



CONSULTATION PAPER:

Proposed amendments to the Regulations under the
Pension Benefits Act
required as a result of
The Law Reform (2000) Act

March 2001

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I Introduction

On November 30, 2000, Bill No. 75, the *Law Reform(2000) Act* received royal assent. Section VIII of this Act amends certain sections of the *Pension Benefits Act* effective June 4, 2001, as follows:

Clause 26 amends the definition of “spouse” in the *Pension Benefits Act* by repealing Section 2(aj)(iv) and adds a definition of common-law partner under Section 2(ga). A common-law partner is a person who has cohabited with an individual in a conjugal relationship for at least two years, neither of whom is a spouse.

Clause 27 repeals section 61 of the *Pension Benefits Act*, which deals with the division of pension benefits on marriage breakdown, and replaces it with a new Section providing for the division of pensions or pension benefits as prescribed.

Clause 28 adds a provision to the *Pension Benefits Act* providing for garnishment or attachment of pension benefits, retirement savings arrangements or annuities pursuant to the *Maintenance Enforcement Act*.

Clause 29 amends the regulation-making power in the *Pension Benefits Act* in relation to division of pensions and pension benefits on the breakdown of a marriage or common-law partnership.

Clause 30 amends various provisions of the *Pension Benefits Act* to extend the application of that Act to common-law partners.

Part VIII, of the *Law Reform (2000) Act*, which deals with the *Pension Benefits Act*, can be viewed in Section II of this paper. The entire *Law Reform (2000) Act* can be viewed at <http://www.gov.ns.ca> under ‘legislation.’”

This consultation paper focuses on the proposed revisions to the regulations under the *Pension Benefits Act* relating to division of pensions and pension benefits on the breakdown of a marriage or cessation of common-law partnership and on garnishment and attachment of pensions and pension benefits pursuant to the enforcement of a maintenance order under the *Maintenance Enforcement Act*.

The purpose of the Consultation Paper is to solicit comments on the draft Regulations.

II Amendments to the *Pension Benefits Act* effected by PART VIII of the *Law Reform (2000) Act*

PART VIII

PENSION BENEFITS ACT

- 26** Section 2 of Chapter 340 of the Revised Statutes, 1989, the *Pension Benefits Act*, is amended by
- (a) adding immediately after clause (g) the following clause:
 - (ga) "common-law partner" of an individual means another individual who has cohabited with the individual in a conjugal relationship for a period of at least two years, neither of them being a spouse;
 - (b) adding "or" immediately after subclause (aj)(ii);
 - (c) striking out ", or" immediately after subclause (aj)(iii) and substituting a semicolon; and
 - (d) repealing subclause (aj)(iv).
- 27** Section 61 of Chapter 340 is repealed and the following Section substituted:
- 61 (1) Where a member or former member is entitled to a pension or a pension benefit and
- (a) a petition for divorce is filed;
 - (b) an application is filed for a declaration of nullity; or
 - (c) the member or former member and that person's spouse or common-law partner have been living separate and apart and there is no reasonable prospect of the resumption of cohabitation,
- the pension or pension benefit earned during the marriage or the cohabitation of common-law partners may be divided in accordance with the regulations between the member or former member and that person's spouse or common-law partner by an order of the Supreme Court of Nova Scotia, or in such other manner as is prescribed in the regulations.
- (2) Notwithstanding subsection (1), the spouse or common-law partner of the member or former member shall not receive more than one half of the

pension or pension benefit earned during the marriage or cohabitation of common-law partners.

28 Chapter 340 is further amended by adding immediately after Section 71 the following Section:

71A (1) Notwithstanding any enactment, for the purpose of enforcement of a maintenance order as defined in the *Maintenance Enforcement Act*,

(a) money payable under a pension plan to a former member or a person as a result of a division under Section 61 or payable from a prescribed retirement savings arrangement or life annuity that results from a purchase or transfer under Section 50, 51 or 56 or subsection (2) of Section 78 is subject to a garnishment pursuant to the *Maintenance Enforcement Act* and the prescribed requirements under that Act respecting garnishment;

(b) a deferred pension or pension benefit of a former member or of a person that results from a division under Section 61 or a deferred life annuity or prescribed retirement savings arrangement of a person that results from a purchase or transfer pursuant to Section 50, 51 or 56 or subsection(2) of Section 78 is subject to attachment by the Director of Maintenance Enforcement in accordance with the *Maintenance Enforcement Act* and the prescribed requirements under that Act respecting attachment of a pension entitlement.

