

**EC2016-102**

**ATLANTIC PROVINCES HARNESS RACING COMMISSION ACT  
ATLANTIC PROVINCES HARNESS RACING COMMISSION  
NOMINATION**

Pursuant to section 4 of the *Atlantic Provinces Harness Racing Commission Act* R.S.P.E.I. 1988, Cap. A-22.1, Council nominated the following member for appointment:

<b>NAME</b>	<b>TERM OF APPOINTMENT</b>
Blair Hansen Charlottetown (vice Fred Paynter, term expired)	31 March 2016 to 31 March 2019

**EC2016-103**

**CIVIL SERVICE SUPERANNUATION ACT  
DIVISION OF BENEFITS ON MARRIAGE BREAKDOWN  
REGULATIONS  
AMENDMENT**

Pursuant to section 28 of the *Civil Service Superannuation Act* R.S.P.E.I. 1988, Cap. C-9, Council made the following regulations:

**1. Clause 1(c) of the *Civil Service Superannuation Act* Division of Benefits on Marriage Breakdown Regulations (EC455/00) is revoked.**

**2. The regulations are amended by the addition of the following after section 1:**

**1.1** These regulations apply where a person has made an application Application under section 18(1.1) of the Act for a division of the pension benefits of a member, vested former member or pensioner that is to be effected by a transfer of the person's share of those pension benefits in accordance with subsection 23(3.2) of the Act.

**3. The heading immediately before section 2 of the regulations is amended by the deletion of the words "THE AMOUNTS" and the substitution of the word "BENEFITS".**

**4. Section 2 of the regulations is revoked and the following substituted:**

**2. (1)** Subject to section 3, if the pension benefits of a member, vested Formula former member or pensioner are to be divided on the breakdown of a spousal relationship, the benefits to be divided shall equal

$$A / B \times C$$

where

A is

(i) the number of years and part years of service included in “B” 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, plus

(ii) the number of years and part years of service completed prior to the date the spousal relationship commenced which was not included to calculate benefits at the date the spousal relationship commenced but was credited to the member, vested former member or pensioner during the period between the date the spousal relationship commenced and the date of separation and is included in “B” at the date of separation;

B is the total number of years and part years of service which would be used to calculate the pension benefit of the member, vested former member or pensioner on the date of termination of employment or the date of separation, whichever occurred first; and

C is the benefit determined as of the date of separation in subsections (2) and (3).

(2) In subsection (1), the value of C shall be

Calculation of total value of benefit “C”

(a) in the case 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 member’s contributions under the Act accumulated with interest to the date of separation, and prior to any adjustment in the member’s contributions being made with respect to any previous breakdown of a spousal relationship;

(b) in the case of a member who would have been entitled to a deferred pension at the date of separation had the member terminated employment on that date, the commuted value of the pension that would have been deferred at the date of separation based on the average weighted indexed pensionable salary, the contribution history and the benefit formula in force at the date of separation and prior to any adjustment to the deferred pension respecting the breakdown of any previous spousal relationship or, if greater than the commuted value, the member’s contributions and interest to the date of separation prior to any adjustment in the member’s contributions respecting the breakdown of any previous spousal relationship;

(c) in the case of a vested former member, the commuted value of the deferred pension at the date of separation before any adjustment to the deferred pension respecting the breakdown of any previous spousal relationship or, if greater than the commuted value, the vested former member’s contributions and interest to the date of separation before any adjustment in the vested former member’s contributions respecting the breakdown of any previous spousal relationship; and

(d) in the case of a pensioner, the commuted value of the pension to which the pensioner was entitled at the date of separation as if there had been no adjustment respecting any previous division of benefits respecting the breakdown of any previous spousal relationship.

(3) The commuted value calculated under subsection (2) shall include

Survivor benefits and indexing included

(a) the value of survivor benefits under the Act, both before the commencement of payment of a deferred pension and while the pension is in payment; and

(b) the value of any annual accumulated pension indexing increases provided for under the Act.

(4) Where “B”, in subsection (1), includes service transferred from another pension plan under section 3 of the Act, “A” shall include only that portion of the transferred service that was credited to the member, vested former member or pensioner under the other pension plan between the date the spousal relationship commenced and the date of transfer of the service.

