

# **Form 12 Guide for Financial Institutions**

Effective July 1, 2021

Revised January 2022

## Instructions Guide

**CAUTION:** Please note that this Form 12 Guide for Financial Institutions 2021 is a guideline only. It is meant to provide guidance to financial institutions that are reviewing and processing applications for financial hardship unlocking under the [Pension Benefits Regulations](#) N.S. Reg. 200/2015 made under the [Pension Benefits Act](#) SNS 2011, c. 41. Where this guideline conflicts with the [Pension Benefits Act](#) or the [Pension Benefits Regulations](#), the Act and the Regulations govern.

**The Act and the Regulations and in particular Sections 211 to 230 of the Regulations should at all times be consulted when processing financial hardship unlocking applications.** The financial hardship unlocking provisions of Nova Scotia's [Pension Benefits Regulations](#) (please see Sections 212 through 230) allow for funds to be withdrawn under one or more of the following circumstances:

- **Low Income:** the owner of the LIRA/LIF's anticipated total income from all sources before taxes for the 12-month period immediately following the signing date is less than 66 2/3% of the Year's Maximum Pensionable Earnings for the year in which the application is signed.
- **Mortgage Default:** the owner of the LIRA/LIF or the owner's spouse has received a written demand in respect of a default on a mortgage debt that is secured against the owner's principal residence, and the owner could face eviction or legal action if the debt remains unpaid.
- **Rental Default:** the owner of the LIRA/LIF or the owner's spouse has received a written demand in respect of default in the payment of rent on the owner's principal residence, and the owner could face eviction if the debt remains unpaid.
- **Medical or Dental Expenses:** the owner, the owner's spouse or a dependant has incurred or will incur medical or dental expenses that are not covered by any other program or source.

Unlocking for financial hardship does not apply to money still held within a pension fund or locked-in funds that are subject to federal or other provincial jurisdiction.

The most recent version of Form 12 must be filled out if you wish to make a financial hardship withdrawal. To confirm that you have the most recent version of Form 12, please visit the Pension Regulation Division's website at <https://www.novascotia.ca/finance/en/home/pensions/forms/default.aspx>

The applicant may also wish to check the FAQ section of the Pension Regulation Division's website to see if any other unlocking provisions apply to them: <https://www.novascotia.ca/finance/en/home/pensions/faq.aspx>

The applicant must also include supporting documentation as outlined in the applicable checklists within the application.

The completed application and supporting documentation must be sent to the financial institution that holds the applicant's LIRA/LIF. The financial institution should be able to

answer any questions that an applicant may have regarding the application.

The financial institution may rely on the information provided by the applicant within the application.

If the application is approved and the consented gross amount results in a residual account balance of less than \$500.00, the applicant may elect to unlock the entire remaining account balance (less withholding taxes).

**Do not** send completed forms to the Nova Scotia Department of Finance and Treasury Board, Pension Regulation Division. This guide will assist financial institutions in processing Form 12.

## General Information

### Section 1

Enter the personal information of the owner of the LIRA/LIF (also known as the applicant).

### Section 2

List the company name and the province or territory of employment where the money in the LIRA/LIF was earned.

### Section 3

Confirm if the pension was earned while working for the federal government, a federal agency or a company or territory regulated by the federal government. If the pension was earned while working in the federally regulated sector, this form should not be used. For information about unlocking money earned while working in the federally regulated sector, contact the federal Office of the Superintendent of Financial Institutions (OSFI) at <https://www.osfi-bsif.gc.ca/Eng/Pages/default.aspx>.

### Section 4

Check the applicable boxes to confirm the reason that the applicant is applying for financial hardship. If the applicant does not meet the criteria listed in section 4, this form should not be used and funds cannot be unlocked for reason of financial hardship.

### Section 5

If consent is granted to unlocking the LIRA or LIF due to circumstances of financial hardship and there would be less than \$500 remaining in the LIRA or LIF after unlocking, the applicant may also choose to withdraw the remaining amount by checking the appropriate box on the form.

### Owner's Certificate

The applicant should confirm their spousal status by checking only one box (as applicable to them). They must complete the form, including signing and dating the form in the presence of a witness. The witness is also required to sign, date and complete the witness' information section in full.

