRSP.

The main objective of requiring funds to be locked-in is to protect pension money for retirement. This is consistent with the primary purpose of a pension plan, which is to facilitate self-sufficiency by ensuring enough money is available to the individual to live on when they retire. A basic assumption in this proposal is that the vast majority will keep their money for retirement purposes, either leaving it in an RRSP even if an unlocking option is available, or investing it in some way to support their retirement. Providing individuals with control over these funds allows them to choose how much they want to leave for retirement and how much to use for other purposes.

A report by Statistics Canada in November 2007 on “Pensions and Retirement Savings of Families” concludes that since the late 1970s the proportion of employees covered by registered pension plans has declined. However, the report also concludes that, on average, Canadian families are better prepared for retirement today than their counterparts were in the past. The report also states that the average retirement savings of couples grew during the 1986-2004 period. Most of the increase in total contributions came from an increase to RRSP contributions. This would suggest that individuals, on average, manage their RRSPs to better provide for their retirement.

In addition to the benefits in allowing individuals to manage their own funds, should Government decide to proceed with this initiative, the process of dealing with pension funds when an individual leaves a pension plan will be greatly simplified for individuals, the financial services industry and Government. Currently locking-in rules and the process of transferring funds from one locked-in vehicle to another is complicated and cumbersome.

Before making a decision on whether individuals, who have left an employer before retirement with a pension plan, should be allowed to take full control of their pension funds, Government is seeking views of the general public, pension plan sponsors and those involved in the pension industry.

Questions we would like your views on are as follows:

1. Should the Provincial Government maintain its existing locking-in legislation for funds accumulated in a registered pension plan? Why or why not?

2. Should the Provincial Government eliminate locking-in requirements altogether on money that is accumulated in a registered pension plan where an individual leaves the plan before retirement? Why or why not?

3. Should the Provincial Government provide for only a portion of funds, such as 25 per cent or 50 per cent, that is accumulated in a registered pension plan to be un-locked where an individual leaves the plan before retirement? If so, why and how much should be unlocked?

4. Should the Provincial Government allow for all, or a portion, of funds that are accumulated in a registered plan to be unlocked only where there is financial hardship determined through a needs assessment? If so, why and who should do the needs assessment and who should pay to have the assessment done? If not, why not?

5. Should the Provincial Government permit unlocking of pension funds only after a plan member has reached a certain age, such as 50 or 55? If so, what should be the age and why?

6. Should the Provincial Government allow for all, or a portion of funds that are accumulated in a registered plan to be unlocked under conditions or criteria beyond financial hardship? If so, why and which conditions or criteria should be applied?

7. Are there any other comments or suggestions you wish to provide on this issue?

Please provide your comments by September 8, 2009 to:

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