When service is transferred from another plan

(5) For the purposes of subsection 23(3.2) of the Act, determination of the pension benefits transferred into the prescribed locked-in retirement vehicle, pension plan or annuity shall be made without regard to the gender of the member or the spouse.

Gender neutral determination

**5. (1) Subsection 3(1) of the regulations is amended**

(a) by the deletion of the words “on marriage breakdown”; and

(b) by the deletion of the words “then the lump-sum amount as” and the substitution of the words “the pension benefits”.

**(2) Subsections 3(2) and (3) of the regulations are revoked and the following substituted:**

(2) Where the pension benefits for each party are

Equality of pension benefits

(a) equal, no portion of the pension benefits shall be subject to division; or

(b) not equal, then the lesser of the respective pension benefits shall be subtracted from the greater pension benefits and the difference shall be the pension benefits that are subject to division.

(3) For the purposes of this section, section 5 and sections 18, 20, 23 and 24 of the Act, the term “spouse” or “former spouse” shall refer to the person for whom the pension benefits calculated in accordance with section 2 is the lesser of the two respective pension benefits and the term “member”, “vested former member” or “pensioner”, as the case may be, shall refer to the person for whom the pension benefits calculated in accordance with section 2 is the greater of the two respective pension benefits.

Application of terms

**6. The heading immediately before section 4 of the regulations is amended by the deletion of the words “LUMP-SUM AMOUNT” and the substitution of the word “SHARE OF BENEFITS”.****7. (1) Subsection 4(1) of the regulations is amended**

(a) by the deletion of the words “lump-sum amount” and the substitution of the words “share of pension benefits”;

(b) by the deletion of the words “lump-sum value of the pension benefit” and the substitution of the words “pension benefits”; and

(c) by the addition of the words “referred to in subsection 18(2) of the Act” after the words “domestic contract”.

**(2) Subsection 4(2) of the regulations is amended**

(a) by the deletion of the words “lump-sum amount” and the substitution of the words “share of pension benefits”; and

(b) by the deletion of the words “date of marriage breakdown” and the substitution of the words “date of separation”.

**(3) Subsection 4(3) of the regulations is revoked and the following substituted:**

(3) The share of pension benefits that includes interest calculated in accordance with subsection (2), shall be further adjusted if pension payments were made between the date of separation and the date the amount is transferred pursuant to subsection 23(1) of the Act, by subtracting the total amount of the spouse’s or former spouse’s share of the pension payments made, including interest as determined in subsection (5), to the date of transfer of the share of pension benefits with interest calculated in subsection (2).

Further adjustment re pension payments already made

**(4) Subsection 4(5) of the regulations is amended by the deletion of the words “per annum” and the substitution of the words “compounded annually”.**

**8. The heading immediately before section 5 of the regulations is amended by the deletion of the words “BENEFITS WHERE LUMP-SUM VALUE” and the substitution of the word “PENSION BENEFITS WHERE BENEFITS”.**

**9. Section 5 of the regulations is revoked and the following substituted:**

**5. (1)** Where only one spouse or former spouse is a member, vested former member or pensioner and a division of benefits was effected under subsection 23(1) of the Act, the monthly pension of the member, vested former member or pensioner shall be adjusted at retirement or, if later, at the date the division was effected, by subtracting an amount in respect of each division of benefits which equals

Formula for revaluation – one party a plan member

$$(D/C) \times F \times G \times H \times S$$

where

D equals the pension benefits subject to division calculated in accordance with section 2;

C equals C as defined in subsection 2(1);

F is the monthly pension that corresponds to the value described in

- (i) clause 2(2)(b) in the case of a member;
- (ii) clause 2(2)(c) in the case of a vested former member; or
- (iii) clause 2(2)(d) in the case of a pensioner;

G is a factor which adjusts pension F in the same proportion as the total adjustment or indexing to pensions under section 8.01 of the Act from the date of separation to the retirement date or, if later, the date at which the division was effected;

H is a factor used to adjust pension F from the assumed age at retirement used in calculating C to the actual date at retirement with regard to the reduction factor applied under subsection 9(4) of the Act, regarding reduced pension on early retirement; and

S is the percentage share of benefits of the spouse or former spouse, as defined in a court order or domestic contract referred to in subsection 18(2) of the Act, but in no case shall the share exceed 50 per cent of the pension benefits of the member, vested former member or pensioner.

