



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

**PUBLIC SECTOR PENSION PLAN ACT
DIVISION OF BENEFITS AND SEPARATE
PENSION REGULATIONS**

PLEASE NOTE

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This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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PUBLIC SECTOR PENSION PLAN ACT
Chapter P-32.11

DIVISION OF BENEFITS AND SEPARATE PENSION REGULATIONS

Pursuant to section 28 of the *Public Sector Pension Plan Act* R.S.P.E.I. 1988, Cap. P-32.11, Council made the following regulations:

1. Act, defined

- (1) In these regulations, “**Act**” means the *Public Sector Pension Plan Act* R.S.P.E.I. 1988, Cap. P-32.11.

Application of regulations

- (2) These regulations apply to all applications in respect of a division of pension benefits of a member, vested former member or pensioner under subsection 18(1.1) of the Act. (*EC104/16; 606/21*)

APPLICATION FOR DIVISION OF BENEFITS

2. Application for information

- (1) An application for information in respect of a division of pension benefits under subsection 18(1) of the Act shall include:
- (a) the date the spousal relationship commenced;
 - (b) the date of separation;
 - (c) the date of the birth of the member, vested former member or pensioner; and
 - (d) evidence acceptable to the Commission of the information referred to in clauses (a) to (c).

Application for division

- (2) An application for division of pension benefits under subsection 18(1.1) of the Act shall include
- (a) the date of birth of the spouse or former spouse of the member, vested former member or pensioner;
 - (b) evidence acceptable to the Commission of the information referred to in clause (a); and

- (c) either a certified true copy of a court order or domestic contract referred to in subsection 18(2) of the Act, whichever provides for the division of pension benefits of the member, vested former member or pensioner. *(EC104/16)*

3. Notice of receipt of application

For the purposes of subsection 20(2) of the Act, a notice of receipt of an application under subsection 18(1.1) shall be sent to each interested party by regular mail. *(EC104/16)*

4. Withdrawal of application

An applicant may withdraw an application made under section 18 of the Act by submitting to the Minister, in writing, a notice of withdrawal of application. *(EC104/16)*

5. Required information

For the purposes of subsection 27(2), where a breakdown of a spousal relationship has occurred, the following information shall be provided concerning the pension benefits that are or may become payable to or in respect of a member, vested former member or pensioner:

- (a) the information referred to in subsection 2(1) that is used to calculate the pension benefits that are or may become payable;
- (b) the date on which the member, vested former member or pensioner began making contributions to the Plan;
- (c) the number of years and part years of service that were credited to the member, vested former member or pensioner in the period between the date the spousal relationship commenced and the date of separation;
- (d) the number of years and part years of service that were credited to the member, vested former member or pensioner up to the date of separation;
- (e) the average weighted indexed pensionable salary of the member, vested former member or pensioner at the date of separation;
- (f) the average weighted indexed year's maximum pensionable earnings amount of the member, vested former member or pensioner at the date of separation;
- (g) the member contributions and interest credited to the member, vested former member or pensioner in the period between the date the spousal relationship commenced and the date of separation;
- (h) the member contributions and interest credited to the member, vested former member or pensioner up to the date of separation;
- (i) the pension benefits subject to division;
- (j) a copy of the Act;
- (k) information respecting how pension benefits can be divided; and
- (l) other information determined by the Minister as necessary for the calculation of the pension benefits that are or may become payable. *(EC104/16; 652/20; 606/21)*



PENSION BENEFITS SUBJECT TO DIVISION

6. Formula for member or vested former member

- (1) Subject to subsection (3), in respect of a member or vested former member, the pension benefits subject to division shall equal

- (a) an amount determined by the formula
$$A + B$$

where

A is the amount determined by the formula in subsection 27.02(1) of the Act prior to multiplying by D as defined in that subsection; and

B is the amount determined by the formula in subsection 27.02(2) of the Act, where applicable, prior to multiplying by D as defined in that subsection; or

- (b) an amount determined by the formula in subsection 8(1) prior to multiplying by D as defined in that subsection.

Formula for pensioner

- (2) In respect of a pensioner, the pension benefits subject to division shall equal an amount determined by the formula

$$A + B$$

where

A is the amount determined by the formula in subsection 27.02(1) of the Act prior to multiplying by D as defined in that subsection; and

B is the amount determined by the formula in subsection 27.02(2) of the Act, where applicable, prior to multiplying by D as defined in that subsection.

Where member not entitled to deferred pension

- (3) In respect of a member who would not have been entitled to a deferred pension at the date of separation had the member terminated employment on that date, the pension benefits subject to division shall equal an amount determined by the formula in subsection 8(1) prior to multiplying by D as defined in that subsection. *(EC104/16)*

SEPARATE PENSION

7. Time of determination

- (1) For the purposes of subsections 27.02(1) and (2) of the Act, A shall be determined
- (a) prior to any adjustment in the member's, vested former member's or pensioner's pension with respect to any previous breakdown of a spousal relationship; and
- (b) upon termination of employment and indexed to the date of separation where the vested former member or pensioner terminated employment before the date of separation.

