



Family Law Act

DIVISION OF PENSIONS REGULATION

B.C. Reg. 348/2012

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Consolidated Regulations of British Columbia

This is an unofficial consolidation.

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This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

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PART 1 – INTERPRETATION

Definitions

1 (1) In this regulation:

“**Act**” means the *Family Law Act*;

“**average retirement age**”, in relation to a plan, means

- (a) the average age of retirement for the plan assumed in the most recent actuarial valuation report filed in relation to the plan with the superintendent, or
- (b) if a specified age is adopted under section 23 (5), the specified age;

“**commencement date**” means

- (a) the date that, in a section 127 agreement or a Part 6 order, is specified as the date on which the relationship between the member and the spouse began within the meaning of section 3 of the Act, or
- (b) if another date is specified in a section 127 agreement or a Part 6 order as the beginning date of the period in relation to which the spouse’s proportionate share of the member’s benefits is to be calculated under the Act, that specified date;

“**entitlement date**” means

- (a) the date that, in a section 127 agreement or a Part 6 order, is specified as the date on which the spouse became entitled under section 81 (b) of the Act to an interest in the member’s benefits under the plan, or
- (b) if another date is specified in a section 127 agreement or a Part 6 order as the end date of the period in relation to which the spouse’s proportionate share of the member’s benefits is to be calculated under the Act, that specified date;

“**entitlement period**” means the period that begins on the commencement date and ends on the entitlement date;

“**former regulation**” means the Division of Pensions Regulation, B.C. Reg. 77/95;

“**investment returns**”, in relation to money, means interest earned on, and other gains and losses accrued in relation to, the money, less related investment expenses;

“**Part 6 order**” means an order of the Supreme Court or of a superior court of another jurisdiction made, or enforceable in British Columbia, under Part 6 of the Act;

“**pensionable service**”, in relation to a member of a plan, means the quantity of time, expressed in terms of months, parts of months or other units of time,

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Part 1 – Interpretation

- (a) in relation to which the member accrues an entitlement to benefits under the plan, and
- (b) that is to be used by the administrator to calculate the benefits;

“**section 127 agreement**” means an agreement under section 127 of the Act between the member and the spouse, which agreement may be in Form P9;

“**superintendent**” means the person appointed as the Superintendent of Pensions under section 4 of the *Pension Benefits Standards Act*, or, if the plan is registered outside of British Columbia, the person in the jurisdiction in which the plan is registered whose role in that jurisdiction is similar to the role of the Superintendent of Pensions in British Columbia.

- (2) A reference in this regulation to the spouse includes, if the spouse is a limited member of the plan, a reference to the spouse as limited member, and a reference in this regulation to the limited member is a reference to the spouse in the spouse’s capacity as limited member only.
- (3) If the Act applies to an agreement or order made under the former Act, the commencement date and the entitlement date to be used in respect of the agreement or order are
 - (a) the dates specified under that agreement or order for the same purposes as commencement dates and entitlement dates are specified under this Act, or
 - (b) if no dates are specified, the dates that were required to be used under the former Act for the same purposes as commencement dates and entitlement dates are used under this Act.

[am. B.C. Regs. 70/2015, s. 1; 64/2021, s. 3.]

Delivery

- 2 (1) Without limiting any other means by which a record may be delivered under this regulation, a record may be delivered to a person under this regulation by faxing or emailing the record to a fax address or an email address provided by the person for that purpose.
- (2) A record that is mailed or sent by fax or email is effectively delivered under this regulation as follows:
 - (a) if the record is mailed to the most recent mailing address provided by the intended recipient to the sender;
 - (b) if the intended recipient provided to the sender a fax address or an email address for the purposes of deliveries under this regulation and the record is faxed or emailed to the most recent fax address or email address provided by the intended recipient for that purpose.
- (3) Notice sent by ordinary mail is deemed to have been received 5 days after the date of mailing, and notice sent by fax or email is deemed to have been received on the day on which it was sent.

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Application of regulation

- 3** (1) Subject to subsection (2), this regulation applies to
- (a) a member of a plan,
 - (b) the member's spouse,
 - (c) if the member's spouse has become a limited member of the plan, the limited member, and
 - (d) the division, under Part 6 of the Act, of the member's benefits under the plan.
- (2) The division referred to in subsection (1) (d) may be modified by
- (a) a waiver under section 126 of the Act or a section 127 agreement, or
 - (b) a Part 6 order.

PART 2 – REQUIREMENTS FOR NOTICE**Notices and other documents**

- 4** (1) For the purposes of section 136 of the Act,
- (a) notice referred to in section 133 of the Act must be given in Form P1 (Claim and Request for Information and Notice),
 - (b) notice referred to in section 112 (5), 113 (2), 114 (2) (b), 116 (2) as that section relates to a benefit formula provision, 117 (2), 119 (2), 121 (2) or 122 (2) of the Act must be given in Form P2 (Request for Designation as Limited Member),
 - (c) notice referred to in section 114 (2) (a) of the Act, or in section 116 (2) of the Act as that section relates to a defined contribution account, must be given in Form P3 (Request for Transfer from Defined Contribution Account),
 - (d) notice referred to in section 115 (2) of the Act must be given in Form P4 (Request by Limited Member for Transfer or Separate Pension),
 - (e) the waiver referred to in section 126 (2) (a) of the Act must be given in Form P5 (Waiver of Survivor Benefits after Pension Commencement), and
 - (f) the waiver referred to in section 126 (1) of the Act must be given in Form P7 (Withdrawal of Notice/Waiver of Claim).
- (2) A notice or other document delivered under the Act, including under this regulation,
- (a) is not defective or ineffective,
 - (b) is not incomplete, and
 - (c) does not fail to provide sufficient information

merely because it omits information referred to in section 13 (1) (a) or (b) or the information referred to in section 13 (1) (a) or (b) that is contained in the document is incomplete or incorrect.

[am. B.C. Reg. 70/2015, s. 2.]

Withdrawal of notice

- 5** (1) A person may, in accordance with subsection (2) of this section, withdraw a notice delivered to the administrator under section 4 of this regulation as follows:
- (a) in the case of a notice in Form P1, at any time;
 - (b) in the case of any other notice, at any time before the spouse's proportionate share of the benefits to which the notice relates
 - (i) is transferred to the spouse,
 - (ii) is converted into a separate pension, or
 - (iii) becomes a separate defined contribution account in the plan for the spouse.
- (2) To withdraw one or more notices and other documents, a person must deliver to the administrator a notice in Form P7.
- (3) If a notice or document is withdrawn under this section, the entitlement of the member and the spouse or their estates to the benefits must be calculated as if the notices and documents withdrawn under subsection (2) had never been delivered to the administrator.
- (4) Despite subsections (1) and (2), a Form P7 must not be used to withdraw a Form P5 or a Form P7.