**(2)** Where only one spouse or former spouse is a member, vested former member or pensioner, the contributions with interest made by the member, vested former member or pensioner shall be revalued as of the date of separation by subtracting from them an amount equal to

Formula for revaluation of contribution - one party a plan member

$$(D/C) \times T \times S$$

where

D equals the pension benefits subject to division calculated in accordance with section 2;

C equals C as defined in subsection 2(1);

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

S is the percentage share of benefits of the spouse or former spouse, as defined in a court order or domestic contract referred to in subsection 18(2) of the Act, but in no case shall the share exceed 50 per cent of the pension benefits of the member, vested former member or pensioner.

**(3)** Pursuant to subsection 23(6) of the Act, where

- (a) both spouses or former spouses are either a member, vested former member or pensioner, the monthly pension of the person who is deemed for this purpose to be the member, vested former member or pensioner as indicated in subsection 3(3) shall be adjusted in accordance with subsection (1); and
- (b) the monthly pension of the person who is deemed for this purpose to be the spouse or former spouse as indicated in subsection 3(3) shall be adjusted by adding an amount which equals

Formula for revaluation - both parties plan members

$$(D/C) \times F \times G \times H \times S$$

where

D equals the pension benefits subject to division calculated in accordance with section 3;

C equals C as defined in subsection 2(1) with respect to the spouse or former spouse;

F is the monthly pension that corresponds to the value described in clause 2(2)(b), (c) or (d), as it applies in the case of the spouse or former spouse;

G is a factor which adjusts pension F in the same proportion as the total adjustment or indexing to pensions under section 8.01 of the Act from the date of separation to the retirement date or, if later, the date at which the division was effected;

H is a factor used to adjust pension F from the assumed age at retirement used in calculating C to the actual date at retirement with regard to the reduction factor applied under subsection 9(4) of the Act, regarding reduced pension on early retirement; and

S is the spouse's or former spouse's percentage share of benefits, as defined in a court order or domestic contract referred to in subsection 18(2) of the Act, but in no case shall the share exceed 50 per cent.

(4) Pursuant to subsection 23(6) of the Act, where

(a) both spouses or former spouses are either a member, vested former member or a pensioner, the contributions with interest of the person who is deemed for this purpose to be the member, vested former member or pensioner as indicated in subsection 3(3) shall be revalued in accordance with subsection (3); and

(b) the contributions with interest of the person who is deemed to be the spouse or former spouse as indicated in subsection 3(3) shall be revalued as of the date of separation by adding to them an amount equal to

Formula for revaluation of contributions-both parties plan members

$$(D/C) \times T \times S$$

where

D equals the pension benefits subject to division calculated in accordance with section 3;

C equals C as defined in subsection 2(1) with respect to the spouse or former spouse;

T is the total contributions with interest made by the spouse or former spouse to the date of separation; and

S is the spouse's or former spouse's percentage share of benefits as defined in a court order or domestic contract referred to in subsection 18(2) of the Act, but in no case shall the share exceed 50 per cent.

(5) The adjustment applied to the pension after the pensioner reaches sixty-five years of age shall bear the same proportion to the adjustment applied to the pension before the pensioner reaches sixty-five years of age as the total pension earned during the spousal relationship after age sixty-five bears to the total pension earned during the spousal relationship prior to age sixty-five.

