

# Information for Plan Members

## Pension Benefits Standards Act

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This brochure highlights key provisions of the new PBSA, and will assist you in understanding how these provisions may affect your pension plan. As you read through the information that follows, bear in mind that this brochure is not a legal document. It is intended only as a guide to the provisions of the PBSA.

If you have further questions about your entitlements or obligations, talk to your employer or pension plan administrator, or contact your union representative.

**If you cannot find what you are looking for within this document please contact:**

Office of the Superintendent of Pensions

600-750 West Pender Street

Vancouver, British Columbia V6C 2T8

Telephone: 604 660-3555

Toll Free: 866-206-3030

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## TABLE OF CONTENTS

APPLICATION OF THE PBSA .....	3
REGISTRATION OF PLANS .....	3
ELIGIBILITY.....	3
MINIMUM EMPLOYER CONTRIBUTION - 50% RULE.....	4
PLAN CONTRIBUTIONS.....	4
PENSION FUNDS .....	4
RETIREMENT AGES.....	4
RECOMMENCING EMPLOYMENT .....	5
VESTING AND LOCKING-IN.....	5
TERMINATION OPTIONS .....	6
TIME LIMITS FOR TRANSFERS .....	6
COMMUTATION OF SMALL VESTED BENEFITS .....	7
EXCEPTIONS TO THE LOCKING-IN REQUIREMENT FOR LIRAS AND LIFS .....	7
PRE-RETIREMENT SURVIVOR BENEFITS.....	9
POST-RETIREMENT SURVIVOR BENEFITS .....	9
CANADA PENSION PLAN (CPP)/OLD AGE SECURITY (OAS) OFFSET .....	9
NON-ASSIGNMENT OF BENEFITS.....	9
PENSION PLAN INFORMATION .....	10

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## APPLICATION OF THE PBSA

The PBSA applies to all employment pension plans registered in British Columbia, and plans registered elsewhere which have members employed in British Columbia. The PBSA applies to provincial public sector plans, though provincial public sector plans also operate under the authority and requirements of their own statutes.

The PBSA does not have jurisdiction over pension plans for private sector employees working in federally regulated industries, even if they are located in British Columbia. Some examples of such industries are aviation and airlines, banks, broadcasting and telecommunications, interprovincial transportation, marine navigation and shipping, and railways.

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## REGISTRATION OF PLANS

The PBSA has required all British Columbia employment pension plans to be registered with the Superintendent of Pensions since 1994.

There are approximately 670 employment [pension plans registered in British Columbia](#), including provincial public sector plans.

If your pension plan has more members in another jurisdiction than it does in British Columbia, the plan may be registered in that other jurisdiction. Your benefits are still subject to the PBSA, even though the other jurisdiction regulates the plan due to the plurality of membership.

The PBSA defines the minimum standards that pension plans are required to meet. The plan where you work may have plan provisions which are more favorable than those required by law, such as eligibility to join the plan sooner, longer breaks in service, or improved benefits.

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## ELIGIBILITY

The PBSA provides that all employees, including part-time employees, must be eligible to join a pension plan if:

- their employer has established a plan for their class of employment (some classes might be salaried, hourly, or union employees, for example),
- they have completed two years of continuous employment with the employer, and
- they have earned at least 35% of the Year's Maximum Pensionable Earnings (YMPE) under the *Canada Pension Plan* in each of two consecutive calendar years.

The PBSA does not require employees to join a pension plan. Your plan, however, may require you to join as a condition of employment.

The plan is required to provide an explanation or summary of the plan to you at least 30 days before you first become eligible, or are required to be a member of the plan. In the case of a new plan, the information must be provided within 120 days after the establishment of the plan.

**If you think you may be eligible to join your pension plan, contact your employer, pension plan administrator or your union. Most plans require you to make an application in order to join.**

## MINIMUM EMPLOYER CONTRIBUTION - 50% RULE

If you are required to contribute to a defined benefit plan, your employer must pay for at least 50% of the cost of the pension earned after January 1, 1993.

