

## Interpretive Guideline#05 **Division and Distribution of Pension Benefits on Marriage Breakdown**

Issued: February 2017 (Revised)

This Guideline is designed to assist plan administrators, plan members and their former spouses, financial institutions [Locked-in Retirement Account (LIRA) and Life Income Fund (LIF) issuers], consultants and legal counsel for pension plan members and former spouses going through a marriage breakdown by summarizing the requirements and policy considerations applicable on the division of pension benefits on marriage breakdown, as required by the provisions of the [Employment Pension Plans Act](#) ( Act) and the [Employment Pension Plans Regulation](#) (Regulation). This Guideline summarizes the legislative requirements which apply to the subject matter, and includes (as applicable) additional details to outline the Superintendent's expectations and requirements where such authority has been provided by the Act and Regulation. Finally, the Guideline outlines best practices and policies that the Superintendent expects from provincially regulated pension plans.

The Act and Regulation should be used to determine specific legislative requirements. Any legal authority of this Guideline rests in the areas in which the legislation delegates authority to the Superintendent to accept a proposal or action.

This Guideline applies to the division of pension benefits only for private sector pension plans.

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### **Pension Division Process**

1. Member or former spouse contacts plan administrator to request calculation of value of pension benefits for purposes of marriage breakdown, and provides required information and fee payable to plan administrator.
2. Plan administrator calculates value and advises member and former spouse of value that is eligible to be transferred to the former spouse.
3. Upon receipt of Matrimonial Property Order/Agreement (MPO/A) and instructions from former spouse, the plan administrator transfers the value of the former spouse's share to the option selected by the former spouse.
4. Plan administrator advises member and former spouse of the amount being transferred to the former spouse, and advises the member of their benefits remaining after the transfer to the former spouse has been made.

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## Definitions

**“administrator” or “plan administrator”** means the person or persons responsible for administering the pension plan. This is normally the plan sponsor or, in the case of a multi-employer pension plan, a board of trustees. The day to day administration of the plan, including all the calculations and communication relating to the division and distribution of pension benefits on marriage breakdown may be delegated by the administrator to a Third Party Administrator (TPA)

**“Alberta member”** means a **plan** member who is actively employed in Alberta before and after the marriage breakdown, or who terminated membership or retired while employed in Alberta.

**“commuted value”** means:

- in the case of a defined benefit (DB) provision, the value of the member’s benefit determined using the standards of practice issued by the Canadian Institute of Actuaries to determine the termination value of the member’s benefit;
- in the case of a target benefit (TB) provision, the value of the member’s benefit determined using the same going concern assumptions as are used under the plan to determine the termination value of the member’s benefit; and
- in the case of a defined contribution (DC) provision, is the DC account balance including contributions and interest as of the end of the month preceding the date of payment to the former spouse.

**“date of marriage breakdown”** means the date on which the period of joint accrual ended.

**“included employment”** means employment, other than excepted employment, on or in connection with the operation of any work, undertaking or business that is within the legislative authority of the Parliament of Canada, including, without restricting the generality of the foregoing,

- a) any work, undertaking or business operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of a ship and transportation by ship anywhere in Canada;
- b) any railway, canal, telegraph or other work or undertaking connecting a province with another province or extending beyond the limits of a province;
- c) any line of steam or other ships connecting a province with another province or extending beyond the limits of a province;
- d) any ferry between a province and another province or between a province and a country other than Canada;
- e) any aerodrome, aircraft or line of air transportation;
- f) any radio broadcasting station;
- g) any bank or authorized foreign bank within the meaning of section 2 of the [Bank Act](#);
- h) any work, undertaking or business that, although wholly situated within a province, is before or after its execution declared by the Parliament of Canada to be for the general advantage of Canada

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- or for the advantage of two or more provinces; and
- i) any work, undertaking or business outside the exclusive legislative authority of provincial legislatures, and any work, undertaking or business of a local or private nature in Yukon, the Northwest Territories or Nunavut.

**“member pension partner” or “member”** means the member of the pension plan whose benefit is being split.

**“MPO/A”** means

- An MPO means a matrimonial property order within the meaning of the *Matrimonial Property Act*, or a similar order enforceable in Alberta of a court outside Alberta, that affects the division and distribution of a benefit.
- An MPA means a matrimonial property agreement that provides for the division and distribution of a benefit and that meets the requirements of section 37 of the *Matrimonial Property Act*, and that is enforceable under section 38 of that Act

**“non-member pension partner” (or for the purposes of this Guideline, “former spouse”)** means the legally married spouse, as defined in the *Matrimonial Property Act*, of the plan member whose benefit is being split.

**“period of joint accrual”** means the period commencing on the later of the date of marriage and the date when pensionable service starts and ending on the date of marriage breakdown.

## Applicable Legislation

In Alberta, pension benefits legislation, rather than the *Matrimonial Property Act*, deals with how pension benefits are to be divided on marriage breakdown. The Act sets out requirements for dividing and distributing pension benefits in Part 8, Division 4 of the Act. Additional detail on the method, process and timing of a division and distribution of pension benefits is found in Part 7, Division 3 of the Regulation.

Under Alberta’s *Matrimonial Property Act*, pension benefits are considered matrimonial property jointly accrued by legally married pension partners during the period of joint accrual. Up to 50% of such benefits are subject to division when a marriage breakdown occurs. It should be noted that the *Matrimonial Property Act* does not apply to common-law relationships. As a result, the division of pension benefits in a common-law relationship breakdown is not permitted in relation to benefits that are subject to the Act.

Finally, the 50% limitation does not apply to additional voluntary contributions or optional ancillary contributions. Both of these may be paid in full (and as a lump sum payment) to a former spouse.

The Act views a marriage breakdown as a quasi-termination of membership. Alberta legislation applies, if at the time of marriage breakdown:

- the member is employed in Alberta,

- the member had terminated membership in Alberta and left the benefit in the plan for a deferred pension or transferred it to an Alberta LIRA or LIF, or
- the member retired in Alberta and commenced receiving a pension from the pension plan

The Act applies regardless of where the member and/or former spouse are living at the time papers are filed with the plan administrator.

This does not preclude an MPO/A or a similar legal document coming from another jurisdiction. It does, however, require that the document filed with the administrator must meet the requirements of the Act with respect to who is entitled to receive the benefit, the amount that may be paid, and how the benefit may be paid.

In Alberta, the *Matrimonial Property Act* determines who is entitled to split benefits (in Alberta this is the legally married spouse only). The *Employment Pension Plans Act* determines the process for determining what the benefit is and how the benefit may be split.

**Application to Alberta Public Sector Pension Plans**

The provisions of the Act and Regulation, and the information in this Guideline, do not apply to the division of pension benefits which are subject to the *Public Sector Pension Plans Act* (the PSPPA) or the *Teachers' Pension Plans Act* (TPPA). Specific legislative provisions around pension division and distribution of benefits on relationship breakdown covered by the PSPPA are found in Part 3 of the *Public Sector Pension Plans (Legislative Provisions) Regulation*. Legislative provisions regarding this topic for those plans under the TPPA are found in Part 2 of the *Teachers' Pension Plans (Legislative Provisions) Regulation*. Plans that are supplemental to a plan that is subject to the PSPPA but are registered under the *Employment Pension Plans Act* also apply the provisions under the PSPPA rather than the EPPA.

**Application to the Federal Pension Benefits Standards Act, 1985**

The Federal *Pension Benefit Standards Act, 1985* (PBSA) covers plan members who are in "included employment". that is, plan members who are under federal jurisdiction even if they work in Alberta and earn pension benefits under a federally regulated pension plan

Section 25 of the PBSA deals with divorce, annulment, separation or breakdown of common-law partnership. Under this section:

- all former pension partners (including common-law partners) are entitled to a share of the accrued pension of a member;
- up to 100% of the value of the accrued pension may be paid to the former pension partner (section 25(4) of the PBSA);
- the former pension partner's benefit is fully portable; and
- the value of the benefit is calculated in accordance with the EPPA.

## **Application to Non-Registered Retirement Plans**

The application of pension division rules under the Act and Regulation is not required to apply to a pension plan that is not registered under the Act such as plans for “Connected Persons” or plans that provide benefits in excess of the maximum benefit permitted under the *Income Tax Act (Canada)*.

Where a member has an entitlement under both a registered and non-registered plan and the MPO/A applies to both types of plans, the MPO/A must address each plan separately.

## **Principles for Pension Division**

The division of pension benefits on marriage breakdown is a complex issue. In the development of this Guideline, the Superintendent adheres to the following principles.