Commencement of separate pension not later than age seventy-one

- (2) Any separate pension to which a spouse or former spouse is entitled under the Act shall commence to be paid not later than December 31 of the calendar year in which the spouse or former spouse attains the age of seventy-one years. *(EC104/16)*

CASH PAYMENTS

8. Formula

- (1) Subject to subsection (3), if a member would not be entitled to a deferred pension at the date of separation had the member terminated employment on that date, the portion of the member's contributions with interest to be paid out in cash to the spouse or former spouse under subsection 18(6) of the Act shall equal

$$A \times B / C \times D$$

where

A is the member's contributions with interest to the date of separation, and prior to any adjustment in the member's contributions with respect to any previous breakdown of a spousal relationship;

B is the member's service during the period of the spousal relationship, which is equal to the sum of

- (i) the number of years and part years that occurred and were credited as service to the member during the period of the spousal relationship and are included in C,
- (ii) in respect of purchased service, the number of years and part years that occurred prior to the commencement of the spousal relationship which were not included to calculate benefits at the commencement of the spousal relationship but were credited as service to the member during the period of the spousal relationship and are included in C at the date of separation,
- (iii) in respect of service transferred from another pension plan on or before the date of separation under a reciprocal transfer agreement entered into pursuant to section 3 of the Act, the number of years and part years of service that were credited to the member under the other pension plan during the period of the spousal relationship and are included in C at the date of separation;

C is the member's service up to the date of separation, which is equal to the total number of years and part years of service which would be used to calculate the pension benefits of the member on the date of termination of employment or the date of separation, whichever occurred first; and

D is the share of the member's pension benefits earned during the spousal relationship that is attributed to the spouse or former spouse upon division of pension benefits, which in no case shall exceed 50 per cent.

Calculation of amount payable

- (2) Subject to subsection (3), the amount payable to a spouse or former spouse who makes an election under clause 23(3)(b) of the Act shall be calculated in accordance with subsection (1).

Interest

- (3) The amounts calculated in subsections (1) and (2) shall be credited with interest from the date of separation to the date of payment based on the interest rate determined in accordance with subsection 12(2) of the Act. (EC104/16)



REVALUATION OF PENSION BENEFITS WHERE BENEFITS DIVIDED

9. Application of section

- (1) This section applies where a division of pension benefits has been effected by a transfer or payment under subsection 18(6), 23(3) or 23(3.1) of the Act.

Formula – yearly pension

- (2) The yearly pension payable to a member, vested former member or pensioner to whom subsection (1) applied shall be adjusted as of the later of the date of retirement or the date the division was effected by subtracting an amount determined by the formula

$$A \times B \times C$$

where

A is the amount the spouse or former spouse of the member, vested former member or pensioner would receive as an unreduced yearly separate pension under subsection 27.02(1) of the Act if the spouse or former spouse were eligible to receive an unreduced yearly separate pension and prior to any indexing under subsection 27.02(4) of the Act;

B is a factor which adjusts A for indexing pursuant to subsections 27.02(4) and (5) of the Act from the date of separation to the later of the member's, vested former member's or pensioner's retirement or the date the division was effected; and

C is a factor to adjust A for the percentage by which the member's, vested former member's or pensioner's pension was reduced pursuant to subsection 9(4) of the Act.

Formula – temporary yearly pension

- (3) The temporary yearly pension amount payable to a member, vested former member or pensioner to whom subsection (1) applies shall be adjusted as of the later of the date of retirement or the date the division was effected by subtracting an amount determined by the formula

$$A \times B \times C$$

where

A is the amount the spouse or former spouse of the member, vested former member or pensioner would receive as an unreduced yearly temporary separate pension amount under subsection 27.02(2) of the Act if the spouse or former spouse were eligible to receive an unreduced yearly separate pension and prior to any indexing under subsection 27.02(4) of the Act;

B is a factor which adjusts A for indexing pursuant to subsections 27.02(4) and (5) of the Act from the date of separation to the later of the member's, vested former member's or pensioner's retirement or the date the division was effected; and

C is a factor to adjust A for the percentage by which the member's, vested former member's or pensioner's pension was reduced pursuant to subsection 9(4) of the Act.

Formula - contributions

- (4) The contributions of the member, vested former member or pensioner to whom subsection (1) applies shall be adjusted as of the date of separation by subtracting an amount determined by the formula

$$A \times B / C \times D$$

where

A is the total contributions with interest made by the member, vested former member or pensioner to the date of separation;

B is the member's service during the period of the spousal relationship, which is equal to the sum of

- (i) the number of years and part years that occurred and were credited as service to the member during the period of the spousal relationship and are included in C,
- (ii) in respect of purchased service, the number of years and part years that occurred prior to the commencement of the spousal relationship which were not included to calculate benefits at the commencement of the spousal relationship but were credited as service to the member during the period of the spousal relationship and are included in C at the date of separation,
- (iii) in respect of service transferred from another pension plan on or before the date of separation under a reciprocal transfer agreement entered into pursuant to section 3 of the Act, the number of years and part years of service that were credited to the member under the other pension plan during the period of the spousal relationship and are included in C at the date of separation;

C is the member's service up to the date of separation, which is equal to the total number of years and part years of service which would be used to calculate the pension benefits of the member on the date of termination of employment or the date of separation whichever occurred first; and

D is the share of the member's pension benefits earned during the spousal relationship that is attributed to the spouse and former spouse upon division of pension benefits, which in no case shall exceed 50 per cent. (EC104/16)

