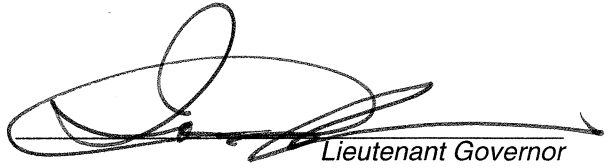


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

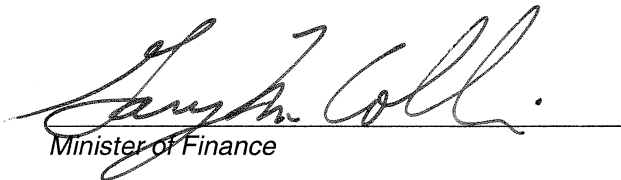
Order in Council No. --- **300** , Approved and Ordered **MAR 25 2004**



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective April 1, 2004, the Pension Benefits Standards Regulation, B.C. Reg. 433/93, is amended as set out in the attached Appendix.



Minister of Finance



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Pension Benefits Standards Act, R.S.B.C. 1996, c. 352, s. 74

Other (specify):- _____

APPENDIX

1 *Section 3 of B.C. Reg. 433/93, the Pension Benefits Standards Regulation, is amended by adding the following subsection:*

- (13) If a pension plan provides payments of pension benefits similar to the method of payments available from a life income fund, those payments are exempt from the application of section 30 (1) of the Act provided the plan complies with the requirements of section 30.1 of this regulation.

2 *Section 29 is amended by adding the following subsections:*

- (9.2) A former member who is the owner of a contract is exempt from section 30 of the Act and the requirements of subsections (2), (4), (7) (a), (b) and (e) to (h), and (10) to (13) of this section, and the contract is deemed to be amended to provide for such an exemption, if the balance of the contract does not exceed 20% of the Year's Maximum Pensionable Earnings.
- (9.3) A contract for which the balance of the contract exceeds 20% of the Year's Maximum Pensionable Earnings must not be divided into two or more of any combination of RRSP or life income fund contracts, such that any of the contracts have a resulting balance less than 40% of the Year's Maximum Pensionable Earnings.
- (14.1) If the money in the contract has been held during the current year in a life income fund governed by this regulation, an underwriter must not effect a transfer to another underwriter unless the transferring underwriter has advised the transferee underwriter in writing
- (a) that the funds had been held under a life income fund governed by this regulation, and
 - (b) the date on which the funds were transferred out of that life income fund.

3 *Section 30 is amended*

(a) in subsection (1) by adding the following definitions:

“preceding year’s investment returns” means the value of the contract at the end of the immediately preceding fiscal year, minus the value of the contract on the first day of that fiscal year, plus any money paid out of the contract during that fiscal year, minus any money transferred into the contract during that fiscal year;

“reference rate” means the greater of

- (a) the month-end nominal rate of interest earned on long-term bonds issued by the Government of Canada for the month of November preceding the year of the valuation, as compiled by Statistics Canada and published in the *Bank of Canada Banking and Financial Statistics* as CANSIM Series B14013, to which the following adjustments are 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%, and
- (b) a rate of 6%;

“value of the contract” means the market value of the investments held under a contract plus any cash balances held under the contract, including any earnings accrued but not yet received, any declared dividends not yet received, and any other accrued or receivable income items, whether or not the particular item is yet due and owing; ,

(b) *by adding the following subsection:*

- (5.1) A LIF appearing on the superintendent’s list established under subsection (3) on December 31, 2003, must either meet the requirements of this section no later than December 31, 2004, or be removed from the list.,

(c) *in subsection (8) by repealing paragraph (a) and substituting the following:*

- (a) subject to paragraph (b) and subsection (10), all money, including all investment earnings, is to be used to provide or secure pension benefits as required by the Act and this regulation; ,

(d) *in subsection (8) by repealing paragraphs (b) to (d) and substituting the following:*

- (b) the owner will be permitted to transfer all or part of the balance of the contract
 - (i) to an underwriter’s LIF contract on the relevant conditions specified in this section,
 - (ii) to an underwriter’s RRSP contract on the relevant conditions specified in section 29,
 - (iii) to a pension plan on the conditions referred to in section 33 (2) (a) of the Act,
 - (iv) to purchase a deferred life annuity contract that meets the conditions of paragraphs (k) and (k.1), or
 - (v) to purchase an immediate life annuity contract; ,