(2) Where an amount has been attached by the Director of Maintenance Enforcement as described in clause (b) of subsection (1), the administrator shall deduct from the commuted value of the deferred pension, pension benefit or the deferred life annuity or from the money transferred to a prescribed retirement savings arrangement,

(a) the cost of complying with the attachment calculated in the prescribed manner;

(b) the total amount of taxes, if any, that are required to be deducted or withheld as a result of the attachment; and

(c) the lesser of

(i) the amount attached, and

(ii) the remainder of the commuted value of the deferred pension, pension benefit or deferred life annuity or the remainder of the money transferred to a prescribed

retirement savings arrangement.

- (3) Where an amount has been attached as described in clause (b) of subsection (1),
- (a) the person whose entitlement has been attached has no further claim or entitlement to any pension or benefit respecting the amount attached;
 - (b) the entitlement of a person after the person's entitlement has been attached is calculated on the basis of the commuted value of the person's deferred pension, pension benefit or deferred life annuity after the deduction of the amounts referred to in subsection (2) or the entitlement is the remainder of the money in the prescribed retirement savings arrangement after the deduction of the amounts referred to in subsection (2); and
 - (c) neither the administrator nor the plan is liable to any person by reason of having made payment pursuant to an attachment referred to in clause (b) of subsection (1).

29 Clause 105(1)(l) of Chapter 340 is repealed and the following clauses substituted:

- (l) respecting the division of pension or pension benefits pursuant to Section 61;
- (la) respecting commencement of payment of a pension for the purpose of Section 61;
- (lb) respecting circumstances in which Section 50 is applicable to a spouse or common-law partner of a member or former member for the purpose of Section 61;
- (lc) respecting the entitlement to a pension or pension benefit divided under Section 61 upon the death of
 - (i) a member or former member, or
 - (ii) a spouse or common-law partner of a member or former member;
- (ld) prescribing limitations on fees that may be charged by administrators in relation to divisions made pursuant to Section 61;

30 Chapter 340 is further amended by adding "or common-law partner" immediately after "spouse" wherever it appears in Chapter 340.

III Discussion on proposed amendments to the Regulations

The proposed regulations relating to the division of pension benefits on marriage breakdown or cessation of a common-law partnership make a distinction between defined benefits and defined contribution benefits.

A division of defined contribution benefits can be effected immediately, with transfer rights provided to the spouse or common-law partner.

The right to a division of defined benefits is established at the entitlement date. However, the amount of the benefit is not determined until the member retires, terminates employment or dies.

A pension (in pay) is divided by provision of a proportionate share of the pension to be paid to the spouse or common-law partner with separate source deductions. If the member dies, the spouse or common-law partner receives the survivor benefit. If the spouse or common-law partner dies, the member receives the entire benefit.

The proportionate share of a pension or pension benefit is pro rata based on membership and period of marriage or common-law partnership.

Definitions contained in Section 2 of the *Pension Benefits Act* which are relevant in understanding the draft regulations are as follows:

(l) "defined benefit" means a pension benefit other than a defined contribution benefit;

(m) "defined contribution benefit" means a pension benefit determined with reference to and provided by contributions, and the interest on the contributions, paid by or for the credit of a member and determined on an individual account basis;

(aa) "pension" means a pension benefit that is in payment;

(ab) "pension benefit" means the aggregate monthly, annual or other periodic amounts payable to a member or former member during the lifetime of the member or former

member, to which the member or former member will become entitled under the pension plan upon attainment of the normal retirement date or to which any other person is entitled upon the death of a member or former member.

The administrator has the right to charge for an actual division. The spouse and the member are responsible for paying to the administrator an amount not to exceed \$500 for a defined benefit and \$250 for a defined contribution benefit.