Change of information

- 6** If personal information contained in a notice delivered under section 4 changes, the person who gave that notice must deliver to the administrator a document that provides notice of that change, which document may be in Form P8 (Change of Information).

Administrator must give notice

- 7** (1) Within 30 days after receiving a document referred to in section 4 or 5, the administrator must advise the member of the administrator's receipt of that document by delivering to the member a notice in Form P6 (Administrator/Annuity Issuer Response).
- (2) Without limiting subsection (1), if the administrator cannot act on a document delivered under section 4 or 5 because the document is incomplete or otherwise fails to provide sufficient information, the administrator must, within 30 days after receipt of that document, deliver a notice in Form P6 to the member and the spouse indicating one or both of the following:
- (a) why the administrator cannot act on the document;

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- (b) what must be provided before the administrator can act on the document.

Failure of administrator to act on notice

- 8** (1) If a document referred to in section 4 or 5 is delivered to the administrator, the member or the spouse may apply to the Supreme Court for an order referred to in subsection (2) of this section if
- (a) the administrator does not, within 30 days after receipt of the document, do one of the following:
 - (i) give, or give effect to, the benefits, entitlements or other rights that under the Act ought to follow on the receipt of such document;
 - (ii) provide a notice under section 7 (2) to explain why the administrator has not acted on the document, or
 - (b) the administrator provides a notice in accordance with section 7 (2) but the applicant disputes the reasons given by the administrator in that notice as to why the administrator has not acted on the document.
- (2) On an application referred to in subsection (1), the Supreme Court may make one or more of the following orders:
- (a) an order requiring compliance with the Act;
 - (b) any other order the court may make under the Act respecting the division of the benefits between the member and the spouse.
- (3) The administrator is a party to the proceedings in which the application referred to in subsection (1) is brought.

Administrator must give notice to spouse if member's interest may be affected

- 9** (1) If the spouse is entitled to information under section 133 of the Act or to notice under section 143 of the Act or is otherwise entitled to information or notice as a limited member, the administrator must deliver to the spouse written notice of any action that the administrator intends to take as a result of any of the following:
- (a) the death of the member;
 - (b) any direction given to the administrator by the member with respect to the benefits, including an election by the member to have the member's pension commence and a change in a beneficiary designation.
- (2) If a direction referred to in subsection (1) (b) is a change in a beneficiary designation, the administrator must advise the spouse whether the spouse will become or will cease to be a beneficiary as a result of that direction.
- (3) Notice under subsection (1) must be given in Form P6.

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- (4) The administrator must deliver the notice required under subsection (1) to the spouse at least 30 days before the date on which the administrator’s intended action is taken.
- (5) Nothing in this section changes or otherwise affects the effective date of
 - (a) rights arising on the death of the member, or
 - (b) a direction referred to in subsection (1) (b).
- (6) Neither the effective date of the member’s direction nor the death of the member
 - (a) prejudices rights the spouse may have or acquire under the *Family Law Act*, or otherwise, before or within the notice period referred to in subsection (4), or
 - (b) prevents a court from granting an order restraining any action that is to be, or may be, taken as a result of any matter referred to in paragraph (a) or (b) of subsection (1).

[am. B.C. Reg. 64/2021, s. 3.]

PART 3 – ADMINISTRATOR’S DUTY TO PROVIDE INFORMATION

Information to be provided by administrator to spouse who has filed Form P1

- 10** (1) Subject to subsection (3) and section 13, if the spouse has delivered to the administrator a notice in Form P1, the administrator must, within 60 days after receiving a written request for information under section 133 of the Act from the spouse, deliver the following information to the spouse:
- (a) a copy of the most recent annual statement provided to the member, or, if no annual statement is available, the same information that, under the *Pension Benefits Standards Act*, was to have been contained in the member’s annual statement;
 - (b) any additional information that is necessary to value the benefits of the member or to finalize the division of the benefits under the Act;
 - (c) information as to whether or not the spouse is the beneficiary of the member’s benefits;
 - (d) if the member is receiving a pension, whether benefits are payable on the death of the member and, if so,
 - (i) information about those benefits,
 - (ii) whether the spouse is entitled to any of those benefits, and
 - (iii) confirmation whether a change of spousal status affects entitlement to those benefits;
 - (e) if benefits are based on the member’s income for any period, information as to the member’s income for that period;

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- (f) any information or notice that had been provided to the member after the Form P1 was filed;
 - (g) if benefits are transferred to the plan by or on behalf of the member after the Form P1 was filed, or within 2 years before it was filed, information about what has been transferred;
 - (h) if benefits are transferred from the plan by or on behalf of the member after the Form P1 was filed, or within 2 years before it was filed, information about what has been transferred and to where it was transferred;
 - (i) to the extent that it is not provided under paragraphs (a) to (h),
 - (i) information on options available to and elections that may be made by the member with respect to receiving the benefits, and
 - (ii) information on options available to and elections that may be made by a limited member with respect to receiving the benefits.
- (2) Subject to subsection (3) and section 13, if the spouse delivers to the administrator a written request for an update of the information provided to the spouse under subsection (1) of this section, the administrator must deliver that update within 30 days after receiving that request.
- (3) Unless the Supreme Court otherwise orders under section 133 (2) of the Act, the administrator need not deliver to the spouse information under subsection (1) more than once in each calendar year and need not provide to the spouse an update under subsection (2) of this section more than once in each calendar year.

Information to be provided by administrator to limited member

- 11** (1) Subject to subsection (2), after the spouse becomes a limited member of a plan, section 10 no longer applies to the limited member and at least once in each calendar year, the administrator must provide the following information to the limited member:
- (a) any information or notice available to members of the plan;
 - (b) to the extent that it is not provided under paragraph (a), information on options available to and elections that may be made by the member with respect to the benefits;
 - (c) to the extent that it is not provided under paragraph (a), information on options available to and elections that may be made by a limited member with respect to the benefits;
 - (d) confirmation of whether the limited member is the beneficiary of the member's benefits.
- (2) After the limited member is in receipt of a separate pension or begins to have the limited member's proportionate share of the benefits administered in a defined contribution account for the limited member in the plan under section 114 (2) (b) of the Act, the only information the limited member is entitled to receive from

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the administrator is information relating to the separate pension or the limited member's defined contribution account.