On termination or commencement of pension, employee contributions in excess of 50% of the value of the accrued pension must either be returned to you, transferred to another pension plan, RRSP or RRIF, used to purchase an annuity from an insurance company, or used to increase the pension benefit.

Most provincial public sector pension plans are exempt from the 50% rule because they provide for preretirement indexing of the salary base used to calculate deferred pensions. Other pension plans may also apply for an exemption if they provide preretirement indexing that meets the criteria specified in the regulations.

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## PLAN CONTRIBUTIONS

Contributions must be made and remitted regularly by your employer, and must be sufficient to pay for the cost of accrued benefits.

Member contributions must be remitted by the employer within 30 days after the end of the month in which the deduction is made, or earlier as provided for by the wage assignment or authorization to pay. Employer contributions must also be remitted within 30 days after the end of the month for which those contributions are due, unless the contributions relate to profits of the employer, in which case the contributions must be remitted within 90 days after the end of the fiscal year.

The PBSA may require the plan sponsor to make scheduled special payments to the plan fund where the plan has a funding deficit.

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## PENSION FUNDS

Pension funds must be held separate and apart from the assets of the employer through either a trust agreement with a fund holder, or a contract with an insurance company.

The PBSA requires administrators or Boards of Trustees to establish investment guidelines (Statement of Investment Policies and Procedures) for the prudent investment of pension funds. The PBSA also requires administrators to put into place processes that will assist with the effective management of the pension plan.

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## RETIREMENT AGES

A pension plan must define a "pension eligibility date", an age at which you can start to receive your pension with no reduction or increase in benefits (for example, age 60 or 65).

Under the PBSA you are entitled to receive early retirement benefits if you are vested and terminate employment at any time within 10 years of the defined "pension eligibility date." Plans may have more generous early retirement provisions. The plan may provide for a reduced monthly pension to compensate for the earlier start of pension payments.

If you continue to be employed after “pension eligibility date”, you will continue to earn benefits under the plan. The plan, however, may stipulate the maximum number of years of employment or a maximum pension that can be earned. Once the maximum is reached, you will make no further contributions and earn no further benefits.

If you defer receipt of your pension beyond the defined “pension eligibility date,” the plan must calculate the increase in your pension owing to the shorter period over which the pension is expected to be paid.

Your pension must commence no later than the end of the calendar year in which you turn 71.

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## RECOMMENCING EMPLOYMENT

If, after you begin to receive a pension, you recommence employment with the same employer or an employer who belongs to the same pension plan, the plan may provide either that:

- your pension payments will continue, and you are not eligible to rejoin, earn additional credits, or make contributions to the plan, or
- your pension payments are suspended, and you become a member of the plan, and make contributions or earn additional benefits.

The plan may allow you to choose either of the above options above at the time you recommence employment.

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## VESTING AND LOCKING-IN

“**vested**”, means you are unconditionally entitled to receive the pension benefits you have accrued under your plan.

In the case of a DC plan, being vested means you are entitled to receive a pension benefit equal to the value of the contributions your employer made on your behalf and your own contributions, if any, plus investment earnings. In the case of a DB plan, being vested means you are entitled to receive the pension benefits accrued according to the benefit formula.

The revised PBSA introduced immediate vesting effective September 30, 2015. Immediate vesting means that you are entitled to receive any benefit earned from the time you joined the plan to the date you terminate your membership in the plan.

“**locked-in**” means that the pension money payable to you is to be used only for the purpose of providing you with a lifetime retirement income. In other words, once your pension benefits are locked in, you normally cannot take the money out of the pension plan as a lump sum cash payment.

The commuted value of benefits earned before January 1, 1993, or contributions to the plan made prior to January 1, 1993, and any interest on those contributions earned either before or after that date, is not locked-in by the PBSA. These benefits, however, may be locked-in by the terms of your plan.