- The calculation of entitlements for the purposes of marriage breakdown should be viewed as similar to a termination of active membership.
- As it is not possible to predict future events such as salary changes, pensionable service, and date of termination or retirement with any certainty, these future events are not to be included in the determination of the member’s pension benefit.
- Deviations from the set formula in the Regulation are not permitted.
- There should be an emphasis on simplification in how the benefit is calculated and how the benefit calculations and options available to the former spouse are communicated.
- From the perspective of plan administrators, simplification is also desirable.
  - For a pension plan with a Defined Benefit (DB) provision or a Target Benefit (TB) provision, crystallization of the member’s total entitlement occurs on the date of marriage breakdown, and the initial determination of the value of the benefit is calculated as if the member terminated employment on that date. In some situations, the value will have to be re-determined or re-calculated due to delays in reaching an agreement. Section 82(14) of the Regulation requires that if a payment occurs more than 180 days after the original calculation, the value must be re-determined at a date not more than 30 days before the date of payment or transfer of benefits to the former spouse. This may mean an increase or a decrease in the actual amount paid out.
  - For a pension plan with a Defined Contribution (DC) provision, the crystallization and value of the member’s total entitlement is determined as of the end of the month preceding the date of payment to the former spouse. This means the final dollar value of the DC benefit, and therefore the former spouse’s share cannot be finalized until the benefit is paid.
  - For members who are entitled to benefits from more than one component of the plan (e.g., both: a DB and a DC benefit, a TB and a DC benefit, or a DB and TB benefit) for the period of joint accrual, separate calculations for each component of the total entitlement will be required.
  - In the interests of simplifying the calculations and explanations

of the processes for all parties, please refer to the Appendices at the end of this Guideline, which contain a number of forms and some sample calculations for use by members, former spouses, plan administrators and their advisors.

**Division and Distribution of Benefits on the basis of a Matrimonial Property Order or Matrimonial Property Agreement (MPO/A) and in accordance with the Act and Regulation**

Benefits earned by a member can only be divided and paid to the former spouse if there is filed with the plan administrator:

- a matrimonial property order or matrimonial property agreement (MPO/A), within the meaning of the *Matrimonial Property Act*, or
- a similar order of a court outside Alberta, or agreement made under legislation outside Alberta, each as enforceable in Alberta.
- for members whose plan is covered under the federal PBSA, a similar order or assignment signed by both the member and the former pension partner.

The content of the MPO/A and the process for the division of benefits, must also comply with the Act and Regulation, regardless of where the MPO/A originated. A court judgment or the terms of an MPO/A cannot override the requirements of the Act or the Regulation.

**Application of an MPO/A**

The Act and Regulation apply with respect to an MPO/A made or entered into: (see Note below)

- on or after March 1, 2000, or
- before March 1, 2000 if both the member and former spouse agree to use the new rules and they file a written election with the plan administrator.

**Note:** The Act erroneously references March 1, 2000 as the effective date. The new marriage breakdown provisions were intended to come into force on proclamation of the Act (September 1, 2014). However, due to an error in drafting, the Act maintains the March 1, 2000 reference. This will be corrected when the Act is next revised.

In the interim:

- this does not affect any MPO/A that had already been filed with the administrator by September 1, 2014, unless the parties choose to have the new rules apply and notify the plan administrator of such election;
- for a marriage breakdown that occurred between March 1, 2000 and August 31, 2014, if the parties had not filed an MPO/A with the administrator before September 1, 2014, the new rules apply. However, the old rules may be applied if both the member and the former spouse agree to this.

An MPO/A is deemed to be filed if it, or a certified copy of it, is served on the plan administrator. Under section 156 of the Act, where the plan administrator is a corporation, service on the plan administrator is satisfied if the MPO/A is:

- personally given to a director, manager, or officer of the plan administrator, or
- by leaving the document at, or sending the document by

registered mail, to the office of the plan administrator at the postal address stated on the most recent return filed under section 38(1)(a) of the Act (for members, this information should be found in the most recent annual statement received by the member).

In lieu of accepting a written copy, the plan administrator may elect to accept submission in electronic format, such as email, or by facsimile.

### **Content of an MPO/A**

An MPO/A must specify:

- the date when the period of joint accrual began and the date of marriage breakdown, and
- the percentage of the benefit that will be the former spouse's share (this percentage cannot exceed 50% of the benefit earned during the period of joint accrual as valued at the time of payment).

An MPO/A may specify:

- the lesser of a percentage up to 50% and a dollar amount that is to be the former spouse's share (as the value of the benefit will change between the time the former spouses agree on the split and the date the payment is made).

An MPO/A should not specify:

- a dollar amount by itself without a percent that is to be the former spouse's share as the value of the benefit could change between the time the former spouses agree on the split and the date the payment is made, and setting a dollar amount without a percent may make the MPO/A non-compliant with the Act.

### **Exclusions from Total Entitlement**

Total entitlement excludes any additional voluntary contributions (AVCs) or optional ancillary contributions (OACs) where no pension has yet commenced to be paid.

The Act and Regulations impose no restrictions on the division and distribution of AVC's and OAC's. These may be dealt with in any manner the Court or the member and former spouse wish, including the transfer of none, part, or all of these benefits to the former spouse.

### **Determination of Total Entitlement and Total Pre-Division Benefit**

The division of pension benefits is based on two key variables

1. total entitlement, which is defined as the *value of the pension benefit* earned by a member immediately before the date of marriage breakdown and
2. total pre-division benefit, which is the total entitlement pro-rated by the total period of the marriage (start to end dates) divided by the total period under which the member has accrued benefits under the plan (see section 82(1) of the Regulation).

The total pre-division benefit is defined as the *value of the benefit* earned by the member, but pro-rated by a fraction of which:

- the numerator is the period of joint accrual, and
- the denominator is the period during which the total entitlement was earned by the member (i.e., the member's total period of membership in the plan up to the date of marriage breakdown).

The total pre-division benefit is represented formulaically as:

$$A = B \times (C / D)$$

Where:

A = Total Pre Division Benefit  
B = Total Entitlement  
C = Period of Joint Accrual (years and fraction of a year)  
D = Total Accrual Period (i.e. the period during which the total entitlement was earned) (years and fraction of a year)

For example, if the member's total entitlement was \$20,000, the member had accrued benefits in the plan for 10 years and had been in the marriage relationship for 5 years the total pre-division benefit would be \$10,000 [ $\$20,000 \times (5 \div 10)$ ].

Note: Where the date of marriage precedes the initial date of plan membership, the total entitlement and the total pre-division benefit are the same.

## Pre-Retirement Calculation

### DC Provision

The total entitlement of the member is equal to the sum of employer contributions and, if applicable, employee contributions made in relation to the DC provision, plus interest / investment earnings earned on those contributions. The total entitlement is initially calculated when the member and/or former spouse request a statement as to the amount of the benefit available to be divided. The total pre-division entitlement is then calculated and this is the amount that the member and former spouse are advised is available for division. This amount is then re-calculated in the same manner as of the end of the month preceding the date of payment to determine the actual amount payable.

### DB and TB Provisions

The initial estimate of total entitlement is equal to the commuted value of the member's pension, calculated as if the member had terminated membership on the date of marriage breakdown, using the normal form of pension for a married plan member, and calculated using the commuted value basis applicable for DB or TB.

The total pre-division entitlement is then calculated and this is the amount that the member and former spouse are advised is available

for division.

If the payment is made more than 180 days after the date of the original calculation, this amount is then re-calculated in the same manner when the MPO/A is received and based upon the percentage agreed to, the former spouse is advised of the actual amount payable.

## **Pre-Retirement Payment Options**

### **DC Provision**

Unless the plan text document specifically permits the former spouse to leave the benefit in the plan, the former spouse must elect an immediate transfer of the funds to which the former spouse is entitled, in accordance with the portability options under the plan.

### **DB and TB provisions**

*A. Member is more than 10 years away from the plan's pension eligibility date as of the date of marriage breakdown*

Unless the plan text document specifically permits the former spouse to leave the benefit in the plan, the former spouse must elect an immediate transfer of the funds to which the former spouse is entitled, in accordance with the portability options under the plan.

*B. Member is within 10 years of the plan's pension eligibility date, but has not reached pension commencement date (i.e. the member has not retired and is not in receipt of a pension from the plan) as of the date of marriage breakdown*

In the case of a member who, on the date of marriage breakdown, is within 10 years of the plan's pension eligibility date, the former spouse has three options:

- (a) elect to transfer their share of the pre-division benefit in accordance with the portability options under the plan;
- (b) defer payment until the date the member actually terminates, retires, or dies or the plan as a whole terminates and at that point transfer the again recalculated pre-division entitlement in accordance with the portability options under the plan; or
- (c) if the plan so provides, be paid a deferred or immediate pension from the plan based on the share of value of the pre-division benefit to which the former spouse is entitled.