(e) *in subsection (8) by repealing paragraph (k) and substituting the following:*

- (k) on the death of an owner who has a spouse, the money will be used to provide a pension for the surviving spouse unless the surviving spouse waives spousal entitlement in the form and manner set out in Form 4 of Schedule 2, and the money must be transferred
 - (i) to another LIF contract on the relevant conditions specified in this section,
 - (ii) to an underwriter’s RRSP contract on the relevant conditions specified in section 29,
 - (iii) to a pension plan on the conditions referred to in section 33 (2) (a) of the Act, or
 - (iv) to purchase a life annuity contract; ,

(f) *in subsection (8) by adding the following paragraph:*

- (k.1) if the owner dies and is not survived by a spouse or the surviving spouse waives spousal entitlement in the form and manner set out in Form 4 of Schedule 2, the money will be paid by way of a lump sum payment to the designated beneficiary or, if there is no valid designation of beneficiary, to the owner’s estate; ,

(g) *in subsection (8) by repealing paragraph (q) and substituting the following:*

(q) the amount of income paid during a fiscal year of the contract will not be less than the minimum amount required to be paid under the *Income Tax Act* (Canada) and the regulations under the *Income Tax Act* (Canada), if there is a minimum amount, and will not exceed the greater of

(i) M as determined in accordance with the following formula:

$$M = C \times F$$

where

C = the balance of money in the contract on the first day of the year, and

F = the factor in Schedule III for the reference rate for the year and the owner's age at the end of the preceding year, and

(ii) the preceding year's investment returns for the contract, if there was a preceding year; ,

(h) *in subsection (8) by repealing paragraphs (r) and (v),*

(i) *in subsection (8) (u) by striking out “, with paragraph (r) applying”,*

(j) *in subsection (8) (w) by striking out “paragraphs (q), (r), (s) and (v)” and substituting “paragraphs (q) and (s)”, and*

(k) *by adding the following subsections:*

(8.1) Despite subsections (8) and (13), a savings institution or insurance company may issue to an owner during 2004 a contract that does not comply with this section, provided that

- (a) the contract complies with this section as it read immediately prior to the coming into force of this subsection,
- (b) the name of the contract appears on the list maintained by the superintendent under subsection (3),
- (c) the contract issued to the owner is in the form of a specimen contract, as amended if applicable, that has received the written approval of the superintendent, and
- (d) the contract issued to the owner is subsequently amended to comply with this section, or terminated, by December 31, 2004.

(8.2) A contract that was entered into under this section, as it read prior to the coming into force of this subsection, and that has not been terminated must be amended to comply with this section by December 31, 2004.

(8.3) Despite subsections (8) (q), (12) (a), (13) and the terms of a contract, an underwriter may permit the owner of a contract to receive an amount of income during the 2004 fiscal year of the contract that does not comply with subsection (8) (q), provided that the amount of income

- (a) complies with subsection (8) (q) as it read immediately prior to the coming into force of this subsection, or

- (b) does not exceed the preceding year's investment returns for the contract, if there was a preceding year.
- (10.2) A former member who is the owner of a contract is exempt from section 30 of the Act and the requirements of subsections (2), (5), (8) (a) and (g) to (j), (11) and (13) to (16) of this section, and the contract is deemed to be amended to provide for such an exemption, if the balance of the contract does not exceed 20% of the Year's Maximum Pensionable Earnings.
- (10.3) A contract for which the balance of the contract exceeds 20% of the Year's Maximum Pensionable Earnings must not be divided into two or more of any combination of RRSP or life income fund contracts, if any of the contracts would have a resulting balance less than 40% of the Year's Maximum Pensionable Earnings.
- (17.1) An underwriter must not effect a transfer to another underwriter unless the transferring underwriter has advised the transferee underwriter in writing
 - (a) that the funds had been held under a LIF contract governed by this regulation, and
 - (b) the date on which the funds were transferred out of the LIF.

