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**BULLETIN NUMBER:** PEN-09-008

**TITLE:** AMENDMENTS TO SECTION 40 (2) – PENSION UNLOCKING FOR SHORTENED LIFE EXPECTANCY

**LEGISLATION:** *PENSION BENEFITS STANDARDS ACT*

**DATE:** SEPTEMBER 2009

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### Overview

Section 40 is a permissive section of the *Pension Benefits Standards Act* (“the PBSA”). If a plan permits, under certain conditions, a member may be permitted to unlock their pension in cases of shortened life expectancy.

The BC Government has amended section 40 (2) of PBSA to clarify provisions regarding pension unlocking owing to shortened life expectancy. The amendments apply when a plan member has a disability or terminal illness that is likely to considerably shorten the person’s life. Where a plan permits access to funds owing to shortened life expectancy, plan members must provide certification from a medical practitioner to the administrator of their pension plan.

Administrators of plans allowing for release of funds in these circumstances must amend their plan to incorporate the amendments to the PBSA.

### Amendments to Section 40 (2)

Amendments to section 40 (2) were brought into force on September 2, 2009.

The amendments clarify the process and conditions under which a plan member may elect to unlock their pension funds owing to shortened life expectancy.

Pursuant to section 40 (2) of the PBSA, a plan administrator may, but is not required to, allow plan members who have a shortened life expectancy to access their pension funds.

Further, contracts for Life Income Funds (“LIF’s”) and locked-in Registered Retirement Savings Plans (RRSP’s) may contain similar provisions.

All pension plans registered in BC that allow members to access funds in these circumstances will be deemed to include this new provision when these changes are brought into force. Plan administrators are advised that all plans will have to be formally amended to conform with the new amendments to section 40 (2).

These changes provide more flexibility, by responding to the needs of plan members who want early access to their pension funds.

### **Contacts**

Please note that the Superintendent’s office plays no role in determining what constitutes a disability or in defining a terminal illness that will considerably shorten a person’s life. This determination is at the discretion of duly licensed medical practitioners and subject to the acceptance of the plan administrator.

Plan members who would like more information on the application of this section are advised to contact their plan administrators. In cases where plan members have a LIF or a locked-in RRSP, please contact your fund holder for more information on unlocking of pension funds owing to shortened life expectancy.

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