The amount of the pre-division benefits and therefore the dollar amount of the former spouse's share accordingly, will be different depending on which option is chosen.

## **Post-Retirement Calculation**

*Member has reached pension commencement date and is in receipt of a pension from the plan as of the date of marriage breakdown*

The initial estimate of total entitlement is equal to the commuted value of the member's remaining pension based on the form of pension elected and calculated using the commuted value basis applicable for

DB or TB.

The total pre-division entitlement is then calculated and this is the amount that the member and former spouse are advised is available for division.

If the payment is made more than 180 days after the date of the original calculation, this amount is then re-calculated in the same manner when the MPO/A is received and based upon the percentage agreed to, the former spouse is advised of the actual amount payable

### **Post-Retirement Payment Options**

- A. *If at the date of pension commencement the spouse had waived entitlement to the joint and survivor pension.*
- The former spouse may transfer up to 50% of the value of the benefit to one of the portability options permitted under the plan, or
  - if the plan so permits, the former spouse may be provided with a pension purchased by the amount of the former spouse's entitlement.
- B. *If the form of pension chosen by the member at pension commencement was a joint and survivor pension:*
- The parties may elect not to divide the benefit and to have the former spouse remain as the joint annuitant under the pension plan. In this case nothing is payable from the pension plan until the member dies, at which point the former spouse receives the survivor pension, or
  - In lieu of receiving a joint and survivor pension, the value of the remaining pension may be determined and divided between the member and the former spouse. In this case:
    - the member's benefit would be recalculated based on the amount remaining to the credit of the member and the member could choose a new form of pension, and
    - the former spouse may transfer their share to one of the portability options permitted by the plan, or if the plan permits, the former spouse may be provided a pension based on the amount of the former spouse's share of the benefit.

### **Maximum Amount – of the Former Spouse's Share**

Under section 82(2) of the Act, the former spouse's share is limited to no more than 50% of the total pre-division benefit. The dollar amount to be paid is determined when the final calculation of the benefit is done immediately prior to when the benefit is paid out.

### **Locking-in of the Former Spouse's Share**

Under section 83 of the Act, the former spouse's share of the pension benefit is locked-in, meaning that access and use of the pension by the former spouse will be restricted to the options available under the Act and Regulation. Unless the former spouse otherwise qualifies for an unlocking option under section 71 of the Act, the former spouse will *not* receive a cash lump sum or a transfer to an unlocked RRSP.

## **Disclosure, Calculation, and Payment of the Benefit**

Where the member and/or former spouse request information on their pension entitlement, communication to members must meet the requirements of section 35 of the Regulation.

Once the MPO/A has been filed with the plan administrator, the plan administrator will provide the former spouse with a statement of the options available for payment of the spouse's entitlement that meets the requirements of section 36 of the Regulation.

In addition to the disclosure statements, the member and former spouse have the right to examine, or to obtain from the plan administrator, the data and a description of the method used to calculate the amount of the benefit being divided.

The plan administrator may provide the data and description by either:

- allowing the person to examine the data and description, or
- providing to the person, without charge, a written copy of the data and description.

A plan administrator is only required to comply with the request for calculation data once in every 12 month period.

If the member has not yet commenced to receive pension, the former spouse will be entitled to transfer the benefit to:

- a LIRA,
- a LIF (if the former spouse is age 50 or older), in which case, the former spouse may elect to unlock up to 50% of the benefit, or
- to the pension plan of his/her employer (if that plan so permits).

If the plan so permits, the former spouse may also be offered the option of leaving the benefit in the plan for a deferred or immediate pension. This is entirely at the option of the plan. Payment and transfer provisions applicable to a terminating member also apply to a former spouse who transfers funds out of the plan.

If the benefit entitlement is less than the minimum commutable amount noted in section 71 of the Act, (20% of the Year's Maximum Pensionable Earnings), then the former spouse will be given the option to transfer the benefit to an RRSP or receive the benefit as a cash lump sum payment. For more information, refer to the [Interpretive Guideline #04 - Unlocking of Pension Benefits](#).

### **TB Provision**

Where the member accrues benefits under a TB provision, and where the former spouse's share is transferred out of the plan, that share must be multiplied by the lesser of 1.0 and the current target benefit funded ratio of the TB provision.

Where the target benefit funded ratio is less than 1.0, it will result in the former spouse's share being reduced to reflect the target benefit funded ratio of the plan. Unlike the payment of a shortfall for a DB provision, there is no payment of the shortfall arising out of a TB provision.

However, unless section 100 of the Act applies (forced transfer of a commuted value), a former spouse would have the option to defer payment until such point as the plan's target benefit funded ratio is at least 1.0.

#### DB Provision

Where the member accrues benefits under a DB provision, and where the former spouse's share is transferred out of the plan, the transfer shall be in a single lump sum unless section 99(3) of the Act applies. In this case, where the solvency ratio is less than 1.0, the former spouse shall receive the funded portion (calculated on a solvency basis) of the share when the MPO/A is filed and the balance within the earlier of when the plan's solvency ratio becomes 1.0 and five years from the date the MPO/A was filed.

If pension has commenced from a benefit formula provision

- payment options will depend upon the settlement options elected, and
- the plan may require the former spouse to move the entitlement from the pension plan.

If payments are being made from a Life Income Type Benefit (LITB), the former spouse will be required to move the entitlement to a LIF, unless the plan permits the benefit to remain in the plan fund.

Once documents have been received and the payment has been made to the former spouse, the member must receive the notice required by section 36(6) of the Regulation.

#### **Adjustments to Member's Pension Under a Benefit Formula Provision**

As part of the division of pension, the member's share must be adjusted to reflect that division. Section 83(1) of the Regulation provides that the adjustment calculation must follow accepted actuarial principles.

*Date of marriage breakdown is before the member's pension commencement date*

The Superintendent's expectation for the adjustment of the member's benefit, post division, is best illustrated using a hypothetical example of Joe Member and Sally Spouse. For simplification, assume Joe and Sally were married for the entire accrual period, thus the ratio for determining Sally's share of the benefit is  $C / D = 1$ .

**Step 1:** As provided under section 35 of the Regulation, Joe and / or Sally can request an information statement on marriage breakdown. If the date of marriage breakdown has not been established via MPO/A, the statement provides both an estimate of Joe's monthly pension entitlement payable at the plan's pension eligibility date and the commuted value of Joe's benefit as of the date specified in the request.

It is important to recognize this is only an estimate of total entitlement, calculated at a specific point in time. Between the period of time when the estimate is first calculated and the date when the MPO/A is actually filed, the value of the member's total entitlement may change.

**Step 2:** Following the submission to the administrator of a valid

MPO/A by either Joe or Sally, the administrator determines Joe's monthly pension entitlement earned up to the date of marriage breakdown.

In this example, where the date of marriage breakdown is known, assume that Joe, on the date of marriage breakdown, was entitled to a pension of \$2,000 per month, commencing at age 65 under the terms of the pension plan.

**Step 3:** Based on that pension entitlement, the commuted value is calculated assuming that Joe terminated membership on the date of marriage breakdown.

In this example, assume that the commuted value is \$300,000.

**Step 4A:** Based on the MPO/A, Sally's share is 50%, or in this case, \$1,000 per month (50% x \$2,000) with a commuted value of \$150,000 (50% x \$300,000). That amount is transferred, at Sally's option, to a LIRA in Sally's name. In addition, Joe's pension entitlement is reduced to \$1,000 per month to reflect the payment of the commuted value to the former spouse.

**Step 4B:** *Joe eventually terminates employment and is eligible to take a commuted value of his pension benefit entitlement (which already reflects the earlier payout to his former spouse).*

On the date of termination of membership, *and assuming no marriage breakdown had occurred*, Joe would have earned the right to a pension equal to \$3,500 per month, payable at age 65.

However, due to Joe's marriage breakdown with Sally, \$1,000 per month must be deducted from this amount, leaving Joe a benefit entitlement of \$2,500 per month (\$3,500 per month - \$1,000 per month), payable at age 65. The administrator calculates the commuted value of the \$2,500 per month pension to be \$350,000 as of the date of termination of active membership. This is the amount that Joe is entitled to transfer.

OR

**Step 4C:** *Joe retires at the plan's pension eligibility date (that is, at age 65).*

In this scenario, Joe works up until the plan's pension eligibility date of age 65. On his retirement date, *and assuming no split had occurred*, Joe has earned a pension equal to \$4,500 per month (assuming no marriage breakdown had occurred).