4 *The following section is added:*

Life income fund type payments from pension plans

- 30.1** (1) A pension plan may provide for payments of pension benefits similar to the method of payments available from a life income fund, provided that
- (a) the payments are permitted under the *Income Tax Act* (Canada) and the regulations under the *Income Tax Act* (Canada),
 - (b) the plan text contains provisions governing the payments, including the amount of income paid during a year,
 - (c) if the member or former member had a spouse at the date the payments commenced, the written consent of the spouse had been obtained, before the payments commenced, in the form and manner set out in Form 3 of Schedule 2,
 - (d) the amount of income paid to a member or former member during a calendar year meets the requirements of section 30 (8) (q) as if the member or former member's pension entitlement from which the payments are being derived was being operated as a life income fund under section 30,
 - (e) the administrator, within 90 days of the beginning of each calendar year, provides to the member or former member the information described in section 30 (12) (a), as if the member or former member's pension entitlement from which the payments are being derived was being operated as a life income fund under section 30, and
 - (f) the member or former member continues to have the entitlements provided by section 33 of the Act as long as the pension entitlement from which the payments are being derived remains in the plan.

5 *Schedule I is amended*

(a) *in Column 1*

(i) *of item 2 by striking out “Municipal Pension Plan Regulation made under the Public Sector Pension Plans Act” and substituting “Municipal Pension Plan Rules, made under the Municipal Pension Plan Joint Trust Agreement, made under the Public Sector Pension Plans Act”,*

(ii) *of item 3 by striking out “Public Service Pension Plan Regulation made under the Public Sector Pension Plans Act” and substituting “Public Service Pension Plan Rules, made under the Municipal Pension Plan Joint Trust Agreement, made under the Public Sector Pension Plans Act”,*

(iii) *of item 4 by striking out “Teachers' Pension Plan Regulation made under the Public Sector Pension Plans Act” and substituting “Teachers' Pension Plan Rules, made under the Municipal Pension Plan Joint Trust Agreement, made under the Public Sector Pension Plans Act”, and*

(b) *in Column 2, opposite items 2 and 3 of Column 1, by adding: “5.1 Section 33 (1) of the Act as it would otherwise apply in relation to a member who terminates membership in the plan and is eligible for an immediate pension”.*

6 *Schedule 2 is amended by repealing Form 3 and substituting the following:*

Form 3

(sections 30 (7)) and (30.1)

SPOUSE’S CONSENT TO TRANSFER LOCKED-IN PENSION FUNDS TO A LIF OR TO RECEIVE LIF TYPE PAYMENTS DIRECTLY FROM A PENSION PLAN

1 I,, am

the “spouse” of (full name), who is a member or former member of a pension plan regulated by the *Pension Benefits Standards Act* of British Columbia.

2 Being the member or former member’s “spouse” means that (check one)

- I am married to the member or former member, and have not been living separate and apart from that person for the preceding two years,
- I have been living with the member or former member, as husband and wife, for the preceding 2 years,
- I am the same gender as, and have been living with, the member or former member in a marriage like relationship for the preceding 2 years.

3 I understand that my spouse wishes to transfer his/her pension benefit to a Life Income Fund (a “LIF”), or to receive LIF type payments directly from the pension plan, and that my written consent is required to enable my spouse to do so.

4 I understand that

- (a) transferring the pension benefit to a LIF will allow my spouse to manage his or her own pension fund money, and will allow some flexibility in determining when the money is used,

- (b) the remaining funds in the LIF or in the pension plan may be used to purchase a life annuity at any time, but there is no requirement that the remaining funds be used to purchase a life annuity at any time, and
- (c) if the remaining funds are used to purchase a life annuity, the life annuity must be a joint and last survivor annuity unless I waive my entitlements by signing a separate spousal waiver form within 90 days before the start of the annuity.

5 I further understand that before purchasing a life annuity, the LIF or the pension plan as the case may be, will allow my spouse to withdraw some of the money each year, subject to minimum and maximum withdrawal limits. The maximum withdrawal limit is designed to try to ensure that sufficient money remains to provide a lifetime income. I understand, however, that if

- (a) my spouse elects to withdraw the maximum amount permitted each year, and/or
- (b) the investment performance of the fund is poor,

the level of pension income or survivor benefit available to me in later years may be significantly reduced.