[am. B.C. Reg. 64/2021, s. 3.]

Authorizing representative

- 12** (1) A person entitled to receive information under section 10 or 11 of this regulation may, in writing, authorize a representative to request and receive from the administrator information that the person is entitled to receive under this regulation, and, subject to section 13 and subsection (2) of this section, the administrator must, after receiving such a request, provide that information to both the person and the representative.
- (2) An authorization referred to in subsection (1) ceases on the earliest of
- (a) the date, if any, specified in the authorization,
 - (b) if no date is specified in the authorization, the date that is one year after the date of the authorization,
 - (c) the date on which the administrator receives a written revocation of the authorization from the person who issued it, and
 - (d) the date on which the administrator receives a written revocation of the authorization from the representative,
- and on and after that date, the administrator must cease providing to the representative any of the information that the person is entitled to receive under this regulation until a further authorization is provided.

Confidentiality and non-disclosure of personal information

- 13** (1) When providing information under this regulation, the administrator must not, unless the member consents in writing, provide the spouse with
- (a) the member's address, fax number, email address, telephone number or marital status, or
 - (b) the identity of any beneficiary designated by the member other than the spouse.
- (2) Without limiting subsection (1), the administrator must edit any information provided by the administrator to the spouse to remove any of the information that the administrator is, under subsection (1), restricted from providing to the spouse.
- (3) An administrator acting in good faith who accidentally discloses any information listed in subsection (1) is not liable to the member or any other person to pay damages arising from the disclosure.
- (4) A person who receives any documents or information from an administrator under this regulation must keep the information in confidence and, without limiting this obligation, must not disclose the documents or information to anyone other than

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- (a) for the purposes of dividing benefits under Part 6 of the Act, or determining compensation for those benefits, or
- (b) in the course of permitting the documents to be introduced into evidence in proceedings involving the benefits.

[am. B.C. Reg. 70/2015, s. 3.]

Administrator to provide equal rights to spouse

- 14** If, under the plan text document of the plan, a member may, with the consent of the administrator, have the member's benefits valued, calculated or provided in a particular way or exercise or obtain certain rights in relation to the member's benefits, the limited member may also seek that consent in relation to the limited member's proportionate share of those benefits and the administrator must not withhold consent in response to the limited member's request for that consent unless consent would have been withheld had the member applied for that consent.

[am. B.C. Reg. 64/2021, s. 8.]

PART 4 – DIVISION OF BENEFITS**Period for division of benefits under section 137 of Act**

- 15** The benefits that the administrator is, under section 137 of the Act, required to divide are, with reference to a pension that has commenced other than by withdrawals from a defined contribution account, or with reference to disability benefits under section 122 of the Act, those benefits that become payable within the period that
- (a) begins on the 30th day to follow the date on which the administrator has received
 - (i) all of the documents referred to in section 137 (2) of the Act, and
 - (ii) the payment of the fee permitted under section 28 of this regulation, if required by the administrator, and
 - (b) ends on the earlier of the termination of the pension or disability benefits, as the case may be, and the death of the limited member.

Period for complying with division requirements of Act

- 16** Within 60 days after the date on which the administrator has received all of the documents referred to in section 137 (2) of the Act and the payment of the fee permitted under section 28 of this regulation, if required by the administrator,
- (a) if the spouse has filed a Form P2, the administrator must register the spouse as a limited member and deliver to the limited member and the member a notice in Form P6 confirming that registration,
 - (b) if the spouse has filed a Form P3 in which the spouse requested to have the spouse's proportionate share of the member's defined contribution account transferred from the plan to the credit of the spouse, the administrator must effect that transfer,

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- (c) if the limited member has filed a Form P4 in which the limited member elected to receive the limited member's proportionate share of the benefits by a separate pension, the limited member's separate pension must commence, or
- (d) if the limited member has filed a Form P4 in which the limited member elected to have the limited member's proportionate share of the commuted value of the benefits transferred from the plan to the credit of the limited member, the administrator must effect that transfer.

[am. B.C. Regs. 70/2015, s. 4; 64/2021, ss. 2 and 3.]

Calculation of proportionate share in relation to pensions, benefits under benefit formula provision, disability benefits and phased retirement benefits

- 17** (1) If it is necessary, under the Act, including under this regulation, to calculate a proportionate share of the following:
- (a) payments under a pension that has commenced or the commuted value of those payments;
 - (b) benefits under a benefit formula provision before pension commencement or the commuted value of those benefits;
 - (c) disability benefits under a plan;
 - (d) annuity payments;
 - (e) phased retirement benefits;
- this section applies to that calculation.
- (2) The formula set out in subsection (3) applies to the calculation referred to in subsection (1) unless a section 127 agreement, a Part 6 order or an original agreement or order referred to in section 25 (1) of this regulation
- (a) supplants that formula, in which case the formula provided for in the agreement or order applies to the calculation, or
 - (b) modifies that formula, in which case the formula as modified by the agreement or order applies to the calculation.
- (3) Subject to sections 18 and 19, the proportionate share referred to in subsection (1) of this section must be calculated in accordance with the following formula:

$$\text{proportionate share} = \frac{1}{2} (\text{pensionable service during entitlement period} \div \text{total pensionable service})$$

where

“pensionable service during entitlement period” means the pensionable service accumulated under the plan by the member in the entitlement period;

“total pensionable service” means the pensionable service accumulated by the member to the earliest of

- (a) the date that the limited member's share is transferred from the plan,

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- (b) the beginning of the month in which the limited member begins to receive a separate pension,
- (c) the beginning of the month in which the limited member begins to receive a payment of benefits from the member or the administrator, and
- (d) the day immediately preceding the day of the member's death.

[am. B.C. Reg. 70/2015, s. 5.]

Application of purchased service and transferred service

18 For the purposes of accounting in section 17 for purchased service and transferred service, **“pensionable service during entitlement period”**

- (a) includes
 - (i) all pensionable service, regardless of the period to which it is allocated, that was purchased by or on behalf of the member during the entitlement period, and
 - (ii) all pensionable service, regardless of the period to which it is allocated, that was accumulated under another plan during the entitlement period and transferred to the member's plan, and
- (b) does not include pensionable service purchased by or on behalf of the member, or accumulated under another plan, before or after the entitlement period.