However, due to Joe's marriage breakdown with Sally, a total of \$1,000 per month must be deducted from this amount, leaving Joe a pension entitlement of \$3,500 per month (\$4,500 per month - \$1,000 per month). This is the amount of retirement benefit to which Joe is entitled to receive from the plan.

Note: This section also applies where the member retires after the date of marriage breakdown and before the MPO/A is filed.

## Adjustments to Member's Pension Under a Benefit Formula Provision

*Date of marriage breakdown is after the member's pension commencement date*

If the member is a retired member as of the date of marriage breakdown, the Act and Regulation now provide specific guidance for the division of the member's pension and a corresponding adjustment as a result of the marriage breakdown. The basis for division is contained in the Regulation as follows:

1. The commuted value of the member's future pension payments is determined by the plan administrator.
2. The former spouse's share of the commuted value of that pension is converted into a single-life pension, which is based on the age (and other relevant demographic information) of the former spouse.
3. If the retired member, at pension commencement date, had elected a joint and survivor form pension which named the former spouse as the joint annuitant, then after deducting the former spouse's share, the retired member's continuing pension is also converted into a single life pension. The single life pension is based on the age (and other relevant demographic information) of the member.
4. The plan text document may also allow the member or former spouse to select a different form of pension following the adjustment. For example, if the plan text document so allows, the member may elect a single life pension, a single life pension with a new guarantee with the residual value payable to the named beneficiary which may be the former spouse or a joint and survivor pension if there is a new spouse. Similarly, if the plan text document so allows, the former spouse may elect a single life pension, a single life pension with a new guarantee with the residual value payable to the named beneficiary which may be the member or a joint and survivor pension if there is a new spouse.
5. The sum of the commuted values of the separate pensions payable to the member and the former spouse **after** the division of benefits must not exceed the commuted value of the pension of the member pension partner **prior** to the division of benefits.

Again, using the hypothetical example of Joe Member, and Sally Spouse (for simplicity, Joe and Sally were married the entire period of joint accrual, such that the ratio in the total pre-division benefit,  $C / D = 1$ ):

**Step 1:** Joe retires under the plan and selects a 60% joint and survivor form of pension, with Sally as the joint survivor. On retirement, Joe's monthly pension income is \$3,000 per month, reducing to \$1,800 per month upon Joe's death. (for a few plans, the benefit may reduce upon the death of either the member or the former spouse, whichever occurs first)

**Step 2:** At some point after Joe's pension commencement date, Joe and Sally have a marriage breakdown. As of the date of marriage breakdown, the commuted value of Joe's remaining pension is determined to be \$400,000 (inclusive of any guarantees or automatic survivor pension).

**Step 3:** The MPO/A provides that Sally will receive 50% of Joe's pension.

**Step 4A:** The pension which is payable, from the plan, to Sally is a single life pension (which could, but is not required, to include the option of a guarantee period), with monthly payments of **\$1,300 (for illustration purposes only)**, and a commuted value of \$200,000. Alternatively, if the plan text document permits, Sally may instead transfer \$200,000 in accordance with the portability options provided under the plan.

**Step 4B:** The pension which is payable to Joe is a single life pension, with monthly payments of \$1,500 per month (for illustration purposes only), and would have a commuted value of \$200,000.

It should be emphasized that because each pension is based on the age and other demographic information of Joe and Sally as separate individuals, the monthly pension which is now payable to either person may be different amounts. Alternatively, if the plan text document permits, Joe may be permitted to elect a different form of pension as outlined in 4 above.

**Application to Court for clarification**

If a plan administrator receives an MPO/A that does not comply with the Act or Regulation, the plan administrator must refuse to administer the MPO/A until it is deemed compliant. If the MPO/A is unclear, the plan administrator may refuse to administer the MPO/A or apply to the Court for clarification, with costs of the application to be paid by either the member and the former spouse, or both, as determined by the Court.

Members and former spouses, as well as their legal counsel, are encouraged to ensure that MPO/As meet the legislative requirements and are clear and precise so as to be executable by the plan administrator without creating the need to obtain further involvement by the Courts.

**Bars against further claim**

Once the full value of the former spouse's share of the pension has been distributed, the former spouse has no further entitlement to any benefit or any other right under the plan, and the plan administrator and the plan have no further obligation or liability to either the former spouse or any other person by reason only of the fact that the MPO/A was complied with.

**NOTE:** The member may name the former spouse as the member's beneficiary for lump-sum pre-retirement or post-retirement guarantee benefits.

**Agreement to no division of pension benefits**

There is no requirement for a pension benefit to be split. This is a decision of the member and the former spouse. For clarity and to avoid future disagreement, it is advisable that if the pension is not to be split, this is acknowledged in the MPO/A, or via a separate agreement signed by the member and the former spouse. Waiver forms prescribed under the Regulation are not appropriate for this purpose.

## **Division of Locked-in Accounts**

The marriage breakdown provisions in the Act and Regulations also apply to funds contained in a Locked-In Retirement Account (LIRA) or Life Income Fund (LIF) but with the following adaptations:

- the total entitlement and pre-division benefit is the dollar value of the LIRA or LIF (there is no pro-ration for the period of joint accrual as occurs under a pension plan) and, under section 82(5) of the Act, the MPO/A cannot permit a transfer of more than 50% of the value of the LIRA or LIF to the former spouse;
- the financial institution must provide all information and statements in respect of monies in a locked-in vehicle, similar to the information required by sections 35 and 36 of the Regulations for a DC provision and as is relevant to a LIRA or LIF;
- in the case of a division of a LIRA, the former spouse's share may be transferred to their own LIRA, LIF, or life annuity (the latter two being subject to restrictions based on the former spouse's age) or to the former spouse's pension plan if that pension plan permits; and
- in the case of a division of a LIF, the former spouse's share may be transferred to their own LIF or life annuity.

## **Fees**

Under section 87 of the Act, the plan administrator may charge a fee for processing a marriage breakdown in an amount not exceeding:

- in the case of a DB provision of a pension plan, \$1000,
- in the case of a TB provision of a pension plan, \$1000,
- in the case of a DC provision of a pension plan, \$300, and
- where there is an entitlement to a benefit under more than one plan provision, the sum of any or all of the above amounts, as applicable.

The fee is payable in equal proportions by the member and former spouse. At the plan administrator's option, the plan administrator may deduct the member or former spouse's share of the fee from any benefit payment that is to be paid to or on behalf of that person. If the member or former spouse request more than one calculation, the plan administrator may require the payment of a fee for each separate calculation. For the purposes of determining a calculation, options within any calculation (such as determining a commuted value or a pension in payment) and any recalculation of a commuted value because more than 180 days have passed since the preparation of the initial calculation are all to be considered as part of the initial calculation and not as a separate calculation that would warrant an additional fee.

Under section 112 of the Regulation (LIRAs) and section 130 of the Regulation (LIFs), expenses related to the administration of the marriage breakdown provisions may be deducted from the LIRA or LIF, respectively.

**For further information please contact:**

Superintendent of Pensions  
Alberta Treasury Board and Finance  
Room 402, 9515 - 107 Street  
Edmonton, AB T5K 2C3

Telephone: 780-427-8322

Fax: 780-422-4283

Internet:

<http://finance.alberta.ca/business/pensions>

For toll-free dialling within Alberta, call  
310-0000 and then dial 780-427-8322.

Sign up for electronic notifications:

<http://www.finance.alberta.ca/subscribe/epen>

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## Appendices

Appendix 1: Request from member and/or former spouse to plan administrator for calculation of total entitlement during the period of joint accrual .....	18
Appendix 2: Estimate of amount that can be split for a Defined Contribution provision of a pension plan where the parties DO NOT intend to transfer assets out of the pension plan.....	20
Appendix 3: Estimate of amount that can be split for a Defined Benefit or Target Benefit Provision of a pension plan where the parties DO NOT intend to transfer assets out of the pension plan .....	21
Appendix 4: Estimate of amount that can be split for a Defined Contribution pension plan provision where the parties DO intend to transfer assets out of the pension plan.....	23
Appendix 5: Estimate of amount that can be split for a Defined Benefit or Target Benefit pension plan provision where the parties DO intend to transfer assets out of the pension plan.....	25
Appendix 6: Example – Calculation of amount that can be split for a Defined Contribution pension plan provision where the parties DO intend to transfer assets out of the pension plan where date of marriage is on or before date of plan membership .....	28
Appendix 7: Example – Calculation of amount that can be split for a Defined Contribution pension plan provision where the parties DO intend to transfer assets out of the pension plan where date of marriage is after date of plan membership.....	30
Appendix 8: Example – Calculation of amount that can be split for a Defined Benefit or Target Benefit pension plan provision where the parties DO intend to transfer assets out of the pension plan where date of marriage is on or before date of plan membership .....	32
Appendix 9: Example – Calculation of amount that can be split for a Defined Benefit or Target Benefit pension plan provision where the parties DO intend to transfer assets out of the pension plan where date of marriage is after date of plan membership .....	35

Note: The following worksheets are for the use of the administrator in determining the entitlement on marriage breakdown, and do not constitute disclosure statements as required under legislation.