6 Nevertheless, I consent to the transfer of locked-in funds to a LIF, or the receipt of LIF type payments directly from the pension plan, and certify that

- (a) I have read this form and understand it,
- (b) I have read the LIF transfer document and understand it,
- (c) neither my spouse nor anyone else has put any pressure on me to sign this form,
- (d) my spouse is not present while I am signing this form,
- (e) I realize that
 - (i) this form gives only a general description of the legal rights I have under the *Pension Benefits Standards Act* and regulations, and
 - (ii) if I wish to understand exactly what my legal rights are I must read the *Pension Benefits Standards Act* and regulations, and/or seek legal advice, and
- (f) I realize that I am entitled to a copy of this consent form, and a copy of the LIF contract.

7 To consent to the transfer, I sign this consent form at[city],

..... [province], on[date]

.....
Signature of Spouse

.....
.....
.....

Address of Spouse

(home telephone number):

(work telephone number):

STATEMENT OF WITNESS

I certify that

- (a) My full name is
- (b) My address is
- (c) I witnessed this spouse sign this consent in the absence of his/her spouse.

.....[date]

Signature of Witness

(home telephone number):

(work telephone number):

COMMENTS AND INSTRUCTIONS

This form must be completed if a member or former member is eligible and wishes to transfer locked-in money to a LIF under the *Pension Benefits Standards Act* of British Columbia.

The form must be

- completed in its entirety,
- signed by the spouse outside of the immediate presence of the member or former member and witnessed independently prior to the transfer, and
- filed with the pension plan administrator, RRSP underwriter or LIF contract issuing company, as the case may be.

For further information please contact the plan administrator, underwriter, your employer or union, or the Pensions Department of the Financial Institutions Commission of British Columbia, 1050 Pender St. W., Suite 1900, Vancouver, B.C., V6E 3S7.

7 *The following Schedule is added:*

SCHEDULE 3 - LIFE INCOME FUND FACTOR F

(Section 30)

Age	Reference Rate							
	6.00%	6.50%	7.00%	7.500%	8.00%	8.50%	9.00%	9.50%
under 55	0.061	0.063	0.066	0.069	0.072	0.075	0.078	0.081
55	0.064	0.067	0.070	0.073	0.076	0.079	0.082	0.085
56	0.065	0.067	0.070	0.073	0.076	0.079	0.082	0.085
57	0.065	0.068	0.071	0.074	0.077	0.080	0.083	0.086
58	0.066	0.069	0.071	0.074	0.077	0.080	0.083	0.086
59	0.067	0.069	0.072	0.075	0.078	0.081	0.084	0.087
60	0.067	0.070	0.073	0.076	0.079	0.082	0.085	0.088
61	0.068	0.071	0.074	0.077	0.079	0.082	0.086	0.089
62	0.069	0.072	0.074	0.077	0.080	0.083	0.086	0.089
63	0.070	0.073	0.075	0.078	0.081	0.084	0.087	0.090
64	0.071	0.074	0.076	0.079	0.082	0.085	0.088	0.091
65	0.072	0.075	0.077	0.080	0.083	0.086	0.089	0.093
66	0.073	0.076	0.079	0.082	0.085	0.088	0.091	0.094
67	0.074	0.077	0.080	0.083	0.086	0.089	0.092	0.095
68	0.076	0.078	0.081	0.084	0.087	0.090	0.093	0.096
69	0.077	0.080	0.083	0.086	0.089	0.092	0.095	0.098
70	0.079	0.082	0.085	0.088	0.091	0.094	0.097	0.100
71	0.081	0.084	0.087	0.089	0.092	0.095	0.098	0.102
72	0.083	0.086	0.089	0.092	0.095	0.098	0.101	0.104
73	0.085	0.088	0.091	0.094	0.097	0.100	0.103	0.106
74	0.088	0.091	0.094	0.097	0.099	0.102	0.105	0.108
75	0.091	0.094	0.097	0.100	0.102	0.105	0.108	0.111
76	0.094	0.097	0.100	0.103	0.106	0.109	0.112	0.114
77	0.098	0.101	0.104	0.107	0.110	0.112	0.115	0.118
78	0.103	0.106	0.109	0.111	0.114	0.117	0.120	0.123
79	0.108	0.111	0.114	0.117	0.119	0.122	0.125	0.128
80	0.115	0.117	0.120	0.123	0.125	0.128	0.131	0.133
81	0.121	0.124	0.127	0.129	0.132	0.135	0.137	0.140
82	0.129	0.132	0.134	0.137	0.139	0.142	0.145	0.147