Adjustment after 65

**10. Section 6 of the regulations is revoked and the following substituted:**

**6.** (1) In this section, "locked-in retirement vehicle" means a registered retirement savings plan, registered retirement income fund, or registered pension plan as defined in the *Income Tax Act* (Canada), or a life annuity purchased from an insurance company licensed to sell annuities in Canada, which states in writing that, while the spouse or former spouse is alive,

"locked-in retirement vehicle", defined

(a) any amount in the locked-in retirement vehicle shall continue to be subject to section 26 of the Act;

(b) in the case of a registered retirement savings plan, payments are allowed only to another locked-in retirement vehicle;

(c) in the case of a registered retirement income fund or a registered pension plan, payments are allowed only to another locked-in retirement vehicle or to the spouse or former spouse;

(d) in the case of a registered retirement income fund, the total cash payments to the spouse or former spouse during the first year after the date the registered retirement income fund is entered into does not exceed twice the amount initially transferred into the fund

divided by the difference between 90 and the age of the spouse or former spouse (to the nearest whole number) at the transfer date and, during subsequent years, does not exceed twice the minimum annual payments required by the *Income Tax Act* (Canada) to be made from the fund to the spouse or former spouse;

(e) in the case of a registered pension plan, payments to the spouse or former spouse must be monthly lifetime payments in a form which is allowed under the *Income Tax Act* (Canada) to a member of a registered pension plan who retires; and

(f) in the case of a life annuity, only payments in a form to the spouse or former spouse are allowed and such payments must be monthly lifetime payments in a form which is allowed under the *Income Tax Act* (Canada) to a member of a registered pension plan who retires.

(2) A share of pension benefits may be transferred to a retirement savings plan or fund for the spouse or former spouse that is a locked-in retirement vehicle.

Transfer of pension benefits permitted

(3) A share of pension benefits may be transferred to a financial institution authorized to sell immediate or deferred annuities that are locked-in retirement vehicles, for the purchase of such an annuity for the spouse or former spouse.

*Idem*

(4) A non-member spouse or non-member former spouse may elect to have subsections (2) and (3) apply to a division effected prior to the coming into force of these regulations.

Application prior to division

**11. The regulations are amended by the addition of the following after section 7:**

**7.1** These regulations are revoked on December 31, 2019.

Revocation

**12. These regulations come into force on March 12, 2016.**

### EXPLANATORY NOTES

**SECTION 1** revokes clause 1(c) of the regulations to delete the definition of “locked-in retirement vehicle”. This term will from now on be used only in the new section 6 of the regulations, and the definition will be relocated there for ease of reference.

**SECTION 2** adds a new section 1.1 to the regulations to clarify that the regulations apply only to a division of the pension benefits of a member, vested former member or pensioner that is to be effected by a transfer in accordance with subsection 23(3.2) of the Act.

**SECTION 3** amends the heading immediately preceding section 2 of the regulations to substitute the term “Benefits” for the term “Amounts”, for consistency with other changes in the Act and these regulations that use the term “benefits”.

**SECTION 4** amends section 2 of the regulations to clarify and update the terminology used throughout, for consistency with recent amendments to the Act.

**SECTION 5** amends section 3 of the regulations to clarify and update the terminology used throughout, for consistency with recent amendments to the Act.

**SECTION 6** amends the heading immediately preceding section 4 of the regulations to substitute the words “Share of Benefits” for the term “Lump-Sum Amounts”, for consistency with other changes in the Act and these regulations that use the term “benefits”.

**SECTION 7** amends section 4 of the regulations to clarify and update the terminology used throughout, for consistency with recent amendments to the Act, and also to update a section reference in the Act that has been changed.

**SECTION 8** amends the heading immediately preceding section 5 of the regulations to substitute the words “Pension Benefits Where Benefits” for the words “Benefits Where Lump-Sum Value”, for consistency with other changes in the Act and these regulations that use the term “benefits”.

**SECTION 9** revokes section 5 of the regulations and substitutes a new section 5 that provides in subsection (1) the basic formula for revaluation of pension benefits where a division of benefits has been effected under subsection 23(1) of the Act, with additional formulas in subsection (2) to provide for the case where only one of the spouses or former spouses is a member, vested former member or pensioner, and in subsections (3) and (4) to provide for the case where both of the spouses or former spouses are members, vested former members or pensioners.

**SECTION 10** revokes section 6 of the regulations and substitutes a new section 6 that specifies the types of “locked-in retirement vehicle” to which a transfer of pension benefits is permitted.