**Appendix 1: Request from member and/or former spouse to plan administrator for calculation of total entitlement during the period of joint accrual**

Name of Member Pension Partner (Member): \_\_\_\_\_

Employee Number: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Contact Information: Work Phone: \_\_\_\_\_

Work Email: \_\_\_\_\_

Personal Phone: \_\_\_\_\_

Personal Email: \_\_\_\_\_

Name of Non-Member Pension Partner (Former Spouse): \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Contact Information: Work Phone: \_\_\_\_\_

Work Email: \_\_\_\_\_

Personal Phone: \_\_\_\_\_

Personal Email: \_\_\_\_\_

Name of Member's Employer: \_\_\_\_\_

Name of Member's Pension Plan: \_\_\_\_\_

CRA # of Member's Pension Plan (if known): \_\_\_\_\_

A. Date of Marriage: \_\_\_\_\_

B. Date of Marriage Breakdown: \_\_\_\_\_

C. Date of Start of Pension Plan Membership: \_\_\_\_\_

The member and/or the former spouse request that the Plan Administrator for the member's pension plan calculate the member's pension entitlement for the purposes of marriage breakdown under the *Employment Pension Plans Act* (Act). The member and/or former spouse confirm that to the best of their knowledge the above information is accurate and complete and agree to pay any fees so required by the Plan Administrator up to the limits prescribed under the Act. The member and/or former spouse acknowledge that the Plan Administrator may require payment of any fees prior to any calculation of the member's pension entitlement and that each calculation may require a separate fee.

The member and/or former spouse must choose one of the following three options in regards to the calculation of the member's pension entitlement:

1. The intention is to transfer up to 50% of the member's pension entitlement to the former spouse.
2. The intention is to satisfy any division of property without any transfer of the member's pension entitlement to the former spouse.
3. It has not yet been decided at this stage whether option 1 or 2 above will apply.

The member and/or former spouse choose option (circle choice): 1      2      3

This application must be signed by the member and/or by the former spouse.

Member:  
Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Former Spouse:  
Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

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**Appendix 2: Estimate of amount that can be split for a Defined Contribution provision of a pension plan where the parties DO NOT intend to transfer assets out of the pension plan**

Name of Member: \_\_\_\_\_  
 Name of Former Spouse: \_\_\_\_\_  
 Name of Pension Plan: \_\_\_\_\_

The total pre-division benefit is defined as the value of the benefit earned by the member, but pro-rated by a fraction, of which:

- the numerator is the period of joint accrual (i.e. the length of the marriage); and
- the denominator is the period during which the total entitlement was earned by the member.

The total pre-division benefit is represented formulaically as:  $A = B \times (C / D)$

Where:

A = Total Pre Division Benefit

B = Total Entitlement

C = Period of Joint Accrual (years and fraction of a year)

D = Total Accrual Period (years and fraction of a year)

Determination of:

B = the value of the defined contribution account as at date F

C = the period from the later of E and G up to F

D = the period from G to F

Where:

E = Start of period of joint accrual

F = Date of Marriage Breakdown

G = Date of start of plan membership

B = Account balance as at date F: \_\_\_\_\_  
 = \$ \_\_\_\_\_

C = later of E: \_\_\_\_\_ (earlier of A and B from Appendix 1) and G: \_\_\_\_\_  
 = period from date from above: \_\_\_\_\_ and F: \_\_\_\_\_  
 = \_\_\_\_\_ years; \_\_\_\_\_ part years

D = period from G \_\_\_\_\_ and F: \_\_\_\_\_  
 = \_\_\_\_\_ years; \_\_\_\_\_ part years

$A = B \times (C / D)$

Note: C must be less than or equal to D

A = B \_\_\_\_\_ x (C \_\_\_\_\_ / D \_\_\_\_\_)  
 = \$ \_\_\_\_\_ (Pre-Division Benefit)

Maximum benefit that can be notionally allocated to former spouse  
 =  $50\% \times A$  \$ \_\_\_\_\_ = \$ \_\_\_\_\_.

Per cent elected by parties if known = \_\_\_\_\_ % x A\$ \_\_\_\_\_ = \$ \_\_\_\_\_ agreed upon by parties for purposes of notional division of matrimonial property.

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

Fee received from parties: \$ \_\_\_\_\_ (maximum \$300 per calculation)

**Appendix 3: Estimate of amount that can be split for a Defined Benefit or Target Benefit Provision of a pension plan where the parties DO NOT intend to transfer assets out of the pension plan**

Name of Member: \_\_\_\_\_

Name of Former Spouse: \_\_\_\_\_

Name of Pension Plan: \_\_\_\_\_

The total pre-division benefit is defined as the value of the benefit earned by the member, but pro-rated by a fraction, of which:

- the numerator is the period of joint accrual (i.e. the length of the marriage) and
- the denominator is the period during which the total entitlement was earned by the member.

The total pre-division benefit is represented formulaically as:  $A = B \times (C / D)$

Where:

A = Total Pre Division Benefit

B = Total Entitlement

C = Period of Joint Accrual (years and fraction of a year)

D = Total Accrual Period (years and fraction of a year)

**1. When pension is not in payment:**

Determination of:

B = pension earned during the period from G to F

C = the period from the later of E and G up to F

D = the period from G to F

Where:

E = Start of period of joint accrual

F = Date of Marriage Breakdown

G = Date of start of plan membership

B = Pension Accrued during D: = \$ \_\_\_\_\_ per month; converted to commuted value as if member had terminated membership on date F

C = later of E: \_\_\_\_\_ (earlier of A and B from Appendix 1) and G: \_\_\_\_\_  
= period from date from above: \_\_\_\_\_ and F: \_\_\_\_\_  
= \_\_\_\_\_ years; \_\_\_\_\_ part years

D = period from G \_\_\_\_\_ and F: \_\_\_\_\_  
= \_\_\_\_\_ years; \_\_\_\_\_ part years

$A = B \times (C / D)$

Note: C must be less than or equal to D

A = B \_\_\_\_\_ x C \_\_\_\_\_ / D \_\_\_\_\_  
= \$ \_\_\_\_\_ (Pre-Division Benefit)

Maximum benefit that can be notionally allocated to former spouse  
= 50% x A \$ \_\_\_\_\_ = \$ \_\_\_\_\_.

Per cent elected by parties if known = \_\_\_\_\_ % x A\$ \_\_\_\_\_ = \$ \_\_\_\_\_ agreed upon by parties for purposes of notional division of matrimonial property. (Note: for TB provisions, the amount shown in \$ above must be multiplied by the lesser of 1 and the target

benefit funded ratio of the TB plan. The resulting amount is the amount applicable for notional division of matrimonial property.)

## 2. When pension is in payment:

Determination of:

B = amount of pension in payment

C = the period from the later of E and G up to F

D = the period from G to F

Where:

E = Start of period of joint accrual

F = Date of Marriage Breakdown

G = Date of start of plan membership

B = Pension in Payment= \$\_\_\_\_\_per month; converted to commuted value

C = later of E: \_\_\_\_\_ (earlier of A and B from Appendix 1) and G: \_\_\_\_\_  
= period from date from above: \_\_\_\_\_ and F: \_\_\_\_\_  
= \_\_\_\_\_years; \_\_\_\_\_part years

D = period from G \_\_\_\_\_ and F: \_\_\_\_\_  
= \_\_\_\_\_years; \_\_\_\_\_part years

A = B x (C / D)

Note: C must be less than or equal to D

A = B \_\_\_\_\_ x (C \_\_\_\_\_ / D \_\_\_\_\_)  
= \$ \_\_\_\_\_ (Pre-Division Benefit)

Maximum benefit that can be notionally allocated to former spouse  
= 50% x A \$ \_\_\_\_\_ = \$ \_\_\_\_\_

Per cent elected by parties if known = \_\_\_\_\_% x A\$ \_\_\_\_\_ = \$ \_\_\_\_\_ agreed upon by parties for purposes of notional division of matrimonial property. (Note: for TB provisions, the amount shown in \$ above must be multiplied by the lesser of 1 and the target benefit funded ratio of the TB plan. The resulting amount is the amount applicable for notional division of matrimonial property.)