Phased retirement period and recalculation of proportionate share

19 If the member accumulates additional pensionable service after the calculation of the limited member's proportionate share of a phased retirement benefit under section 115 (5) of the Act or the calculation of the spouse's proportionate share of benefits payable under section 117 (2) of the Act, the proportionate share must, whenever any of the following occurs, be recalculated to take into account the additional pensionable service accumulated by the member:

- (a) the spouse is to receive
 - (i) a proportionate share of the commuted value of the benefits under section 115 (2) (b) of the Act,
 - (ii) a separate pension, or
 - (iii) a share of benefits under section 124 (2) of the Act on the death of the member;
- (b) the spouse's estate is to receive a proportionate share of the commuted value of the benefits under section 124 (4) of the Act;
- (c) payment of the member's pension resumes.

[am. B.C. Reg. 70/2015, s. 6.]

Calculation of proportionate share in relation to benefits under defined contribution provision

- 20** (1) If it is necessary, under the Act, including under this regulation, to calculate a proportionate share of the member's defined contribution account, this section applies to that calculation.
- (2) The formula set out in subsection (3) applies to the calculation referred to in subsection (1) unless a section 127 agreement, a Part 6 order or an original agreement or order referred to in section 25 (1) of this regulation
- (a) supplants that formula, in which case the formula provided for in the agreement or order applies to the calculation, or
 - (b) modifies that formula, in which case the formula as modified by the agreement or order applies to the calculation.
- (3) The proportionate share referred to in subsection (1) must be calculated in accordance with the following formula:

$$\text{transfer amount} = 1/2 (\text{account balance} - \text{pre-relationship contributions})$$

where

“account balance” means the total of

- (a) the defined contribution account, before division, as at the entitlement date, and
- (b) the investment returns earned on the amount referred to in paragraph (a) after the entitlement date up to and including the date on which the spouse's proportionate share of the defined contribution account is transferred from the plan to the credit of the spouse or used to establish a defined contribution account in the plan for the spouse;

“pre-relationship contributions” means the total of

- (a) the defined contribution account as at the commencement date, and
- (b) the investment returns earned on the amount referred to in paragraph (a) after the commencement date up to and including the date on which the spouse's proportionate share of the defined contribution account is transferred from the plan to the credit of the spouse or used to establish a defined contribution account in the plan for the spouse.

Adjustment of member's benefits under benefit formula provision

- 21** (1) This section applies if the member's benefits under a benefit formula provision are divided under Part 6 of the Act.
- (2) The administrator must, in accordance with subsection (3), adjust the benefits to which the member is entitled and the basis on which they are calculated if
- (a) the division referred to in subsection (1) occurs before the member's pension commences, and
 - (b) the limited member or the limited member's estate has received

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- (i) the limited member's proportionate share of the benefits by a separate pension, or
 - (ii) a transfer of the limited member's proportionate share of the commuted value of the benefits.
- (3) For the purposes of subsection (2), if the member's benefits have vested, the member's pensionable service must be reduced by the amount of pensionable service reflected in the limited member's proportionate share of the benefits.
- (4) As an example of the application of subsection (3), if the proportionate share of the benefits to which a limited member is entitled is calculated under section 17 and the member's benefits have vested, the member's pensionable service is to be reduced by one-half of the pensionable service that, in section 17, constitutes the "pensionable service during entitlement period".
- (5) A reduction of pensionable service under subsection (3) of this section
 - (a) is only for the purpose of adjusting
 - (i) the portion of the benefits that the member is entitled to receive after the division referred to in subsection (1), or
 - (ii) if the member is deceased, the amount of survivor benefits, if any, and
 - (b) is not to be taken into account in any determination of eligibility for those benefits under the plan.

[am. B.C. Reg. 70/2015, s. 7.]

Adjustment of member's benefits if divided on death of member

- 22** In a situation referred to in section 124 (2) of the Act,
- (a) the member's benefits must be adjusted, to reflect that division, in accordance with section 21 of this regulation, and
 - (b) any survivor benefits payable under the plan must be calculated on the adjusted amount referred to in paragraph (a) of this section.

Calculation of commuted value

- 23** (1) In this section, "**valuation date**", in relation to a matter referred to in subsection (3) (a), (b), (c), (d) or (e), means the date that, under subsection (3), applies to that matter.
- (2) This section applies if
- (a) the limited member is entitled under Part 6 of the Act to a proportionate share of the benefits under a benefit formula provision, and
 - (b) it is necessary, under the Act, including under this regulation, to calculate the commuted value of the benefits.
- (3) The commuted value of the benefits referred to in subsection (2) (b) must

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Part 4 – Division of Benefits

- (a) when calculating the separate pension payable to the limited member for the purposes of section 115 (2) (a), 119 (3) (c) or 121 (3) of the Act, be calculated as at a date not earlier than the end of the month immediately preceding the commencement date of the separate pension,
 - (b) when calculating the amount to be transferred to the limited member for the purposes of section 115 (2) (b) or (6) of the Act, be calculated as at a date not earlier than the end of the month immediately preceding the date of the transfer,
 - (c) when calculating the commuted value of the benefits for the purposes of section 124 (2) of the Act, be calculated as at a date not earlier than the end of the month immediately preceding the day before the death of the member,
 - (d) when calculating the amount payable to the estate of the limited member for the purposes of section 124 (4) of the Act, be calculated as at a date not earlier than the end of the month immediately preceding the date of the limited member's death, and
 - (e) when calculating the amount required by the administrator to be transferred for the purposes of section 139 (b) of the Act, be calculated as at a date not earlier than the end of the month immediately preceding the date on which the administrator notifies the limited member that the transfer is required.
- (4) Subject to subsection (5) of this section, the limited member's proportionate share of the commuted value of benefits must be calculated as follows:
- (a) the commuted value of the pension the member would have received must be calculated as if
 - (i) there had been no division under the Act,
 - (ii) the member's pension had been calculated by reference only to the benefits accrued to the valuation date, and
 - (iii) the member had elected a pension in the unadjusted normal form, applicable to the member, provided under the plan commencing at the later of
 - (A) the valuation date, and
 - (B) the date the member would reach the average retirement age for the plan;
 - (b) after that, the limited member's proportionate share of the amount referred to in paragraph (a) must be calculated.
- (5) For the purposes of subsection (4) (a) (iii) (B), the administrator may elect, as the average retirement age for the plan, a specific age that is younger than the actual average retirement age for the plan, and if that election is made, the administrator must not change the average retirement age for the plan without first applying for and obtaining the written consent of the superintendent.

[am. B.C. Reg. 70/2015, s. 8.]