### Spouse's Consent to Withdraw (If applicable)

Regardless of the financial hardship, if the applicant has a spouse, the spouse's consent is required to process an application for financial hardship. If the spouse provides their consent to the withdrawal, they must complete the *Spouse's Information*

section of the form, then sign and date the form in the presence of a witness over the age of 19 who is not their spouse. The witness must complete the *Witness' Information* section of the form and sign and date the form immediately after the spouse has provided their consent.

*The only exception* to this requirement are if the funds were obtained by the owner as a result of:

- The spouse and the owner living separate and apart and the spouse having waived the death benefit using Form 8 Spousal Waiver of Death Benefit under a LIRA or LIF, or the spouse not being entitled to any of the LIRA or LIF due to a court order or separation agreement.

Please note that if the applicant does not have a spouse, spousal consent is not required.

*Please note the following:*

Pages 1, 2, 3 and, if applicable, 4, are required to process the application regardless of the circumstance of financial hardship under which the applicant is applying. The remaining sections of the application are in respect to the specific criteria for which the applicant is applying.

Each of the four circumstances have checklists within the application for the applicant to refer to. Applicants should provide the information required for the financial institution to proceed with their application. If the required information is not provided, the financial institution has the right to either request the information from the applicant as they deem appropriate (i.e. phone, email, written letter, etc.) or deny the application.

### **Form 12•A – Page 5 Low Income Declaration**

An individual applying under the low income circumstance must complete this page in full. They must calculate their gross expected income over the next 12 months as of the date they are completing their application. Therefore, if an applicant is completing their application in October, the applicant must calculate their expected income over 12 months from the date they sign and date their application (which would be October of the following year).

Applicants must provide supporting documentation for the financial institution to review the applicants estimated gross expected income over the next 12 months. The financial institution should review the documentation to confirm that it is reasonable and supports the applicants estimated Total Gross Expected Income. The financial institution may ask the applicant for further clarification or information from the as necessary.

The applicant must also identify the net amount they wish to withdraw (i.e. either the maximum allowed or a specific dollar amount, which must be at least \$500) and sign and date page 5.

The financial institution is entitled to rely on the information provided by the applicant to make a decision on whether to approve the application.

The low income checklist for applicants outlined on page 6 of the application specifies the supporting documentation that should be submitted with the application.

If the applicant owns a LIF, Form 12A prompts the applicant to ask their financial advisor for assistance in developing a reasonable estimate for the expected maximum amount of LIF income, including Temporary Income, they are eligible to receive over the next 12 months. Financial institutions should be prepared to provide advice on a reasonable estimate. Financial Institutions should be prepared to advise applicants that this amount should include an estimate of the maximum amount of annual LIF income that may be paid out of each LIF owned by the applicant, and the estimated maximum amount of any “temporary income” that may be paid out of each LIF of the owner, for the year in question. Financial institutions should be prepared to provide advice on how to calculate a reasonable estimate of the estimated maximum annual LIF income and estimated maximum Temporary Income from each LIF held by the financial institution that the owner is eligible to receive.

In the event the applicant does not seek advice from their financial institution before developing an estimate for the expected maximum amount of LIF income, the financial institution should review the applicant’s estimate to determine if the estimate is reasonable.

The maximum eligible amount of LIF income the applicant is entitled to receive must be included in the calculation of Total Gross Expected Income regardless of whether the applicant intends to receive the income.

Total Gross Expected Income excludes the following:

- a) Any withdrawal in circumstances of financial hardship
- b) A refund or repayment of taxes paid to a Canadian jurisdiction
- c) A refundable tax credit
- d) Income from sources enumerated in Sections 52, 52A, 53 and 53A of the *Employment Support and Income Assistance Regulations* made under the *Employment Support and Income Assistance Act* and categorized in those Sections as not being “chargeable income”
- e) Child support payments received under a court order or an agreement
- f) Spousal support payments made pursuant to a court order or an agreement (note that spousal support payments should be included in Total Gross Expected Income of the recipient of such payments)

**Form 12●B – Page 7**  
**Mortgage Default Declaration**

An applicant applying under mortgage default must complete Form 12●B (page 7). They must declare the location of their principal residence.