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

Fee received from parties: \$ \_\_\_\_\_ (maximum \$1000 per calculation)

**Appendix 4: Estimate of amount that can be split for a Defined Contribution pension plan provision where the parties DO intend to transfer assets out of the pension plan**

Name of Member: \_\_\_\_\_

Name of Former Spouse: \_\_\_\_\_

Name of Pension Plan: \_\_\_\_\_

The total pre-division benefit is defined as the value of the benefit earned by the member, but pro-rated by a fraction, of which:

- the numerator is the period of joint accrual and
- the denominator is the period during which the total entitlement was earned by the member.

The total pre-division benefit is represented formulaically as:  $A = B \times (C / D)$

Where:

A = Total Pre Division Benefit

B = Total Entitlement

C = Period of Joint Accrual (years and fraction of a year)

D = Total Accrual Period (years and fraction of a year)

Determination of:

B = the value of the defined contribution account as at date F

C = the period from the later of E and G up to F

D = the period from G to F

Where:

E = Start of period of joint accrual

F = Date of Marriage Breakdown

G = Date of start of plan membership

B = Account balance as at date F: \_\_\_\_\_  
= \$ \_\_\_\_\_

C = later of E: \_\_\_\_\_ (earlier of A and B from Appendix 1) and G: \_\_\_\_\_  
= period from date from above: \_\_\_\_\_ and F: \_\_\_\_\_  
= \_\_\_\_\_ years; \_\_\_\_\_ part years

D = period from G \_\_\_\_\_ and F: \_\_\_\_\_  
= \_\_\_\_\_ years; \_\_\_\_\_ part years

$A = B \times (C / D)$

Note: C must be less than or equal to D

A = B \_\_\_\_\_ x C \_\_\_\_\_ / D \_\_\_\_\_  
= \$ \_\_\_\_\_ (Pre-Division Benefit)

Maximum benefit that can be allocated to former spouse  
= 50% x A \$ \_\_\_\_\_ = \$ \_\_\_\_\_ (H)

Per cent elected by parties if known (J) = \_\_\_\_\_ % x A \$ \_\_\_\_\_ = \$ \_\_\_\_\_ (K)  
agreed upon by parties for purposes of division of matrimonial property.

Calculation of actual payment to former spouse:

Recalculate B based on account value as of the end of the month preceding the date of payment = B1.

Note: C and D must be recalculated so that:

C= the period from the later of E and G up to the end of the month preceding the date of payment = C1

D= the period from G up to the end of the month preceding the date of payment = D1

Recalculate A = B1 x (C1 / D1) = A1

Benefit payable to former spouse:

= A1 x lesser of 50% and % from J above (L)

= A1 \_\_\_\_\_ x L% \_\_\_\_\_

= \$ \_\_\_\_\_ payable to former spouse

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

Fee received from parties: \$ \_\_\_\_\_ (maximum \$300 per calculation)

**Appendix 5: Estimate of amount that can be split for a Defined Benefit or Target Benefit pension plan provision where the parties DO intend to transfer assets out of the pension plan**

Name of Member: \_\_\_\_\_

Name of Former Spouse: \_\_\_\_\_

Name of Pension Plan: \_\_\_\_\_

The total pre-division benefit is defined as the value of the benefit earned by the member, but pro-rated by a fraction, of which:

- the numerator is the period of joint accrual (i.e. the length of the marriage) and
- the denominator is the period during which the total entitlement was earned by the member.

The total pre-division benefit is represented formulaically as:  $A = B \times (C / D)$

Where:

A = Total Pre Division Benefit

B = Total Entitlement

C = Period of Joint Accrual (years and fraction of a year)

D = Total Accrual Period (years and fraction of a year)

**1. When pension is not in payment:**

Determination of:

B = pension earned during the period from G to F

C = the period from the later of E and G up to F

D = the period from G to F

Where:

E = Start of period of joint accrual

F = Date of Marriage Breakdown

G = Date of start of plan membership

B = Pension Accrued during D: = \$ \_\_\_\_\_ per month; converted to commuted value as if member had terminated membership on date F

C = later of E: \_\_\_\_\_ (earlier of A and B from Appendix 1) and G: \_\_\_\_\_  
 = period from date from above: \_\_\_\_\_ and F: \_\_\_\_\_  
 = \_\_\_\_\_ years; \_\_\_\_\_ part years

D = period from G \_\_\_\_\_ and F: \_\_\_\_\_  
 = \_\_\_\_\_ years; \_\_\_\_\_ part years

$A = B \times (C / D)$

Note: C must be less than or equal to D

A = B \_\_\_\_\_ x C \_\_\_\_\_ / D \_\_\_\_\_  
 = \$ \_\_\_\_\_ (Pre-Division Benefit)

Maximum benefit that can be allocated to former spouse  
 = 50% x A \$ \_\_\_\_\_ = \$ \_\_\_\_\_ (H)

Per cent elected by parties if known = \_\_\_\_\_ % (J) x A \$ \_\_\_\_\_ = \$ \_\_\_\_\_ (K)  
 agreed upon by parties for purposes of division of matrimonial property.

If payment to the former spouse occurs more than 180 days after the date that the commuted value of B was last determined, the commuted value of B must be redetermined as of a date within 30 days prior to the date the actual payment = B1

Recalculate  $A = B1 \times (C / D) = A1$

Benefit payable to former spouse:

=  $A1 \times$  lesser of 50% and % from J above (L)  
=  $A1 \frac{\quad}{\quad} \times L\%$   
= \$  $\frac{\quad}{\quad}$  payable to former spouse

Note: Whenever the benefit is paid out to the former spouse, for DB plans, if the solvency ratio is less than 1.0, then the former spouse receives \$ from above x solvency ratio at time of payout and the balance in 5 years. For TB plans, if the target benefit funded ratio is less than 1.0, the former spouse receives only \$ from above x the target benefit funded ratio at the time of payout with no future payout of any shortfall.

## 2. When pension is in payment:

Determination of:

B = amount of pension in payment

C = the period from the later of E and G up to F

D = the period from G to F

Where:

E = Start of period of joint accrual

F = Date of Marriage Breakdown

G = Date of start of plan membership

B = Pension in Payment= \$  $\frac{\quad}{\quad}$  per month; converted to commuted value

C = later of E:  $\frac{\quad}{\quad}$  (earlier of A and B from Appendix 1) and G:  $\frac{\quad}{\quad}$   
= period from date from above:  $\frac{\quad}{\quad}$  and F:  $\frac{\quad}{\quad}$   
=  $\frac{\quad}{\quad}$  years;  $\frac{\quad}{\quad}$  part years

D = period from G  $\frac{\quad}{\quad}$  and F:  $\frac{\quad}{\quad}$   
=  $\frac{\quad}{\quad}$  years;  $\frac{\quad}{\quad}$  part years

$A = B \times (C / D)$

Note: C must be less than or equal to D

$A = B \frac{\quad}{\quad} \times C \frac{\quad}{\quad} / D \frac{\quad}{\quad}$   
= \$  $\frac{\quad}{\quad}$  (Pre-Division Benefit)

Maximum benefit that can be allocated to former spouse  
=  $50\% \times A \ \$ \frac{\quad}{\quad} = \$ \frac{\quad}{\quad}$  (H)

Per cent elected by parties if known =  $\frac{\quad}{\quad}\%$  (J) x A\$  $\frac{\quad}{\quad}$  = \$  $\frac{\quad}{\quad}$  (K)  
agreed upon by parties for purposes of actual division of matrimonial property.

If payment to the former spouse occurs more than 180 days after the date that the commuted value of B was last determined, the commuted value of B must be redetermined as of a date within 30 days prior to the date the actual payment = B1

Recalculate  $A = B1 \times (C / D) = A1$

Benefit payable to former spouse:

=  $A1 \times \text{lesser of } 50\% \text{ and } \% \text{ from J above (L)}$   
=  $A1 \frac{\quad}{\quad} \times L\% \frac{\quad}{\quad}$   
= \$  $\frac{\quad}{\quad}$  payable to former spouse

Note: Whenever the benefit is paid out to the former spouse, (for DB plans, if the solvency ratio is less than 1.0, then the former spouse receives \$ from above x solvency ratio at time of payout and the balance in 5 years. For TB plans, if the target benefit funded ratio is less than 1.0, the former spouse receives only \$ from above x the target benefit funded ratio at the time of payout with no future payout of any shortfall.)