## TERMINATION OPTIONS

If you quit or lose your job, and you are a vested member of the plan, you may choose to leave the accumulated money in the pension plan. This option may allow you to participate in future benefit improvements under the plan, depending on the terms of the pension plan.

If you terminate your employment more than 10 years before the “pension eligibility date” defined in your plan, the PBSA requires that your plan allow you to transfer the value of your vested pension to any of the following:

- a pension plan of a subsequent employer (if that plan accepts such transfers);
- a locked-in retirement account (a LIRA);
- a life income fund (a LIF), at any time after you reach the age of 50;
- an insurance company to purchase a deferred annuity.

Transferred pension benefits must remain locked-in to provide you with a pension when you retire. In the case of a LIRA, this means that the funds cannot be paid out in a lump sum, but must be transferred to a LIF, or be used to purchase a life annuity or can be transferred to another locked-in RRSP prior to age 71.

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## TIME LIMITS FOR TRANSFERS

A termination of active plan membership occurs, in most cases, when a pension plan member terminates employment, retires or dies.

In most cases, upon a plan member's termination of active membership, the PBSA requires the pension plan to provide the person with a termination statement within 60 days after the termination. In the case of a plan that is a “collectively bargained multi-employer plan,” the termination statement must be provided within 90 days of the termination of active membership.

The statement must include information on the benefit you are entitled to, the options available to you and the deadline for choosing options.

In the case of a multi-employer plan, the actual termination of active membership may be considered to not have occurred until two consecutive fiscal years of the plan have gone by in which the member did not work at least 350 hours over the two years combined. In a multi-employer plan, a person who qualifies for a termination of membership, and wishes to transfer benefit entitlements out of the plan, must complete an application for the transfer and file it with the plan administrator. Upon receipt of a completed application, the PBSA requires the administrator to provide a termination statement within 90 days after receipt of the application.

If a plan member dies before starting a pension, the PBSA requires the plan administrator to provide a statement to the surviving spouse, designated beneficiary, or personal representative of the estate of the deceased member within 60 days after proof of death has been provided to the administrator.

Upon receipt of the termination statement, you are required to select an option and return your completed selection option form to the plan administrator within the time period required by the terms of the plan. This information should be included in the termination statement provided to you.

If a person is entitled to the transfer of the commuted value of a pension entitlement, or a return of contributions, the PBSA requires the plan administrator to make the transfer within 60 days after the completing and filing with the administrator of all documents required to authorize the transfer.

## COMMUTATION OF SMALL VESTED BENEFITS

The PBSA entitles you to receive your benefit entitlement in cash if the commuted value does not exceed 20 % of the Year's Maximum Pensionable Earnings ("YMPE") under the *Canada Pension Plan* for the year of termination (20% of YMPE = \$12,320 in 2021). The YMPE is set by CRA every year and so this amount will change annually.

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## EXCEPTIONS TO THE LOCKING-IN REQUIREMENT FOR LIRAS AND LIFS

### 1. Withdrawal for Financial Hardship.

You may make a lump-sum withdrawal up to a prescribed amount from your LIRA or LIF accounts if you are suffering financial hardship. If the owner of the LIRA or LIF has a spouse and the LIRA or LIF holds funds transferred from the owner's pension plan, the financial hardship unlocking can only be completed if the spouse waives entitlements through the completion of [Form 1](#), in the proper manner, and a copy is filed with the relevant financial institution.

The reasons of financial hardship include:

- Low Income
- Need to Pay Medical Expenses
- Threat of Eviction for Rental Arrears
- Threat of Default on a Mortgage on a Principal Residence
- Need to pay a deposit to obtain a new principal residence.

### 2. Small LIRAs and LIFs

A LIRA or LIF holding a total value not exceeding 20% of the Year's Maximum Pensionable Earnings ("YMPE") under the *Canada Pension Plan* may be released from the locking-in conditions imposed by the *Pension Benefits Standards Act* and Regulation. For 2021, the threshold amount is \$12,320.