DIVISION OF PENSIONS REGULATION

Part 4 – Division of Benefits

Limited member's separate pension in a local defined benefit plan

- 24** (1) If the limited member is entitled to receive a separate pension,
- (a) the separate pension must be calculated on the basis of the limited member's proportionate share of the commuted value of the benefits as calculated under section 23, and
 - (b) the separate pension must be provided in one of the following forms as elected by the limited member:
 - (i) in the form of a pension payable for the limited member's lifetime only;
 - (ii) in any other form of pension, or any combination of forms of pension, that members of the plan may elect to receiveadjusted in accordance with actuarial principles.
- (2) If, in a situation referred to in section 124 (2) of the Act, the member was eligible at the date of the member's death to have the member's pension commence, the limited member may elect to receive the limited member's proportionate share of the commuted value of the benefits by a separate pension.
- [am. B.C. Reg. 64/2021, s. 3.]

Original agreements and orders

- 25** (1) If, in a situation referred to in section 112 (2) of the Act, the member and the spouse agree under section 112 (3) (a) (i), or are deemed to agree under section 112 (5), to divide benefits in accordance with Part 6 of the Act, the following applies unless the member and spouse otherwise agree:
- (a) despite paragraph (b) of this subsection and subject to section 131 of the Act and to subsection (2) of this section, the spouse's proportionate share of the benefits is calculated by the share or formula set out in the original agreement or order;
 - (b) provisions of the original agreement or order that are inconsistent with division of benefits under Part 6 of the Act cease to have effect;
 - (c) provisions of the original agreement or order that clarify, supplement or are collateral to division of benefits under Part 6 of the Act continue in effect.
- (2) If subsection (1) applies and the benefits referred to in subsection (1) are in a defined contribution account, the spouse's share of those benefits is calculated in accordance with section 20 of this regulation, using the commencement date and entitlement date specified in the original agreement or order.

Transfer from plan to locked in retirement plan

- 26** If the Act requires or authorizes an administrator of a plan to transfer from the plan an amount to the credit of the spouse, the transfer must be made in accordance with the provisions of the *Pension Benefits Standards Act*, and any regulations under that Act, that would have applied had the transfer been made to the credit of the member.
- [am. B.C. Reg. 70/2015, s. 9.]

Calculation of a compensation payment

- 27** (1) This section applies if provision is made for satisfaction of the spouse's interest in benefits by any of the following:
- (a) a compensation payment under section 97 (2) (c) of the Act;
 - (b) a compensation payment under section 127 (1) (b) of the Act;
 - (c) a compensation payment or amount transferred under section 128 (2) of the Act.
- (2) A compensation payment or transfer referred to in subsection (1) must be equal to the spouse's proportionate share of the commuted value of the future benefits payable to the member.
- (3) Without limiting the contingencies that may be considered in calculating the amount of a compensation payment or transfer referred to in subsection (1), the calculation must make reasonable provision for the following contingencies:
- (a) the possibility that the member may terminate employment or die before commencement of the member's pension;
 - (b) the possibility that the member's pension commences earlier or later than the date at which the member is entitled, under the plan text document, to begin receiving a pension without reduction or increase to the pension;
 - (c) the possibility that benefits being divided and paid under the plan will increase in value, whether by an automatic formula or on an ad hoc basis, after the date of the calculation of the compensation payment or transfer;
 - (d) to the extent that benefits being divided are related to future salary levels, the possibility that salary levels will increase after the date of the calculation of the compensation payment or transfer.
- (4) If an entitlement to receive a pension has not vested in the member at the date of valuation, the spouse may elect to
- (a) postpone valuation until it is ascertained whether the entitlement vests, or
 - (b) have the valuation proceed assuming the entitlement will vest, but adjusting it to take into account the contingency that the member may die or leave employment before vesting.

[am. B.C. Reg. 70/2015, s. 10.]

Administrative costs

- 28** The amount to be paid to the administrator by the member and the spouse under section 140 of the Act must not exceed the following:
- (a) for registering the spouse as a limited member of the plan, \$750;
 - (b) for transferring a proportionate share of the member's defined contribution account to the credit of the spouse under section 114 (2) (a) of the Act, \$175.

DIVISION OF PENSIONS REGULATION

Part 4 – Division of Benefits

Transition

- 29** (1) In this section, “**limited member**” has the same meaning as in section 70 of the former Act.
- (2) If, before March 18, 2013, the administrator received written notice from a limited member seeking to have the limited member’s proportionate share of the commuted value of benefits transferred from a plan to the credit of the limited member or seeking to receive the limited member’s proportionate share of benefits by a separate pension, the former Act and the former regulation apply to the calculation of the limited member’s proportionate share of the commuted value.
- (3) If, before March 18, 2013, the administrator delivered written notice to a limited member setting out options as to how the limited member's proportionate share of benefits could be provided to the limited member, the following applies:
- (a) the limited member may, after March 18, 2013, in accordance with paragraph (b), elect one of those options;
 - (b) to make an election under paragraph (a), the limited member must, within the period referred to in the notice, or, if no period is referred to in the notice, within 60 days after the date of the notice, deliver to the administrator a notice in Form P4 within which the limited member elects one of the options referred to in the administrator’s notice;
 - (c) if the limited member makes an election in accordance with paragraph (b), the limited member is entitled to receive the limited member’s share of benefits in accordance with that election and the former Act and the former regulation applies;
 - (d) if the limited member does not make an election in accordance with paragraphs (a) and (b), the Act applies.

[am. B.C. Reg. 64/2021, s. 3.]

FORMS

[am. B.C. Reg. 70/2015, s. 11.]

Form P1 (Division of Pensions Regulation, s. 4 (a))

CLAIM AND REQUEST FOR INFORMATION AND NOTICE

When to Use this Form

A Form P1 is used by a spouse who is making a claim to an interest in the member's/annuitant's benefits. After this form is delivered to the administrator/annuity issuer, the spouse is entitled to receive

- *information from the administrator/annuity issuer about the benefits, and*
- *30 days' advance notice of changes of circumstances affecting the benefits.*

[Please print]

To: Administrator of plan/annuity issuer

Name of
plan/annuity.....

Address of administrator/annuity
issuer.....
.....

From: Spouse of member/annuitant [Note: "spouse" includes a person who has lived in a marriage-like relationship with the member/annuitant for a continuous period of at least two years and also includes a former spouse.]

Name of
spouse.....

Address

Email address

Telephone (home) (work)

Social Insurance Number

[The administrator/annuity issuer will use this information to contact you about important matters. Make sure it is accurate and that you promptly advise the administrator/annuity issuer of any changes.]

In relation to: Plan member/annuitant

Name of
member/annuitant.....