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

Fee received from parties: \$ \_\_\_\_\_ (maximum \$1000 per calculation)

**Appendix 6: Example – Calculation of amount that can be split for a Defined Contribution pension plan provision where the parties DO intend to transfer assets out of the pension plan where date of marriage is on or before date of plan membership**

Name of Member: John Smith  
Name of Former Spouse: Mary Smith  
Name of Pension Plan: ABC Pension Plan

The total pre-division benefit is defined as the value of the benefit earned by the member, but pro-rated by a fraction, of which:

- the numerator is the period of joint accrual (i.e. the length of the marriage) and
- the denominator is the period during which the total entitlement was earned by the member.

The total pre-division benefit is represented formulaically as:  $A = B \times (C / D)$

Where:

A = Total Pre Division Benefit

B = Total Entitlement

C = Period of Joint Accrual (years and fraction of a year)

D = Total Accrual Period (years and fraction of a year)

Determination of:

B = the value of the defined contribution account as at date F

C = the period from the later of E and G up to F

D = the period from G to F

Where:

E = Start of period of joint accrual

F = Date of Marriage Breakdown

G = Date of start of plan membership

B = Account balance as at date F: September 30, 2016  
= \$ 100,000

C = later of E: July 1, 2000 (earlier of A and B from Appendix 1) and G: July 1, 2005  
= period from date from above: July 1, 2005 and F: September 30, 2016  
= 11 years; 0.25 part years

D = period from G July 1, 2005 and F: September 30, 2016  
= 11 years; 0.25 part years

$A = B \times (C / D)$

Note: C must be less than or equal to D

$A = B (\$100,000) \times [C (11.25) / D (11.25)]$   
= \$ 100,000 (Pre-Division Benefit)

Maximum benefit that can be allocated to former Spouse  
= 50% x A \$ 100,000 = \$ 50,000 (H)

Per cent elected by parties if known (J) = 50 % x \$ 100,000 = \$ 50,000 (K) agreed upon by parties for purposes of actual division of matrimonial property.

Calculation of actual payment to former spouse:

Recalculate B based on account value as of the end of the month preceding the date of payment = B1 = \$ 110,000 as of December 31, 2016 (B1)

Note: C and D must be recalculated so that:

C= the period from the later of E and G up to the end of the month preceding the date of payment = C1

D= the period from G up to the end of the month preceding the date of payment = D1

Recalculate A = B1 x (C1 / D1) = A1 = \$110000 x 11.58/11.58 = \$110,000

Benefit payable to former spouse:

= A1 x lesser of 50% and % from J above (L)

= A1 \$110,000 x L% 50%

= \$ 55000 payable to former spouse

Prepared by: Plan administrator Allen

Date: January 9, 2017

Fee received from parties: \$ 300 (maximum \$300 per calculation)

**Appendix 7: Example – Calculation of amount that can be split for a Defined Contribution pension plan provision where the parties DO intend to transfer assets out of the pension plan where date of marriage is after date of plan membership**

Name of Member: Carmela Jones  
Name of Former Spouse: Peter Jones  
Name of Pension Plan: XYZ Pension Plan

The total pre-division benefit is defined as the value of the benefit earned by the member, but pro-rated by a fraction, of which:

- the numerator is the period of joint accrual (i.e. the length of the marriage) and
- the denominator is the period during which the total entitlement was earned by the member.

The total pre-division benefit is represented formulaically as:  $A = B \times (C / D)$

Where:

A = Total Pre Division Benefit

B = Total Entitlement

C = Period of Joint Accrual (years and fraction of a year)

D = Total Accrual Period (years and fraction of a year)

Determination of:

B = the value of the defined contribution account as at date F

C = the period from the later of E and G up to F

D = the period from G to F

Where:

E = Start of period of joint accrual

F = Date of Marriage Breakdown

G = Date of start of plan membership

B = Account balance as at date F: December 31, 2016  
= \$ 120,000

C = later of E: July 1, 2008 (earlier of A and B from Appendix 1) and G: November 1, 2005  
= period from date from above: July 1, 2008 and F: December 31, 2016  
= 8 years; 0.50 part years

D = period from G: November 1, 2005 and F: December 31, 2016  
= 11 years; 0.167 part years

$A = B \times (C / D)$

Note: C must be less than or equal to D

$A = B \times 120,000 \times (C \ 8.50 / D \ 11.167)$   
= \$ 87,403.60 (Pre-Division Benefit)

Maximum benefit that can be allocated to former spouse  
= 50% x A \$ 87,403.60 = \$ 43,701.80 (H)

Per cent elected by parties if known (J) = 50 % x A \$ 87,403.60 = \$ 43,701.80 (K) agreed upon by parties for purposes of actual division of matrimonial property.

Calculation of actual payment to former spouse:

Recalculate B based on account value as of the end of the month preceding the date of payment excluding employer and member contributions made after date F and investment gains or losses on those contributions after date F up to the end of the month preceding the date of payment (assume April 15, 2017) = B1 = \$ 114,000 as of March 31, 2017

Note: C and D must be recalculated so that:

C= the period from the later of E and G up to the end of the month preceding the date of payment = C1

D= the period from G up to the end of the month preceding the date of payment = D1

Recalculate A = B1 x (C1 / D1) = A1 = \$114,000 x (8.75 / 11.417) = \$87,369.71

Benefit payable to former spouse:

= A1 x lesser of 50% and % from J above (L)

= A1 \$ 87,369.71 x L% 50%

= \$ 43,684.86 payable to former spouse

Prepared by: Plan administrator Allen

Date: April 10, 2017

Fee received from parties: \$ 200 (fee established by plan administrator) (maximum \$300 per calculation)

**Appendix 8: Example – Calculation of amount that can be split for a Defined Benefit or Target Benefit pension plan provision where the parties DO intend to transfer assets out of the pension plan where date of marriage is on or before date of plan membership**

Name of Member: Beth Collins

Name of Former Spouse: Tom Collins

Name of Pension Plan: Consolidated Manufacturing Pension Plan

The total pre-division benefit is defined as the value of the benefit earned by the member, but pro-rated by a fraction, of which:

- the numerator is the period of joint accrual (i.e. the length of the marriage) and
- the denominator is the period during which the total entitlement was earned by the member.

The total pre-division benefit is represented formulaically as:  $A = B \times (C / D)$

Where:

A = Total Pre Division Benefit

B = Total Entitlement

C = Period of Joint Accrual (years and fraction of a year)

D = Total Accrual Period (years and fraction of a year)

**1. When pension is not in payment:**

Determination of:

B = pension earned during the period from G to F

C = the period from the later of E and G up to F

D = the period from G to F

Where:

E = Start of period of joint accrual

F = Date of Marriage Breakdown

G = Date of start of plan membership

B = Pension Accrued during D: = \$ 1,000 per month; converted to commuted value as if member had terminated membership on date F= \$ 200,000

C = later of E: May 1, 2001 (earlier of A and B from Appendix 1) and G: June 1, 2002

= period from date from above: June 1, 2002 and F: November 30, 2016

= 14 years; 0.5 part years

D = period from G June 1, 2002 and F: November 30, 2016

= 14 years; 0.5 part years

$A = B \times (C/D)$

Note: C must be less than or equal to D

$A = B \$ 200,000 \times (C 14.5 / D 14.5)$

= \$ 200,000 (Pre-Division Benefit)

Maximum benefit that can be allocated to former spouse

= 50% x A \$ 200,000 = \$ 100,000 (H)

Per cent elected by parties if known = 40% (J) x A \$ 200,000 = \$ 80,000 (K) agreed upon by parties for purposes of actual division of matrimonial property.

If payment to the former spouse occurs more than 180 days after the date that the commuted value of B was last determined, the commuted value of B must be redetermined as of a date within 30 days prior to the date the actual payment = B1

Recalculate  $A = B1 \times (C / D) = A1$

Benefit payable to former spouse:

B1= \$ 250,000 as of June 30, 2017 and date of payment is July 15, 2017

=  $A1 \times$  lesser of 50% and % from J above (L)

=  $A1 \text{ } \$250,000 \times L\% \text{ } 40\%$

= \$ 100,000 payable to former spouse as of July 15, 2017 if solvency ratio is 1.0 or higher.

If solvency ratio is less than 1.0, for example 0.80; former spouse receives \$80,000 as of July 15, 2017 and \$20,000 plus interest on July 15, 2022. For TB plans, if the target benefit funded ratio is less than 1.0, the former spouse receives only \$ from above x the target benefit funded ratio at the time of payout with no future payout of any shortfall.