The test is to be applied on an individual LIRA and LIF basis. There is no requirement to take into account any other locked-in pension assets a person may have. **A LIRA or LIF containing more than \$12,320 is not allowed to be split into smaller accounts in order to qualify for unlocking.** A financial institution that splits a LIRA or LIF into portions any smaller than \$12,320 is in breach of the Pension Benefits Standards Regulation. It is permissible to subdivide a LIRA or LIF into portions of \$12,320 or greater.

There is no age requirement for this provision. There are no prescribed forms required for this provision. Money that qualifies for unlocking can be paid out in cash or be transferred to another tax shelter.

This is a separate exception from the age 65 exception, which is described immediately below.

### 3. Age 65 and Small Total Entitlement

The PBSA entitles a person age 65 or older to unlock his or her pension entitlements if the value of any of the LIRAs or LIFs that they own is less than 40 % of the Year's Maximum Pensionable Earnings

("YMPE") under the *Canada Pension Plan* (40% of YMPE = \$24,640 in 2021). The YMPE is set by CRA every year so this amount will change annually.

This represents a change from the previous PBSA which required that the 40% threshold was based on the aggregate of all LIRAs, LIFs and amounts under a defined contribution plan. The small limits test now applies to each LIRA or LIF without consideration of any other LIRA or LIF of the owner.

A person who qualifies under this provision may transfer the money to a regular (i.e. unlocked) RRSP or receive it as a cash lump sum. Note, however, that any lump sums withdrawn from a pension plan are fully taxable as income for the year in which they are withdrawn.

If you are over age 65 and the value is less than 40% of the YMPE, there is no longer any requirement to obtain the consent of your spouse to remove the locking in conditions. Furthermore, there are no prescribed forms for this provision.

For 2021, if you are under the age of 65, and the amount in any single locked-in account is less than \$12,320 on the day you ask for the withdrawal, the account can be unlocked. If you are age 65 or older and the amount in any single locked-in account is less than \$24,640 on the day you ask for the withdrawal, the account can be unlocked. There is no pension partner waiver as the amount is too small to provide a pension. Please note that you cannot split accounts to make them small enough to be unlocked.

#### **Permanent Departure from Canada**

In order to commute a pension entitlement under this provision, the owner of the LIRA or LIF must provide each financial institution with:

1. Written evidence that the Canada Revenue Agency has determined the person to be a non- resident of Canada for tax purposes.
2. A statement signed by the owner that the owner has been absent from Canada for two or more years

If the owner of the LIRA or LIF has a spouse and the LIRA or LIF holds funds transferred from the owner's pension plan, the commutation can only be completed if the spouse waives entitlements through the completion of [Form 1](#), in the proper manner, and a copy is filed with each relevant financial institution.

For more information about declaration of Non-Residency as required by CRA, please follow the link provided below.

<http://www.cra-arc.gc.ca/tx/nnrsdnts/cmmn/rsdncy-eng.html>

#### **4. Commutation for Shortened Life Expectancy**

The PBSA requires that every LIRA or LIF contract contain a provision allowing for the withdrawal as a payment in a lump sum, or a series of payments, of a person's pension benefit due to an illness or disability that is certified by a medical practitioner to be terminal or to likely shorten the person's life considerably. In order to commute a pension entitlement under this provision, the owner of the LIRA or LIF must provide certification from a physician that the illness or disability is terminal or likely to shorten the person's life considerably. If the owner of the LIRA or LIF has a spouse and the LIRA or LIF holds funds transferred from the owner's pension plan, the commutation can only be completed if the spouse waives entitlements through the completion of [Form 1](#), in the proper manner, and a copy is filed with the relevant financial institution.