**SECTION 11** adds a new section 7.1 to the regulations that provides that the regulations are automatically revoked on December 31, 2019.

**SECTION 12** provides for the commencement of the regulations.

#### EC2016-104

### CIVIL SERVICE SUPERANNUATION ACT DIVISION OF BENEFITS AND SEPARATE PENSION REGULATIONS

Pursuant to section 28 of the *Civil Service Superannuation Act* R.S.P.E.I. 1988, Cap. C-9, Council made the following regulations:

1. (1) In these regulations, “Act” means the *Civil Service Superannuation Act* R.S.P.E.I. 1988, Cap. C-9. Act, defined

(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. Application of regulations

#### APPLICATION FOR DIVISION OF BENEFITS

2. (1) An application for information in respect of a division of pension benefits under subsection 18(1) of the Act shall include: Application for information

- (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).

(2) An application for division of pension benefits under subsection 18(1.1) of the Act shall include Application for division

- (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.

3. 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. Notice of receipt of application

4. 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. Withdrawal of application

5. 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: Required information

- (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 Fund;
- (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 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;
- (h) the member contributions that were 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.

#### PENSION BENEFITS SUBJECT TO DIVISION

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

- (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.

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

$$A + B$$

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.

(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. Where member not entitled to deferred pension



## SEPARATE PENSION

- 7.** (1) For the purposes of subsections 27.02(1) and (2) of the Act, A shall be determined Time of determination
- (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.
- (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. Commencement of separate pension not later than age seventy-one

## CASH PAYMENTS

- 8.** (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 Formula

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

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.

- (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). Calculation of amount payable

- (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. Interest

REVALUATION OF PENSION BENEFITS WHERE  
BENEFITS DIVIDED

- 9.** (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. Application of section

(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 – 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 – temporary yearly pension

(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;

Formula - contributions

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.

**10.** These regulations come into force on March 12, 2016.

Commencement

### EXPLANATORY NOTES

**SECTION 1** establishes a definition of "Act" for the purposes of the regulations, and also provides that the regulations apply to all applications to divide the pension benefits of a member, vested former member or pensioner under subsection 18(1.1) of the Act.

**SECTION 2** specifies the information to be provided for an application for information under subsection 18(1) of the Act and an application for division under subsection 18(1.1) of the Act.

**SECTION 3** specifies to whom a notice of receipt is required to be sent for the purposes of subsection 20(2) of the Act.

**SECTION 4** authorizes an applicant to withdraw an application under section 18 of the Act by submitting a written notice of withdrawal to the Minister.

**SECTION 5** specifies the information required to be provided for the purposes of 27(2) of the Act.

**SECTION 6** sets out, in subsection (1), the formula to be used in determining the pension benefits subject to division of a member or vested former member, and in subsection (2), the formula to be used in determining the pension benefits subject to division of a pensioner.

**SECTION 7** specifies the method of determining factor A for the purposes of subsections 27.02(1) and (2) of the Act. The section also provides that 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 year in which the spouse or former spouse turns seventy-one.

**SECTION 8** sets out the formula for determining the cash payment to be made to a spouse or former spouse under subsection 18(6) of the Act, and provides for interest to be credited to that amount from the date of separation to the date of payment.

**SECTION 9** sets out the formula for determining the yearly pension payable to a member, vested former member or pensioner 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.

**SECTION 10** provides for the commencement of the regulations.

**EC2016-105**

FINANCIAL ADMINISTRATION ACT  
SPECIAL WARRANT  
(SUPPLEMENTARY EXPENDITURE FOR FISCAL YEAR 2014/15)  
DEPARTMENT OF COMMUNITY SERVICES AND SENIORS

Pursuant to subsection 37(1) of the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9, Council ordered that a Special Warrant do issue authorizing a supplementary payment out of the Operating Fund for the Department of Community Services and Seniors as follows:

<b>Account Class</b>	<b>Account Name</b>	<b>Amount</b>
<b>SOCIAL PROGRAMS</b>		
0917-04033	Social Assistance Benefits	<u>\$1,119,600.00</u>

Further, Council noted that \$617,000.00 of this amount will be offset by capital revenue from Housing Programs.