Address

Email address

Telephone (home) (work)

Social Insurance or Plan Identity Number

Employer

Declaration of spouse claiming interest

I, [*name of spouse*] am claiming an interest in the benefits of the member/annuitant based on section 81 of the *Family Law Act*. [*see below*]

In support of that claim, I declare that

- (a) I began living in a marriage-like relationship with the member/annuitant on[*date*],
- (b) I was married to the member/annuitant on [*date*], and
- (c) I was separated from the member/annuitant on [*date*].

[*You are not required to authorize the administrator/annuity issuer to communicate with a representative. If you wish to authorize that communication, you must complete the following, otherwise, the administrator/annuity issuer cannot communicate with your representative.*]

I authorize you to communicate with and release information to my representative(s):
.....
..... [*name(s) and address(es) of representative(s)*]

This authorization expires on [*date*].

Signed (spouse)
.....

Date of declaration
.....

Signed (witness to signature of spouse)

.....

Name of witness

.....

Address of witness

.....

Family Law Act, section 81:

- 81** Subject to an agreement or order that provides otherwise and except as set out in this Part and Part 6 [*Pension Division*],
- (a) spouses are both entitled to family property and responsible for family debt, regardless of their respective use or contribution, and
 - (b) on separation, each spouse has a right to an undivided half interest in all family property as a tenant in common, and is equally responsible for family debt.

Form P2 (Division of Pensions Regulation, s. 4 (b))

REQUEST FOR DESIGNATION AS LIMITED MEMBER

When to Use this Form

A Form P2 is used any time a spouse's share of the benefits remains in the plan/annuity to be administered. The spouse becomes a kind of member/annuitant, with respect to the benefits, called a "limited member" and is entitled to receive a proportionate share of

- payments under a pension that has commenced,
- benefits under a defined benefit provision before pension commencement,
- disability benefits under a plan
- annuity payments,
- benefits that are subject to an original order or agreement made before Part 6 of the Family Law Act came into force, and
- benefits in a defined contribution account, if the administrator consents to the spouse's proportionate share remaining in the plan.

Form P2 is used in every case for dividing benefits except where benefits in a defined contribution account are being transferred from the plan, when a Form P3 is required.

[Please print]

To: Administrator of plan/annuity issuer

Name of
plan/annuity.....
Address of administrator/annuity
issuer.....
.....

From: Spouse of member/annuitant [Note: "spouse" includes a person who has lived in a marriage-like relationship with the member/annuitant for a continuous period of at least two years and also includes a former spouse.]

Name of spouse.....
Address
.....
Email address
Telephone (home) (work)
Social Insurance Number
Date of birth

[The administrator/annuity issuer will use this information to contact you about important matters. Make sure it is accurate and that you promptly advise the administrator/annuity issuer of any changes.]

In Plan member/annuitant relation to:

Name of member/annuitant.....

Address

.....

Email address

Telephone (home) (work)

Social Insurance or Plan Identity Number

Employer

Other requirements:

A copy of the agreement or order dividing the benefits must be provided.[Please attach or enclose the agreement or order with this Form.]

An administrator/annuity issuer is entitled to charge a fee to register a spouse as a limited member of \$750 (or \$925 if the benefits are in a hybrid plan).

Request:

I request that [name of spouse] be designated as a limited member with respect to the benefits/annuity.

The following applies to a spouse who becomes a limited member:

- for a pension, disability benefits or an annuity that is being paid, this form will also act as a request for the administrator/annuity issuer to pay the limited member his or her proportionate share of those payments;
- for benefits if the pension has not commenced, the administrator will advise the limited member about his or her options for receiving a separate pension, or, in some cases, a transfer of his or her proportionate share from the plan in a lump sum. The limited member may exercise those options by filing a Form P4;
- for benefits in a defined contribution account, the limited member will be entitled to have his or her proportionate share transferred to a separate account in the plan, if the administrator consents.

Signed..... [*This is normally signed by the spouse but may be signed by the member under section 113 (2) of the Family Law Act.*]

Date

Signed (witness to signature)

.....

Name of witness

.....

Address of witness

.....

Form P3 (Division of Pensions Regulation, s. 4 (c))

REQUEST FOR TRANSFER FROM DEFINED CONTRIBUTION ACCOUNT

When to Use this Form

A Form P3 is used when

- there is an agreement or order dividing the benefits,
- the benefits are in a defined contribution account, and
- the spouse wants the spouse's proportionate share transferred to another plan (such as an RRSP).

[Please print]

To: Administrator of plan

Name of plan

.....

Address of administrator

.....

.....

From: Spouse of member [Note: "spouse" includes a person who has lived in a marriage-like relationship with the member for a continuous period of at least two years and also includes a former spouse.]

Name of spouse.....

Address

.....

Email address

Telephone (home) (work)

Social Insurance Number

[The administrator will use this information to contact you about important matters. Make sure it is accurate and that you promptly advise the administrator of any changes.]

In relation to: Plan member

Name of member

.....

Address

.....

Email address

Telephone (home) (work)
Social Insurance or Pension Plan Identity Number
Employer

Other requirements:

A copy of the agreement or order dividing the benefits must be provided. [*Please attach or enclose the agreement or order with this Form.*]

An administrator is entitled to charge a fee to transfer the benefits from the defined contribution account of \$175.

Request:

I request that you

- (a) transfer my proportionate share of the member's defined contribution account from the plan in accordance with the *Family Law Act* and the *Pension Benefits Standards Act*, and
- (b) advise me in writing of the information that you require in order to do this.

Signed (spouse)

Date

Signed (witness to signature of spouse)
.....

Name of witness
.....

Address of witness
.....

Form P4 (Division of Pensions Regulation, s. 4 (d))

REQUEST BY LIMITED MEMBER FOR TRANSFER OR SEPARATE PENSION

When to Use this Form

A Form P4 is used by a limited member to choose how to receive a share of benefits under a benefit formula provision if the member is not yet receiving a pension.

[Please print]

To: Administrator of plan

Name of plan

.....

Address of administrator

.....

From: Spouse of member *[Note: "spouse" includes a person who has lived in a marriage-like relationship with the member for a continuous period of at least two years and also includes a former spouse.]*

Name of spouse

Address

.....

Email address

Telephone (home) (work)

Social Insurance Number

Date of birth

[The administrator will use this information to contact you about important matters. Make sure it is accurate and that you promptly advise the administrator of any changes.]

In relation to: Plan member

Name of member

Address

.....