The applicant must also identify the net amount they wish to withdraw (i.e. either the maximum allowed or a specific dollar amount, which must be at least \$500) then sign and date page 7. Note that the maximum amount an individual applies for under mortgage default cannot be greater than the mortgage debt that is in default and all directly related enforcement costs to bring the mortgage into good standing that are owed as of the date of the application. Applicants must also sign and date Form 12●B (page 7)

Applicants must provide supporting documentation for the financial institution to confirm the applicant's mortgage default. For further information about what documentation should be provided, please see the mortgage default checklist at the bottom of Form 12●B (page 7).

Applicants can only unlock for mortgage default once in a lifetime. If an applicant has confirmed that they have unlocked previously for mortgage default, the application should be denied. Please note that if the applicant meets one of the other unlocking circumstances, they may apply under another form of unlocking.

A checklist has been provided below for mortgage default.

**Form 12●C – Page 8**  
**Rental Default Declaration**

An applicant applying under rental default must complete Form 12●C (page 8). They must declare the location of their principal residence.

The applicant must also identify the net amount they wish to withdraw (i.e. either the maximum allowed or a specific dollar amount, which must be at least \$500) and sign and date page 8. Note that the maximum amount cannot be greater than the rental default and all directly related enforcement costs that are owed as of the date of the application. They must also sign and date Form 12●C (page 8)

Applicants must provide supporting documentation for the financial institution to confirm the applicant's rental default. For further information about what documentation should be provided, please see the rental default checklist at the bottom of Form 12●C (page 8).

Applicants can only unlock for rental default once in a lifetime. If an applicant has confirmed that they have unlocked previously for rental default, the application should be denied. Please note that if the applicant meets one of the other unlocking circumstances, they may apply under another form of unlocking.

A checklist has been provided below for rental default.

## **Form 12•D (Part 1) – Page 10 Medical or Dental Expenses Declaration**

Form 12•D (page 10) must be completed by a Canadian Physician/Dentist, unless the applicant is residing outside of Canada, in which case the Physician/Dentist completing the form must be licensed to practice medicine in the same jurisdiction in which the applicant resides. Note that rather than completing page 10, the Physician/Dentist may provide a written letter, signed and dated providing the information outlined on Form 12•D (page 10).

The Physician/Dentist must provide their information as outlined on page 10. They must print the full name of the patient and indicate the goods/services necessary for their patient's treatment. They must also sign and date the form.

## **Form 12•D (Part 2) – Page 11 Medical or Dental Expenses Declaration**

Form 12•D (page 11) must be completed by the applicant. The applicant must indicate if they want to withdraw the maximum or if they have a specific amount that they would like to receive (note that this amount must be at least \$500 to process the application). The maximum amount allowed is the sum of medical expenses actually incurred within the 12 month period immediately preceding the signing date, and the amount sufficient to pay any medical expenses anticipated to be incurred within the 12 month period immediately after the signing date.

The applicant must declare who the expenses are for, whether for the owner, the owner's spouse or a "dependant" of the owner as defined on page 12 of the application. The applicant must sign and date Form 12•D (page 11).

Note that it is possible for the applicant to apply for multiple expenses for their spouse and multiple dependants within the same application; however, Form 12•D part 1 and part 2 need to be completed for each individual.

The applicant must provide copies of medical expenses for the last 12 months (the 12 months immediately before the application signing date) and/or a cost estimate for medical supplies/services required over the next 12 months (the 12 months immediately following the applicable signing date).

Note that only funds in the amount equal to the expenses supported by the written opinion of a physician/dentist that are necessary to treat an illness/disability are available for unlocking. Further, any funds covered by another program or source are not eligible for unlocking under the medical/dental expenses criteria. Eligible expenses must be goods or services and cannot include amounts for lost or foregone income.

If the applicant does not reside in Canada and is receiving medical treatment outside of Canada, they must complete the Declaration for Non-Residents of Canada as outlined in Form 12•D Medical or Dental Expenses Declaration.