IV Proposed amendments to the Regulations

Division of Pension Entitlement

Definitions for Part

1 In this Part,

- (a) "entitlement date" means, in relation to a spouse or common-law partner, the date on which the spouse or common-law partner became entitled to a division of the member's pension or pension benefit;
- (b) "limited member" means a person designated as a limited member of a pension plan;
- (c) "member" includes a former member;
- (d) "net investment returns" means interest, dividends and realized and unrealized capital gains and losses, less related investment expenses normally charged to investment earnings;
- (e) "pensionable service" means the months or parts of months in respect of which a member's pension benefit accrues, and includes a pension benefit earned by a member under another pension plan that has been transferred to the pension plan.
- (f) "proportionate share" means,
 - (i) for a pension or a defined benefit, a fraction calculated in accordance with these regulations, or
 - (ii) for a defined contribution benefit, the share of the benefit of the spouse or common-law partner calculated in accordance with these regulations;
- (g) "separate pension" means the share of a member's pension that is established in a separate account in favour of a spouse or common-law partner; and

- (h) "spouse or common-law partner" includes a former spouse or former common-law partner of a member.

Application of Part

- 2 (1)** Subject to subsection (2), where a spouse or common-law partner is entitled to an interest in a pension or pension benefit,

- (a) the share of the spouse or common-law partner of the pension or pension benefit; and
- (b) the manner in which the entitlement of the spouse or common-law partner in the pension or pension benefit is to be satisfied,

shall be determined in accordance with this Part.

- (2)** This Part, unless provided otherwise, applies only if a spouse or common-law partner
 - (a) was entitled to an interest in a pension or pension benefit before June 4, 2001 and on June 4, 2001 there is no allocation of the pension or pension benefit by court order; or
 - (b) becomes entitled to an interest in a pension or pension benefit after June 4, 2001.
- (3)** A pension or pension benefit may not be divided under this part except pursuant to an order of the Supreme Court of Nova Scotia.
- (4)** Subject to subsection 61(2) of the Act, a spouse or common-law partner's share of a pension or pension benefit shall be determined by an order of the Supreme Court of Nova Scotia.
- (5)** The court shall determine the entitlement date with respect to a spouse or common-law partner.
- (6)** Nothing in this Part precludes a division of assets pursuant to Section 13 of the

Matrimonial Property Act in settlement of the value of any pension or other benefit under a pension plan that, by reason of the termination of a relationship, the chance of acquiring would be lost, and where there is an unequal division upon such grounds, this Part shall not apply.

Information from pension plan

- 3**
- (1)** A spouse or common-law partner who claims an interest in a pension or pension benefit and who has delivered to the administrator Form 1: Request by Spouse or Common-Law Partner for Information on Member's Pension or Pension Benefit, is entitled to receive from the administrator at the time of separation any information necessary to value the member's pension or pension benefit.
 - (2)** The information requested in subsection (1) shall be provided within 60 days after receipt of Form 1.
 - (3)** Once the information is provided pursuant to subsections (1) and (2), the administrator is only required to provide the spouse or common-law partner with information that up-dates the information previously provided once in each calendar year, upon request.
 - (4)** Upon receipt of Form 1, the administrator shall send to the member a notice in Form 4: Notice of Receipt.

Limited members

- 4**
- (1)** Where a pension or pension benefit is to be divided, a spouse or common-law partner may be designated a limited member of the pension plan by delivering Form 2: Request for Designation as Limited Member of Pension Plan and a copy of the court order to the administrator.
 - (2)** A limited member has the right
 - (a)** to receive from the pension plan direct payment of a separate pension or a proportionate share of the pension, as the case may be;
 - (b)** except as modified by this Part, all of the rights of a member under the Act;
 - (c)** the additional rights that are set out in this Part.

- (3) Where the commuted value of the proportionate share of the pension benefit is transferred out of the pension plan to the credit of the spouse or the common-law partner pursuant to Section 6, the spouse or common-law partner ceases to be a limited member of the pension plan.
- (4) Upon receipt of Form 2, the administrator shall send to the member a notice in Form 4: Notice of Receipt.

Information to be provided to a Limited Member

- 5 (1) An administrator shall provide the following information to a limited member:
 - (a) any information or notice available to members of the pension plan;
 - (b) an annual statement required under Section 33 of the Act;
 - (c) to the extent that it is not provided under clause (a), information on options available to and elections that may be made by a limited member with respect to the limited member's proportionate share of the pension or pension benefit when they become available.
- (2) When a limited member is in receipt of a separate pension under the Act, the limited member is entitled to information from the administrator provided to former members of the pension plan in receipt of a pension payable from the pension fund.