Email address

Telephone (home) (work)
Social Insurance or Pension Plan Identity Number
Employer of member

Request

As the limited member named above, I request [*Check the correct box.*]

- that you
- (a) transfer from the plan my proportionate share of the commuted value of the member's benefits in accordance with the *Family Law Act* and the *Pension Benefits Standards Act*, and
 - (b) advise me in writing of the information that you require in order to do this.
- that you provide me with a separate pension from the plan.

[These options are only available after the member is allowed to receive a pension but the pension has not yet commenced. If this form is used for a supplemental plan or a plan for specified individuals, a lump sum transfer is not available, and a separate pension is not available until the member's pension commences, unless the administrator consents.]

Signed (limited member)

Date

Signed (witness to signature of limited member)

.....

Name of witness

.....

Address of witness

.....

Form P5 (Division of Pensions Regulation, s. 4 (e))

WAIVER OF SURVIVOR BENEFITS AFTER PENSION COMMENCEMENT

When to Use this Form

A Form P5 is used

- if the member's pension/annuity has commenced,
- the spouse is entitled to survivor benefits under the pension/annuity, and
- the spouse agrees to give up the survivor benefits and pay them to another person.

[Please print]

To: Administrator of plan/annuity issuer
 Name of plan/annuity.....
 Address of administrator/annuity issuer.....

From: Spouse of member/annuitant [Note: "spouse" includes a person who has lived in a marriage-like relationship with the member/annuitant for a continuous period of at least two years and also includes a former spouse.]
 Name of spouse.....
 Address

 Email address

 Telephone (home) (work)
 Social Insurance Number
 Date of birth

[This administrator/annuity issuer will use this information to contact you about important matters. Make sure it is accurate and that you promptly advise the administrator/annuity issuer of any changes.]

In relation to: Plan member/annuitant
 Name of member/annuitant.....
 Address

Email address
Telephone (home) (work)
Social Insurance or Plan Identity Number

Waiver:

I confirm that I am aware of the following:

- (a) the member/annuitant is receiving a pension/annuity, and I am entitled to survivor benefits under the pension/annuity as follows:; [*Specify the amount of survivor benefits or if not known, how they are calculated.*]
- (b) these survivor benefits may have substantial value, and may be important to me to provide me with income in my old age;
- (c) these survivor benefits are my separate property;
- (d) I am permitted to waive any claim to these benefits under section 126 (2) (a) of the *Family Law Act* only if I sign this prescribed waiver;
- (e) I understand that the administrator/annuity issuer cannot be required to pay the survivor benefits to anyone else, and, unless the administrator/annuity issuer consents to do this, I must pay the benefits to: [*specify person*];
- (f) I have read this form and understand it;
- (g) neither the member/annuitant nor anyone else has put any pressure on me to sign this form;
- (h) the member/annuitant is not present while I am signing this form;
- (i) I realize that
 - (i) this form only gives a general description of the legal rights I have under the *Family Law Act* and the *Pension Benefits Standards Act* and the regulations to those Acts, and
 - (ii) if I wish to understand exactly what my legal rights are I must read the *Family Law Act* and the *Pension Benefits Standards Act* and the regulations to those Acts, and/or seek legal advice;
- (j) there may be tax implications to this waiver that should be addressed;
- (k) I realize that I am entitled to a copy of this waiver form.

I am signing this form to waive the survivor benefits.

Date Signed (spouse)

Signed (witness to signature of spouse):

Name of witness:

Address of witness:

COMMENTS AND INSTRUCTIONS

Survivor benefits are important, and the *Family Law Act* provides that a waiver is not effective unless it is in this prescribed form. This form is not prescribed because it is expected that survivor benefits will usually be waived but rather because, in most cases, waiving survivor benefits would not be prudent. As a result, a waiver is only enforceable if this prescribed form is used.

When dealing with valuable assets, obtaining legal advice is usually considered prudent. This form is not a substitute for legal advice.

Form P6 (Division of Pensions Regulation, s. 7 (1))

ADMINISTRATOR/ANNUITY ISSUER RESPONSE

When to Use this Form

A Form P6 is used by the administrator/annuity issuer to

- advise the member/annuitant of notices received from his or her spouse in connection with the spouse's claim to an interest in the benefits,
- advise the spouse or member/annuitant if a notice cannot be acted on, and
- notify the spouse of a change of circumstances affecting the benefits.

[Please print]

A Plan member/annuitant

Name of member/annuitant.....

B Limited member or spouse claiming an interest

Name of limited member or spouse.....

C Plan/annuity

Name of plan/annuity.....

Address of administrator/annuity issuer.....

Contact person

Telephone

This notice is provided [Check the correct box(es).]

- to confirm receipt of a notice [Complete Part 1 below]
- to advise that the administrator/annuity issuer is unable to take any action on the notice [Complete Part 2 below]
- to advise of a change of circumstances such as the death of the member/annuitant, the commencement of the pension/annuity or the receipt of a direction from the member/annuitant [Complete Part 3 below]

PART 1: Receipt of Notice

The administrator/annuity issuer has received the following notice or document dated [date of notice] under the *Family Law Act* from [name as shown on notice] in relation to the member's/annuitant's entitlement under the plan/annuity identified above: [Check the correct box.]

- Form P1: Claim and Request for Information and Notice
- Form P2: Request for Designation as Limited Member
- Form P3: Request for Transfer from Defined Contribution Account
- Form P4: Request by Limited Member for Transfer or Separate Pension
- Form P5: Waiver of Survivor Benefits after Pension Commencement
- Form P7: Withdrawal of Notice/Waiver of Claim
- [specify]

PART 2: Inability to take action

The administrator/annuity issuer is unable to take any action on the notice referred to in Part 1 as a result of the following:

If you wish the administrator/annuity issuer to take any action in relation to the notice, you must [Check the correct box and provide any required information.]

- submit a new Form or document that includes the above-noted information
- provide the administrator/annuity issuer with the missing information
- other: [describe]

PART 3: Notice of change of circumstances

Under the *Family Law Act* and regulations, the administrator/annuity issuer is required to give you 30 days advance notice before taking any step with respect to any of the following which may affect your interest or claim to an interest in benefits under the plan/annuity:

- the administrator/annuity issuer has been advised of the death of the member/annuitant and
 - survivor benefits are payable to you
 - survivor benefits are not payable to you
- the member/annuitant has elected to have the pension/annuity commence as at[date]
- the member/annuitant has changed his/her beneficiary designation and

<input type="checkbox"/> you have ceased to be the beneficiary
<input type="checkbox"/> you have become the beneficiary
<input type="checkbox"/> the member/annuitant has given the administrator/annuity issuer the following direction:

Date:

.....
Signature of administrator/annuity issuer

Form P7 (Division of Pensions Regulation, s. 4 (f))

WITHDRAWAL OF NOTICE/WAIVER OF CLAIM

When to Use this Form

A Form P7 is used if a spouse decides to withdraw a notice or other document delivered to the administrator/annuity issuer, or give up the spouse's claim to the benefits. A Form P5 or P7 cannot be withdrawn by this form, and a notice cannot be withdrawn once the benefit division arrangements are completed.