**EC2016-106**

HERITAGE PLACES PROTECTION ACT  
HERITAGE PLACES ADVISORY BOARD  
APPOINTMENTS

Pursuant to subsection 3(1) of the *Heritage Places Protection Act* R.S.P.E.I. 1988, Cap. H-3.1 and subsection 2(1) of the *Heritage Places Protection Act* Regulations (EC414/00), Council made the following appointments:

<b>NAME</b>	<b>TERM OF APPOINTMENT</b>
Jock Beck Brudenell (reappointed)	9 February 2016 to 9 February 2019
Donna Collings Montague (vice Sterling Stratton, term expired)	1 March 2016 to 1 March 2019
Carter Jeffery Hunter River (vice Julie Simmons, term expired)	1 March 2016 to 1 March 2019
Carol Livingstone West Point (reappointed)	22 January 2016 to 22 January 2019

Further, Council noted with approval the reappointment by the Minister, in accordance with subsection 2(2) of the Regulations, of Jock Beck to serve as Chairperson of the Board.

**EC2016-107**

ISLAND INVESTMENT DEVELOPMENT ACT  
FINANCIAL ASSISTANCE REGULATIONS  
M & M RESOURCES INC.  
AUTHORIZATION

Pursuant to subsection 2(3) of the *Island Investment Development Act* Financial Assistance Regulations (EC2005-686), Council authorized Island Investment Development Inc. to advance a five-year term loan in the amount of one million, six hundred thousand dollars (\$1,600,000.00) to M & M Resources Inc. to finance purchase of equipment, on terms and conditions satisfactory to the Board of Directors of Island Investment Development Inc.

**EC2016-108**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
JENNIFER L. DUNN  
(APPROVAL)

Pursuant to section 4 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Jennifer L. Dunn of Fort Albany, Ontario to acquire a land holding of approximately one decimal eight (1.8) acres of land at Kildare Capes, Lot 3, Prince County, Province of Prince Edward Island, being acquired from Gary Colautti, Jane Colautti and Andrew Colautti, all of Manotick, Ontario.

**EC2016-109**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
JENNIFER L. DUNN  
(APPROVAL)

Pursuant to section 4 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Jennifer L. Dunn of Fort Albany, Ontario to acquire a land holding of approximately two decimal two five (2.25) acres of land at Kildare Capes, Lot 3, Prince County, Province of Prince Edward Island, being acquired from Gary Colautti and Jane Colautti, both of Manotick, Ontario PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

**EC2016-110**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
J. MALCOLM GIFFIN  
(APPROVAL)

Pursuant to section 4 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to J. Malcolm Giffin of Halifax, Nova Scotia to acquire an interest in a land holding of approximately two hundred and four (204) acres of land at Brookvale, Lot 30, Queens County, Province of Prince Edward Island, being acquired from Lockie Martin Farms Ltd. of Montague, Prince Edward Island.

**EC2016-111**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
100725 P.E.I. INC.  
(APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to 100725 P.E.I. Inc. of Charlottetown, Prince Edward Island to acquire a land holding of approximately seven decimal two eight (7.28) acres of land at Stratford, Lot 48, Queens County, Province of Prince Edward Island, being acquired from PriceWaterHouseCoopers Inc. of Charlottetown, Prince Edward Island.

**EC2016-112**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
3003252 NOVA SCOTIA LIMITED  
(APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to 3003252 Nova Scotia Limited of Halifax, Nova Scotia to acquire, by way of purchase of shares, an interest in a land holding of approximately two hundred and four (204) acres of land at Brookvale, Lot 30, Queens County, Province of Prince Edward Island, being acquired from Lockie Martin Farms Ltd. of Montague, Prince Edward Island.

**EC2016-113**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
BAY RIDGE HOMEOWNERS ASSOCIATION INC.  
(APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Bay Ridge Homeowners Association Inc. of Oyster Bed, Prince Edward Island to acquire a land holding of approximately zero decimal zero nine (0.09) acres of land to be subdivided from Provincial Property Nos. 1024736 and 1024728 at Oyster Bed Bridge, Lot 33, Queens County, Province of Prince Edward Island, being acquired from 101229 P.E.I. Inc. of Oyster Bed, Prince Edward Island.