Transfer from pension plan to locked in retirement plan

- 6 (1) Where a proportionate share of a pension benefit is transferred out of the pension plan to the credit of a spouse or common-law partner, the transfer shall be made in accordance with Section 50 of the Act.
- (2) Where a defined contribution benefit has been divided either before or after June 4, 2001, a spouse or common-law partner, by delivering to the administrator a copy of the court order and Form 3: Request for Transfer of a Defined Contribution Benefit or a Defined Benefit, is entitled to transfer the spouse's or common-law partner's proportionate share of the defined contribution benefit from the pension plan.
- (3) Upon receipt of Form 3, the administrator shall send to the member a notice in Form 4:

Notice of Receipt.

- (4) Where a defined benefit has been divided, a limited member, by delivering Form 3: Request for Transfer of a Defined Contribution Benefit or a Defined Benefit to the administrator,
- (a) is entitled to receive a proportionate share of the commuted value of the pension benefit transferred from the pension plan to the credit of the limited member when the member
 - (i) retires or attains normal retirement date if earlier, or
 - (ii) terminates membership in the pension plan.

Limited member's separate pension resulting from division of a defined benefit

7 A separate pension in favour of a spouse or common-law partner as a limited member, resulting from division of a defined benefit, shall

- (a) be based on a proportionate share of the pension the member would have received had there been no division under the Act and the member elected a pension in the normal form provided under the pension plan for the member;
- (b) be converted into
 - (i) a single life pension, or
 - (ii) another form or combination of forms of pension that members of the pension plan may elect, such that the total actuarial present value of the separate pension is not less than the actuarial present value of the limited member's proportionate share of the member's pension as if that share was a pension in the normal form provided under the pension plan;
- (c) be adjusted in accordance with actuarial principles, taking into account any difference between the age of the limited member and the member; and

- (d) commence at the member's retirement date or the member's attainment of normal retirement date, if earlier.

Benefit split of a pension

- 8** (1) Where a pension is to be divided, a spouse or common-law partner is entitled to receive from the pension plan a proportionate share of pension paid until
- (a) the death of the spouse or common-law partner; or
 - (b) the termination of the pension,
- whichever occurs first.
- (2) A pension plan that pays a proportionate share of a pension to a spouse or common-law partner shall make separate source deductions with respect to deductions required under the *Income Tax Act* (Canada) for the spouse or common-law partner's share and the member's share of the benefits.

Death of a member or limited member entitled to a defined benefit

- 9** (1) Where a member dies before the limited member receives a share of the defined benefit under subsection 6(3), the limited member is entitled to receive a proportionate share of the pre-retirement death benefit.
- (2) Where a member dies after the limited member transfers from the pension plan a proportionate share of the defined benefit under subsection 6(3), no pre-retirement death benefit is payable to the limited member, unless the member has designated the limited member as a beneficiary.
- (3) Where a limited member dies before the member and before transferring from the pension plan a proportionate share of the defined benefit under subsection 6(3), the pension plan shall pay to the beneficiary or the estate of the limited member the death benefit payable in respect of the limited member's proportionate share of the defined benefit.

Variation of payment to disabled person and payment of the commuted value if benefit is small

- 10** Where a limited member is entitled to a separate pension or a proportionate share of a pension benefit, a pension plan may provide for payment to the limited member of the commuted value of the separate pension or of the proportionate share of the pension benefit, as the case may be, in the same manner that a pension plan may provide for payment to a member under Section 57 or subsection 58(1) of the Act.

Division of a defined contribution benefit

- 11 (1)** The proportionate share of a defined contribution benefit shall be calculated in accordance with the following formula:

$$\text{proportionate share} = P (A-B)$$

where

A = the total of

- (a) the contributions to the pension plan to the credit of the member on the entitlement date for the spouse or common-law partner; and
- (b) the net investment returns allocated, or that are to be allocated, in respect of those contributions to the date the share of the spouse or common-law partner is transferred from the pension plan pursuant to subsection 6(2) or established in a separate account in the pension plan for the spouse or common-law partner as a limited member;

B = the total of

- (a) the contributions, if any, to the credit of the member on the date of marriage or the commencement of the common-law partnership for the member and spouse or common-law partner; and
- (b) the net investment returns allocated, or that are to be allocated, in respect of those contributions to the date the share of the spouse or common-law partner is transferred from the pension plan pursuant to subsection 6(2) or established in a separate account in the pension plan for the spouse or

common-law partner as a limited member;

P = percentage of the pension benefit to be credited to the spouse or common-law partner under the court order.