83	0.138	0.140	0.143	0.146	0.148	0.151	0.154	0.156
84	0.148	0.151	0.153	0.156	0.159	0.161	0.164	0.167
85	0.160	0.163	0.165	0.168	0.171	0.173	0.176	0.179
86	0.173	0.176	0.179	0.182	0.184	0.187	0.190	0.193
87	0.189	0.191	0.194	0.197	0.200	0.200	0.200	0.200
88 or over	0.200	0.200	0.200	0.200	0.200	0.200	0.200	0.200

Age	10.00%	10.50%	11.00%	11.50%	12.00%	12.50%	13.00%	13.50%
under 55	0.084	0.087	0.090	0.093	0.097	0.100	0.103	0.107
55	0.088	0.091	0.094	0.097	0.101	0.104	0.107	0.111
56	0.088	0.091	0.095	0.098	0.101	0.104	0.108	0.111
57	0.089	0.092	0.095	0.098	0.102	0.105	0.108	0.112
58	0.090	0.093	0.096	0.099	0.102	0.106	0.109	0.112
59	0.090	0.093	0.097	0.100	0.103	0.106	0.110	0.113
60	0.091	0.094	0.097	0.101	0.104	0.107	0.110	0.114
61	0.092	0.095	0.098	0.101	0.105	0.108	0.111	0.115
62	0.093	0.096	0.099	0.102	0.105	0.109	0.112	0.115
63	0.094	0.097	0.100	0.103	0.106	0.110	0.113	0.116
64	0.095	0.098	0.101	0.104	0.107	0.111	0.114	0.117
65	0.096	0.099	0.102	0.105	0.108	0.112	0.115	0.118
66	0.097	0.100	0.103	0.106	0.110	0.113	0.116	0.119
67	0.098	0.101	0.104	0.108	0.111	0.114	0.117	0.121
68	0.100	0.103	0.106	0.109	0.112	0.115	0.119	0.122
69	0.101	0.104	0.107	0.111	0.114	0.117	0.120	0.123
70	0.103	0.106	0.109	0.112	0.115	0.119	0.122	0.125
71	0.105	0.108	0.111	0.114	0.117	0.120	0.123	0.127
72	0.107	0.110	0.113	0.116	0.119	0.122	0.125	0.129
73	0.109	0.112	0.115	0.118	0.121	0.124	0.127	0.131
74	0.111	0.114	0.117	0.120	0.124	0.127	0.130	0.133
75	0.114	0.117	0.120	0.123	0.126	0.129	0.132	0.135
76	0.117	0.120	0.123	0.126	0.129	0.132	0.135	0.138
77	0.121	0.124	0.127	0.130	0.133	0.136	0.139	0.142
78	0.126	0.128	0.131	0.134	0.137	0.140	0.143	0.146
79	0.131	0.134	0.137	0.139	0.142	0.145	0.148	0.151
80	0.136	0.139	0.142	0.144	0.147	0.150	0.153	0.155
81	0.143	0.145	0.148	0.151	0.153	0.156	0.159	0.161
82	0.150	0.153	0.155	0.158	0.161	0.163	0.166	0.169
83	0.159	0.161	0.164	0.167	0.169	0.172	0.175	0.177
84	0.169	0.172	0.174	0.177	0.180	0.182	0.185	0.187
85	0.181	0.184	0.187	0.189	0.192	0.194	0.197	0.200
86	0.195	0.198	0.200	0.200	0.200	0.200	0.200	0.200
87	0.200	0.200	0.200	0.200	0.200	0.200	0.200	0.200
88 or over	0.200	0.200	0.200	0.200	0.200	0.200	0.200	0.200