## 2. When pension is in payment:

Determination of:

B = amount of pension in payment

C = the period from the later of E and G up to F

D = the period from G to F

Where:

E = Start of period of joint accrual

F = Date of Marriage Breakdown

G = Date of start of plan membership

C = later of E: May 1, 2001 (earlier of A and B from Appendix 1) and G: June 1, 2002

= period from date from above: June 1, 2002 and F: November 30, 2016

= 14 years; 0.5 part years

D = period from G June 1, 2002 and F: November 30, 2016

= 14 years; 0.5 part years

### 2.a. Former Spouse Receives Entitlement in form of Monthly Pension

B = Pension in Payment= \$ 800 per month

$A = B \times (C / D)$

Note: C must be less than or equal to D

$A = B \text{ } \$ 800 \times C \text{ } 14.5 / D \text{ } 14.5$

= \$ 800 (Pre-Division Benefit)

Maximum benefit that can be actually allocated to former spouse

=  $50\% \times A \text{ } \$ 800 = \$ 400$  (H)

Per cent elected by parties if known = 40% (J) x A \$ 800 = \$ 320 (K) agreed upon by parties for purposes of division of matrimonial property.

Benefit payable to former spouse: \$320 retroactive to month following date of marriage breakdown --- December, 2016

**2.b. Former Spouse Receives Entitlement in form of Commuted Value if plan text so allows**

B = Pension in Payment= \$ 800 per month; converted to commuted value = \$ 190,000

A = B x (C / D)

Note: C must be less than or equal to D

A = B \$ 190,000 x C 14.5 / D 14.5  
= \$ 190,000 (Pre-Division Benefit)

Maximum benefit that can be actually allocated to former spouse  
= 50% x A \$ 190,000 = \$ 95,000 (H)

Per cent elected by parties if known = 40% (J) x A\$ 190,000 = \$ 76,000 (K) agreed upon by parties for purposes of actual division of matrimonial property.

If payment to the former spouse occurs more than 180 days after the date that the commuted value of B was last determined, the commuted value of B must be redetermined as of a date within 30 days prior to the date the actual payment = B1

Recalculate A = B1 x (C / D) = A1

Benefit payable to former spouse:

B1= \$170,000 as of September 30, 2017 and date of payment is October 15, 2017

= A1 x lesser of 50% and % from J above (L)

= A1 \$ 170,000 x L% 40%

= \$ 68,000 payable to former spouse if solvency ratio is 1.0 or higher.

If solvency ratio is less than 1.0, for example 0.90; former spouse receives \$61,200 as of October 15, 2017 and \$6,800 plus interest on October 15, 2022. For TB plans, if the target benefit funded ratio is less than 1.0, the former spouse receives only \$ from above x the target benefit funded ratio at the time of payout with no future payout of any shortfall.

Prepared by: Plan administrator Allen

Date: October 4, 2017

Fee received from parties: \$ 1,000 (maximum \$1000 per calculation)

**Appendix 9: Example – Calculation of amount that can be split for a Defined Benefit or Target Benefit pension plan provision where the parties DO intend to transfer assets out of the pension plan where date of marriage is after date of plan membership**

Name of Member: Michael Martin  
Name of Former Spouse: Alice Martin  
Name of Pension Plan: Acme Resources Pension Plan

The total pre-division benefit is defined as the value of the benefit earned by the member, but pro-rated by a fraction, of which:

- the numerator is the period of joint accrual (i.e. the length of the marriage) and
- the denominator is the period during which the total entitlement was earned by the member.

The total pre-division benefit is represented formulaically as:  $A = B \times (C / D)$

Where:

A = Total Pre Division Benefit  
B = Total Entitlement  
C = Period of Joint Accrual (years and fraction of a year)  
D = Total Accrual Period (years and fraction of a year)

**1. When pension is not in payment:**

Determination of:

B = pension earned during the period from G to F  
C = the period from the later of E and G up to F  
D = the period from G to F

Where:

E = Start of period of joint accrual  
F = Date of Marriage Breakdown  
G = Date of start of plan membership

B = Pension Accrued during D: = \$600 per month; converted to commuted value as if member had terminated membership on date F = \$90,000

C = later of E: April 1, 2009 (earlier of A and B from Appendix 1) and G: June 1, 2005  
= period from date from above: April 1, 2009 and F: February 28, 2017  
= 7 years; 0.917 part years

D = period from G: June 1, 2005 and F: February 28, 2017  
= 11 years; 0.75 part years

$A = B \times (C / D)$

Note: C must be less than or equal to D

$A = B \$ 90,000 \times (C 7.917 / D 11.75)$   
= \$ 60,640.85 (Pre-Division Benefit)

Maximum benefit that can be allocated to former spouse  
= 50% x A \$ 60,640.85 = \$ 30,320.43 (H)

Per cent elected by parties if known = 50% (J) x A \$ 60,640.85 = \$ 30,320.43 (K) agreed upon by parties for purposes of division of matrimonial property.

If payment to the former spouse occurs more than 180 days after the date that the commuted value of B was last determined, the commuted value of B must be redetermined as of a date within 30 days prior to the date the actual payment = B1

Recalculate  $A = B1 \times (C / D) = A1$

Benefit payable to former spouse:

B1= \$102,000 as of October 30, 2017 and date of payment is November 18, 2017

A1=  $\$102,000 \times 7.917 / 11.75 = \$ 68,726.30$

= A1 x lesser of 50% and % from J above (L)

= A1 \$ 68,726.30 x L% 50%

= \$ 34,363.15 payable to former spouse as of November 18, 2017 if solvency ratio is 1.0 or higher.

If solvency ratio is less than 1.0, for example 0.85; former spouse receives \$29,208.68 as of November 18, 2017 and \$5,154.47 plus interest on November 18, 2022. For TB plans, if the target benefit funded ratio is less than 1.0, the former spouse receives only \$ from above x the target benefit funded ratio at the time of payout with no future payout of any shortfall.

## 2. When pension is in payment:

Determination of:

B = amount of pension in payment

C = the period from the later of E and G up to F

D = the period from G to F

Where:

E = Start of period of joint accrual

F = Date of Marriage Breakdown

G = Date of start of plan membership

C = later of E: April 1, 2009 (earlier of A and B from Appendix 1) and G: June 1, 2005  
= period from date from above: April 1, 2009 and F: February 28, 2017  
= 7 years; 0.917 part years

D = period from G June 1, 2005 and F: February 28, 2017 2016  
= 11 years; 0.75 part years

### 2.a. Former Spouse Receives Entitlement in form of Monthly Pension

B = Pension in Payment= \$ 400 per month

A =  $B \times (C / D)$

Note: C must be less than or equal to D

A =  $B \$400 \times (C 7.917 / D 11.75)$   
= \$ 269.51 (Pre-Division Benefit)

Maximum benefit that can be actually allocated to former spouse  
= 50% x A \$ 269.51 = \$ 134.76 (H)

Per cent elected by parties if known = 50% (J) x A\$ 269.51 = \$ 134.76 (K) agreed upon by parties for purposes of actual division of matrimonial property.

Benefit payable to former spouse:

\$134.76 retroactive to month following date of marriage breakdown --- March, 2017

## **2.b. Former Spouse Receives Entitlement in form of Commuted Value if plan text so allows**

B = Pension in Payment= \$ 400 per month; converted to commuted value = \$ 80,000

$A = B \times (C / D)$

Note: C must be less than or equal to D

$A = B \$80,000 \times (C 7.917 / D 11.75)$   
= \$ 53,902.98 (Pre-Division Benefit)

Maximum benefit that can be actually allocated to former spouse  
= 50% x A \$ 53,902.98 = \$ 26,951.49 (H)

Per cent elected by parties if known = 50% (J) x A \$ 53,902.98 = \$ 26,951.49 (K) agreed upon by parties for purposes of division of matrimonial property.

If payment to the former spouse occurs more than 180 days after the date that the commuted value of B was last determined, the commuted value of B must be redetermined as of a date within 30 days prior to the date the actual payment = B1

Recalculate  $A = B1 \times (C / D) = A1$

Benefit payable to former spouse:

B1 = \$100,000 as of September 30, 2017 and date of payment is October 19, 2017

$A1 = \$100,000 \times 7.917 / 11.75 = \$ 67,378.72$

= A1 x lesser of 50% and % from J above (L)

= A1 \$ 67,378.72 x L% 50%

= \$ 33,689.36 payable to former spouse if solvency ratio is 1.0 or higher.

If solvency ratio is less than 1.0, for example 0.95; former spouse receives \$32,004.89 as of October 19, 2017 and \$1,684.47 plus interest on October 19, 2022. For TB plans, if the target benefit funded ratio is less than 1.0, the former spouse receives only \$ from above x the target benefit funded ratio at the time of payout with no future payout of any shortfall.

Prepared by: Plan administrator Allen

Date: October 7, 2017

Fee received from parties: \$ 1,000 (maximum \$1000 per calculation)