- (2) Where an administrator cannot otherwise make the calculation under subsection (1) for contributions made to a pension plan, the proportionate share of a defined contribution benefit shall be calculated in accordance with the following formula and the amount, if any, in relation to other contributions shall be calculated in accordance with subsection (1):

$$\text{proportionate share} = A/B \times C \times P$$

where

A = the months and parts of months from the date of marriage or common-law partnership for the member and spouse or common-law partner or the date on which the member entered the pension plan, whichever is later, to the date of entitlement;

B = the total pensionable service accumulated by the member to the date the share of the spouse or common-law partner is transferred from the pension plan pursuant to subsection 6(2) or established in a separate account in the pension plan for the spouse or common-law partner as a limited member;

C = the total of

- (a) the contributions to the pension plan to the credit of the member; and
- (b) the net investment returns allocated, or that are to be allocated, in respect of those contributions to the date the share of the spouse or common-law partner is transferred from the pension plan pursuant to subsection 6(2) or established in a separate account in the pension plan for the spouse or common-law partner as a limited member;

P = percentage of the pension benefit to be credited to the spouse or common-law partner under the court order.

- (3) Where the member is not entitled to a deferred pension benefit pursuant to Sections 42 and 43 of the Act, the proportionate share of the member's contributions and net investment returns shall be paid in cash from the pension plan to the spouse or common-law spouse.

Calculation of proportionate share of a pension, defined benefit or pre-retirement death benefit

12 (1) This Section applies where the calculation of a proportionate share of a pension, defined benefit or pre-retirement death benefit is required.

- (2) Subject to subsection (3), the proportionate share shall be calculated in accordance with the following formula:

$$\text{proportionate share} = P (A/B)$$

where

A = the pensionable service accumulated by the member from the date of marriage or common-law partnership to the entitlement date for the spouse or common-law partner, excluding any pensionable service for that period purchased by and credited to the member after that entitlement date;

B = the total pensionable service accumulated by the member to the earlier of the date that the member retires, attains normal retirement date or terminates membership in the pension plan;

P = percentage of the pension or pension benefit to be credited to the spouse or common-law partner under the court order.

- (3) Where the determination of a proportionate share of a preretirement death benefit is required on the death of member, the proportionate share shall be calculated in accordance with the following formula:

$$\text{proportionate share} = P (A/B)$$

where

A = the pensionable service accumulated by the member from the date of marriage or common-law partnership to the entitlement date for the spouse or common-law partner, excluding any pensionable service for that period purchased by and credited to the member after that entitlement date;

B = the total pensionable service accumulated by the member to the date of the member's death;

P = percentage of the pension or pension benefit to be credited to the spouse or common-law partner under the court order.

Adjustment of a member's defined benefit

- 13** (1) The defined benefit of a member that is subject to a division shall be adjusted in accordance with this Section.
- (2) The defined benefit of a member shall be adjusted in accordance with subsection (3) where a spouse or common-law partner or the estate of a spouse or common-law partner receives
- (a) a separate pension;
 - (b) pursuant to subsection 6(3), a transfer of a proportionate share of the commuted value of a defined benefit; or
 - (c) a death benefit paid in respect of the limited member's proportionate share of the defined benefit pursuant to subsection 9(3).
- (3) An adjustment under subsection (2) shall be on a neutral basis to the pension plan and the member and shall be made by deducting from the defined benefit the limited member's proportionate share of the defined benefit.

Administrator must give notice to spouse or common-law partner if member's interest may be affected

- 14** An administrator shall provide a spouse or common-law partner who has delivered a notice under Form 1, 30 days advance notice of any transaction relating to the applicable member's interest in the pension or pension benefit by reason of

- (a) the death of the member;
- (b) the retirement of the member; or
- (c) a direction given to the administrator by the member.