Council noted that the proposed subdivision requires approval pursuant to the *Planning Act* R.S.P.E.I. 1988, Cap. P-9 and Regulations.

**EC2016-114**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
BRENDDEL FARMS LTD.  
(APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Brendel Farms Ltd. of Summerside, Prince Edward Island to acquire a land holding of approximately six decimal eight nine (6.89) acres of land at Kelvin Grove, Lot 25, Prince County, Province of Prince Edward Island, being acquired from Adele Gardiner of North Bedeque, Prince Edward Island PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

**EC2016-115**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
BRENDDEL FARMS LTD.  
(APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Brendel Farms Ltd. of Summerside, Prince Edward Island to acquire a land holding of approximately one hundred and seventy-five decimal eight three (175.83) acres of land at Travellers Rest, Lot 19, Prince County, Province of Prince Edward Island, being acquired from Ocean View Farms Ltd. of Summerside, Prince Edward Island PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

**EC2016-116**

PRINCE EDWARD ISLAND  
 LANDS PROTECTION ACT  
 PETITION TO ACQUIRE A LAND HOLDING  
 DR. GORDON R. BECK PROFESSIONAL CORPORATION  
 (APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Dr. Gordon R. Beck Professional Corporation of Charlottetown, Prince Edward Island to acquire, by way of share purchase, an interest in a land holding of approximately two hundred and four (204) acres of land at Brookvale, Lot 30, Queens County, Province of Prince Edward Island, being acquired from Island Forest Foods Ltd. of Brookvale, Prince Edward Island.

**EC2016-117**

PRINCE EDWARD ISLAND  
 LANDS PROTECTION ACT  
 PETITION TO ACQUIRE A LAND HOLDING  
 HANMAC INC.  
 (APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Hanmac Inc. of Charlottetown, Prince Edward Island to acquire a land holding of approximately one decimal nine five four (1.954) acres of land to be subdivided from Provincial Property No. 279091 at Charlottetown, Queens County, Province of Prince Edward Island, being acquired from Belvedere Golf Club Inc. of Charlottetown, Prince Edward Island.

Council noted that the proposed subdivision requires approval by the City of Charlottetown in accordance with its official plan and by-laws.

**EC2016-118**

PRINCE EDWARD ISLAND  
 LANDS PROTECTION ACT  
 PETITION TO ACQUIRE A LAND HOLDING  
 KINGSBORO FARMS LTD.  
 (APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Kingsboro Farms Ltd. of Kingsboro, Prince Edward Island to acquire a land holding of approximately one hundred and fifty-five (155) acres of land at Cardigan North and Glenfanning, Lot 53, Kings County, Province of Prince Edward Island, being acquired from Albert Fogarty of Charlottetown, Prince Edward Island PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.



**EC2016-119**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
KINGSBORO FARMS LTD.  
(APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Kingsboro Farms Ltd. of Kingsboro, Prince Edward Island to acquire a land holding of approximately one hundred and twenty (120) acres of land at Glenfanning, Lot 53, Kings County, Province of Prince Edward Island, being acquired from Kenneth P. Fogarty and Sadie Fogarty, both of Glenfanning, Prince Edward Island PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

**EC2016-120**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
MACSWAIN HOLDINGS INC.  
(APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to MacSwain Holdings Inc. of Morell, Prince Edward Island to acquire a land holding of approximately twenty (20) acres of land at Church Road, Lot 40, Kings County, Province of Prince Edward Island, being acquired from Reah Elise Cobb of Church Road, Prince Edward Island PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

**EC2016-121**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
MAPLE HILLS ENTERPRISES (CANADA) INC.  
(APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Maple Hills Enterprises (Canada) Inc. of Stratford, Prince Edward Island to acquire a land holding of approximately fifteen decimal nine six (15.96) acres of land at Stratford, Lot 48, Queens County, Province of Prince Edward Island, being acquired from The Fox Golf Academy Inc. of Stratford, Prince Edward Island.