[Please print]

To: Administrator of plan/annuity issuer

Name of
plan/annuity.....
Address of administrator/annuity issuer
.....

From: Spouse of member/annuitant [Note: "spouse" includes a person who has lived in a marriage-like relationship with the member/annuitant for a continuous period of at least two years and also includes a former spouse.]

Name of spouse.....
Address
.....
Email address
Telephone (home) (work)
Social Insurance Number

Date of birth

[If spouse is deceased]

Date of spouse's death
Name of spouse's personal representative:.....
Contact information for spouse's personal representative:
.....

[The administrator/annuity issuer will use this information to contact you about important matters. Make sure it is accurate and that you promptly advise the administrator/annuity issuer of any changes.]

**In Plan member/annuitant
relation
to:**

Name of member/annuitant.....

Address

.....

Email address

Telephone (home) (work)

Social Insurance or Plan Identity Number

Employer

[Check the correct box.]

- I withdraw the notice in Form dated[*date*].
- I withdraw[*identify document*] dated[*date*].
- I withdraw all forms and documents filed in connection with my claim to an interest in the member's/annuitant's benefits and waive my claim to any interest.

Signed:

[] spouse [] personal representative of the spouse

Date

Signed (witness)

Name of witness
.....

Address of witness
.....

COMMENTS AND INSTRUCTIONS

Your interest in the benefits is important, and the *Family Law Act* provides that withdrawing forms or documents, or a waiver of division of benefits, is not effective unless it is in this form. When dealing with valuable assets, obtaining legal advice is usually considered prudent. This form is not a substitute for legal advice.

Form P8 (Division of Pensions Regulation, s. 6)

CHANGE OF INFORMATION

When to Use this Form

It is important to keep contact information up to date. Form P8 can be used to notify the administrator/annuity issuer of any changes.

[Please print]

To: Administrator of plan/annuity issuer

Name of plan/annuity.....
Address of administrator/annuity issuer.....
.....

From: Spouse of member/annuitant [Note: "spouse" includes a person who has lived in a marriage-like relationship with the member/annuitant for a continuous period of at least two years and also includes a former spouse.]

Name of spouse.....
Address
.....
Email address
Telephone (home) (work)
Social Insurance Number
Date of birth

[The administrator/annuity issuer will use this information to contact you about important matters. Make sure it is accurate and that you promptly advise the administrator/annuity issuer of any changes.]

In relation to: Plan member/annuitant

Name of member/annuitant.....
Address
.....

Email address

Telephone (home) (work)

Social Insurance or Plan Identity Number

Employer

I am updating information previously provided by me as follows:.....
.....

Signed.....

Date

Signed (witness)

Name of witness
.....

Address of witness
.....

Form P9 (Division of Pensions Regulation, s. 1)

AGREEMENT TO HAVE BENEFITS DIVIDED UNDER PART 6

When to Use this Form

An agreement or order dividing the benefits is required before a spouse is entitled to receive a proportionate share of the benefits. If the parties complete Form P9, this will satisfy the requirement for an agreement. Don't file this form if you already have a written agreement, or an order, dividing the benefits

[Please print]

To: Administrator of plan/annuity issuer

Name of plan/annuity.....
Address of administrator/annuity issuer.....
.....

From: Spouse of member/annuitant [Note: "spouse" includes a person who has lived in a marriage-like relationship with the member/annuitant for a continuous period of at least two years and also includes a former spouse.]

Name of spouse.....
Address
.....
Email address
Telephone (home) (work)
Social Insurance Number
Date of birth

[The administrator/annuity issuer will use this information to contact you about important matters. Make sure it is accurate and that you promptly advise the administrator/annuity issuer of any changes.]

In Plan member/annuitant relation to:

Name of member/annuitant.....
Address
.....
Email address

We agree to have the member's/annuitant's benefits under the plan/annuity divided between us in accordance with Part 6 of the *Family Law Act*.

The benefits to be divided are those that accrued between

- (a) [date] [*the commencement date as defined in the Division of Pensions Regulation, which date is usually the earlier of the date on which the parties commenced living together in a marriage-like relationship and the date on which they were married.*], and
- (b) [date] [*the entitlement date as defined in the Division of Pensions Regulation, which date is usually the date of separation.*].

We confirm that each of us is aware of the following:

- (a) the benefits are valuable;
- (b) pension plans are complicated;
- (c) securing the interest in the benefits is important to each of us, particularly with respect to providing us with income in old age;
- (f) each of us has read this form and understands it;
- (g) no one has put any pressure on either of us to sign this form;
- (h) each of us realizes that
 - (i) this form only gives a general description of the legal rights either of us has under the *Family Law Act* and the *Pension Benefits Standards Act* and the regulations to those Acts, and
 - (ii) if either of us wishes to understand exactly what our legal rights are we must read the *Family Law Act*, and the *Pension Benefits Standards Act* and the regulations to those Acts, and/or seek legal advice;
- (i) there may be tax implications to this agreement that should be addressed;
- (j) if the pension/annuity has already commenced, the administrator/annuity issuer will make no adjustment to the payments already made under the pension/annuity. We will need to address between ourselves any compensation for payments made before the administrator/annuity issuer is able to implement the division of the benefits;
- (k) we must provide further documents or evidence of entitlement as reasonably requested by the administrator/annuity issuer;
- (l) each of us is entitled to a copy of this form.

Each of us is signing this form to have the benefits divided under Part 6 of the *Family Law Act*.

Signed..... [member/annuitant]	Signed..... [spouse]
Date	Date
Signed (witness)	Signed (witness)
Name of witness	Name of witness
Address of witness	Address of witness

COMMENTS AND INSTRUCTIONS

Dividing benefits under Part 6 of the *Family Law Act* requires an agreement between the parties, or an order, that provides for that division. The agreement or order must set out the dates to be used for determining the portion of the benefits that are subject to division. This form can be used by the parties for that purpose and if signed by them constitutes an agreement under section 127 of the *Family Law Act* to divide the benefits.

When dealing with valuable assets, obtaining legal advice is usually considered prudent. This form is not a substitute for legal advice.