Administrative fees

- 15**
- (1) The spouse or common-law partner and member shall pay to the administrator an amount to offset administrative fees incurred by the pension plan in satisfying the share of the spouse or common-law partner.
 - (2) A spouse or common-law partner or member who pays more than one-half of the administrative fees may recover from the other the additional amount paid.
 - (3) The amount to be paid to an administrator by the spouse or common-law partner and member shall not exceed whichever of the following is applicable:
 - (a) \$500 for division of a defined benefit;
 - (b) \$150 for division of a defined contribution benefit;
 - (c) \$650 for division of a defined contribution benefit and a defined benefit provided under one pension plan.

Form 1

**Request by Spouse or Common-Law Partner
for Information on
Member's Pension or Pension Benefit**

(Pension Benefits Act, Section 61)

[Please print]

To: Administrator of pension plan

Name of plan

Address of plan

.....

From: Spouse or Common-Law Partner of member [Note: "spouse or common-law partner" includes a former spouse or former common-law partner]

Name

Address

.....

Telephone (home)..... (work)

Social Insurance Number

In relation to: Plan member

Name of member

Address

.....

Telephone (home)..... (work)

Social Insurance or Pension Plan Identity Number

Employer

Declaration of spouse or common-law partner claiming interest

I, (name of spouse or common-law partner) declare that

(a) the date of marriage or commencement of common-law relationship is

(b) the date I was separated from the member or common-law spouse is; and

(c) I am claiming an interest in the member's or common-law spouse's pension or pension benefit based on Section 61 of the *Pension Benefits Act* (see below).

Signed (spouse or common-law partner)

Date of declaration

Signed (witness to signature of spouse or common-law partner)

Name of witness

Address of witness

Form 2

**Request for Designation
as Limited Member of Pension Plan**

(Pension Benefits Act, Section 61)

(Note: This form is for use in relation to a pension or a pension benefit)

[Please print]

To: Administrator of pension plan

Name of plan

Address of plan

.....

From: Spouse or Common-Law Partner of member [Note: "spouse or common-law partner" includes a former spouse or former common-law partner]

Name

Address

.....

Telephone (home)..... (work)

Social Insurance Number

Date of birth

In relation to: Plan member

Name of member

Address

.....

Telephone (home)..... (work)

Social Insurance or Pension Plan Identity Number

Employer

Other required information:

Date of marriage or commencement of common-law relationship

Entitlement date of spouse or common-law partner

[Note: this is the date specified in the order of the court on which the spouse or common-law partner became entitled to an interest in the member's pension.]

A copy of the court order on which the entitlement date is based

[Note: to be attached to or enclosed with this Form]

Request

I request that I be designated as a limited member of your pension plan.

Signed (spouse or common-law partner) Date

Date of declaration

Signed (witness to signature of spouse or common-law partner)

Name of witness

Address of witness

Form 3

**Request for Transfer of a
Defined Contribution Benefit or a Defined Benefit**

(Pension Benefits Act, Section 61)

[Note: The limited member does not transfer rights until the member terminates employment, retires or reaches the normal retirement date under the plan.]

[Please print]

To: Administrator of pension plan

Name of plan

Address of plan

.....

From: Spouse or Common-Law Partner of member [Note: "spouse or common-law partner" includes a former spouse or former common-law partner]

Name

Address

.....

Telephone (home)..... (work)

Social Insurance Number

Date of Birth

In relation to: Plan member

Name of member

Address

.....

Telephone (home)..... (work)

Social Insurance or Pension Plan Identity Number

Employer

Other required information:

Date of marriage or commencement of common-law relationship

Entitlement date of spouse or common-law partner

[Note: this is the date specified in the order of the court on which the spouse or common-law partner became entitled to an interest in the member's pension.]

A copy of the court order on which the entitlement date is based

[Note: to be attached to or enclosed with this Form]

Request

I request that you

(a) transfer my share of the member's pension benefit by a transfer that is permitted under Section 50

of the *Pension Benefits Act*; and

(b) advise me in writing of the information that you require in order to do this.