## PRE-RETIREMENT SURVIVOR BENEFITS

If you have not started to receive your pension at the time of your death and have a spouse benefits will be paid to your spouse. If you do not have a spouse, or your spouse has waived entitlement to the benefit, the benefits will be paid to your designated beneficiary or estate.

Your spouse has the option of waiving entitlement to the pre-retirement survivor benefit so that the benefit goes to your designated beneficiary, or your estate. The waiver must be signed and witnessed before your death. A spouse who wishes to waive entitlement to the pre-retirement survivor benefit can do so by completing a prescribed form ([Form 4](#)), and filing it with the plan administrator.

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## POST-RETIREMENT SURVIVOR BENEFITS

If you have a spouse when you start to receive your pension, the pension you choose must be a joint and last survivor pension that will reduce by no more than 40% at the time of your death or the death of your spouse. For example, if you receive a joint pension of \$1000 per month, your spouse, following your death, would receive at least \$600 per month.

Your monthly pension payment will be reduced from the amount payable for a single life pension in order to provide this joint pension, because the payment is guaranteed for the lives of both you and your spouse.

This requirement may be waived if your spouse is fully informed of his or her right to a joint pension, and signs a spousal waiver form ([Form 2](#)), in the presence of a witness, not more than 90 days before you start to receive the pension. You are not permitted to be present when your spouse signs this form.

If your spouse waives the right to receive lifetime payments, your spouse still retains the right as your beneficiary, after your death to receive any remaining benefits in the pension or annuity unless your spouse waives or gives up that right by signing the appropriate section of [Form 2](#).

Note that the joint and last survivor pension requirement applies to any pension which commences after January 1, 1993, and includes all accrued pension benefits, not just those earned after January 1, 1993.

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## CANADA PENSION PLAN (CPP)/OLD AGE SECURITY (OAS) OFFSET

Some pension plans allow members to receive a higher pension payment until they start to receive CPP or OAS benefits. Once you begin receiving payments under the CPP or OAS plan, your company pension benefits may be reduced by the amounts being paid to you under the CPP or OAS. The PBSA limits the amount by which your pension can be reduced.

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## NON-ASSIGNMENT OF BENEFITS

Pension benefits, except additional voluntary employee contributions, may not be assigned, sold or used as security for a loan.

Pension benefits are exempt from seizure or attachment, and cannot have a lien or garnishment put on them, except in cases of [marriage breakdown](#).

## PENSION PLAN INFORMATION

If you are a member of a pension plan, the plan administrator is required to provide you with specified information, which must include the following:

- a summary of the plan's provisions and your entitlements under the plan, the plan's assets in the most recent fiscal year, and the method of calculating interest;
- an annual statement of your contributions, benefits and personal data (e.g. birth date), your employer's contributions, and whether or not the plan has sufficient funds to pay all the benefits earned (to be provided to you within 180 days after the fiscal year end of the plan);
- a statement on termination of membership, outlining benefits earned and available options (to be provided to you within 60 days after termination of membership, or within 30 days after a written request is received by the plan administrator);
- a statement on retirement, outlining benefits earned and available options (to be provided within 60 days after receipt of an application to retire). If an application is received more than 120 days prior to the date of retirement, the statement must be provided on or before the later of 60 days after the date of receipt and 120 days before the pension commencement date.;
- a statement on death before pension commencement, outlining benefits earned and available options (to be provided to your surviving spouse or beneficiary within 60 days after proof of death has been provided to the administrator);
- access to the plan text and other related documents (within 10 working days after the administrator receives a written request);
- data relating to the calculation of benefits (within 30 days after the administrator receives a request);
- advance notice of your employer's intention to use or to withdraw surplus assets not otherwise required to provide benefits under the plan, or of your employer's intention to terminate the plan (within 60 days of proposed employer intention).

The plan administrator must provide the above information to you without charge.

**If you are seeking information on your pension plan, you should first ask your employer, plan administrator, or contact your union.** If you are unable to obtain the information required, report this in writing to the office of the Superintendent of Pensions.