Signed (spouse or common-law partner) Date

Date of declaration

Signed (witness to signature of spouse or common-law partner)

Name of witness

Address of witness

Form 4

Notice of Receipt

(Pension Benefits Act, Section 61)

[Please print]

To: Plan member

Name of member

Address

.....

Social Insurance or Pension Plan Identity Number

Employer

From: Pension Plan

Name of pension plan

Address of plan administrator

.....

Contact person

Telephone

Receipt of Notice

We have received the following notice under the *Pension Benefits Act* in relation to your membership in our pension plan:

- Form 1: Request by Spouse or Common-Law Partner for Information on Member's Pension or Pension Benefit
- Form 2: Request for Designation as Limited Member of Pension Plan
- Form 3: Request for Transfer of a Defined Contribution Benefit or a Defined Benefit
- Form 4: Notice of Receipt

From[name as shown on notice]

Dated[date of notice]

**Additional Amendments Required
to the *Pension Benefits Regulations*
due to the addition of
Section 71A of the *Pension Benefits Act***

1 (1) Clause 18(2)(b) of the *Pension Benefit Regulations* is repealed and the following substituted:

18 (2) A contract to establish a registered retirement savings plan for purposes of a transfer under Section 50 shall include the following provisions:

(b) all money transferred, plus interest, shall not be assigned, charged, anticipated or given as security except as permitted by subsection 70(3) (marriage breakdown order) or Section 71A of the Act and that any transaction purporting to assign, charge, anticipate or give the money transferred as security is void;

(2) Section 18 is further amended by adding the following subsections immediately after subsection 18(2):

(2B) Where an amount has been attached pursuant to Section 71A of the Act, the transferee shall deduct from the money in the contract

(a) an amount, not to exceed \$250, that reasonably represents the cost to the transferee of complying with the attachment;

(b) the total amount of taxes, if any, that are required to be deducted or withheld as a result of the attachment; and

(c) the lesser of

(i) the amount attached, and

(ii) the remainder of the money in the contract.

(2C) Where an amount has been attached pursuant to Section 71A,

- (a) the owner of the contract has no further claim or entitlement to any pension respecting the amount attached; and
- (b) the transferee is not liable to any person by reason of having made payment pursuant to an attachment made under Section 71A.

2 Clause 18B(12)(b) of the regulations is repealed and the following substituted:

18B (12) A LIF contract must incorporate the applicable definitions set out in Section 2 of the Act and set out in subsections (1) and (2) of this Section and shall include the following provisions:

- (b) such money may not be assigned, charged, or given as security except as permitted by subsection 70(3) or Section 71A of the Act and that any transaction purporting to assign, charge or give such money transferred as security is void;

3 Subsection 19(1) of the regulations is repealed and the following substituted:

19 An insurance contract under which a deferred or immediate life annuity will be provided resulting from the transfer of the commuted value of a pension benefit or as the result of a purchase from a retirement savings arrangement or life income fund referred to in Section 18 shall contain the following provisions:

- (1) that all money transferred, plus interest, shall not be assigned, charged, anticipated or given as security except as permitted by subsection 70(3) or Section 71A of the Act and that any transaction purporting to assign, charge, anticipate or give the money transferred as security is void;

4 The regulations shall be further amended by the addition of the following Section:

X (1) The cost of complying with an attachment mentioned in Section 71A of the Act is to be calculated in accordance with this Section and shall be the prescribed manner of calculating the cost of complying with an attachment made by the Director of Maintenance Enforcement pursuant to the *Maintenance Enforcement Act*.

- (2) The administrator shall calculate the cost of complying with the attachment of a defined benefit as the amount that reasonably represents the cost to the pension plan of complying with the attachment, provided that the cost of complying with the attachment shall not exceed \$500.

- (3) The administrator shall calculate the cost of complying with the attachment of a defined contribution benefit as the amount that reasonably represents the cost to the pension plan of complying with the attachment, provided that the cost of complying with the attachment shall not exceed \$250.
- (4) The cost of complying with the attachment of a deferred life annuity shall be the amount, not to exceed \$250, that reasonably represents the cost to the transferee of complying with the attachment.

IV Submissions

The Department of Environment and Labour invites comments on the draft regulations outlined in this paper. Interested parties are asked to provide their submissions in writing to the Department by April 6, 2001.

Submissions should be forwarded to:

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