**EC2016-122**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
MARSHALL MACPHERSON LTD.  
(APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Marshall MacPherson Ltd. of Stratford, Prince Edward Island to acquire a land holding of approximately two (2) acres of land to be subdivided from Provincial Property No. 882084 at Stratford, Lot 48, Queens County, Province of Prince Edward Island, being acquired from Kel-mac Inc. of Charlottetown, Prince Edward Island.

Council noted that the proposed subdivision requires approval by the Town of Stratford in accordance with its official plan and by-laws.

**EC2016-123**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
APPLICATION TO LEASE LAND  
W.P. GRIFFIN INCORPORATED  
(TO RESCIND)

Council, having under consideration Order-in-Council EC2014-742 of December 9, 2014, rescinded the said Order forthwith, thus rescinding permission to W.P. Griffin Incorporated of Elmsdale, Prince Edward Island to acquire, by lease, an interest in a land holding or land holdings of up to four hundred and sixty-six decimal nine five (466.95) acres of land as part of the said corporation's aggregate land holdings.

**EC2016-124**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
APPLICATION TO LEASE LAND  
W.P. GRIFFIN INCORPORATED  
(APPROVAL)

Pursuant to section 5 and clause 5.3(1)(b) of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to W.P. Griffin Incorporated of Elmsdale, Prince Edward Island to acquire, by lease, an interest in a land holding or land holdings of up to one thousand, two hundred (1,200) acres of land as part of the said corporation's aggregate land holdings PROVIDED THAT the said W.P. Griffin Incorporated files a statement with the Island Regulatory and Appeals Commission within one year of the date of this Order and prior to 31 December in every subsequent year disclosing the parcel number, the acreage and the term of lease for each parcel leased during the reporting period covered by the statement.

**EC2016-125**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
WEBSTER FARMS INC.  
(APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Webster Farms Inc. of Kinkora, Prince Edward Island to acquire a land holding of approximately one hundred and six decimal seven (106.7) acres of land at Kinkora, Lot 27, Prince County, Province of Prince Edward Island, being acquired from John D. Keefe, Rose Marie Noonan, Patrick A. Taylor, Gerard J. Keefe, Edith MacLeod-Keefe, Geraldine Gordon, Christopher Keefe and Margaret Keefe, all of Summerside, Prince Edward Island PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

**EC2016-126**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PROPERTY NO. 652040, LOT 9, PRINCE COUNTY  
IDENTIFICATION FOR NON-DEVELOPMENT USE  
AMENDMENT

Pursuant to subsection 9(2) of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5, Council amended the condition of non-development use made pursuant to section 2 of the Land Identification Regulations (EC606/95) in respect of approximately forty (40) acres of land, being Provincial Property No. 652040 located at Milo, Lot 9, Prince County, Prince Edward Island and currently owned by Russell Rogers of Summerside, Prince Edward Island.

Council noted that this amendment will enable subdivision of a parcel of land of approximately eighteen decimal eight (18.8) acres, and determined that following subdivision, identification for non-development use shall continue to apply to the new lot and the remaining land.

This Order-in-Council comes into force on March 1, 2016.

**EC2016-127**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PROPERTY NO. 51110, LOT 11, PRINCE COUNTY  
IDENTIFICATION FOR NON-DEVELOPMENT USE  
AMENDMENT

Pursuant to subsection 9(2) of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5, Council amended the condition of non-development use made pursuant to section 2 of the Land Identification Regulations (EC606/95) in respect of approximately thirty-one (31) acres of land, being Provincial Property No. 51110 located at Portage, Lot 11, Prince County, Prince Edward Island and currently owned by Wayne Zimmer of Heisler, Alberta.

Council noted that this amendment will enable subdivision of a parcel of land of approximately zero decimal eight one (0.81) acres, and determined that following subdivision, identification for non-development use shall continue to apply to the remaining land.

This Order-in-Council comes into force on March 1, 2016.

**EC2016-128**

PROVINCIAL COURT ACT  
JUSTICE OF THE PEACE  
APPOINTMENT

Under authority of section 14 of the *Provincial Court Act* R.S.P.E.I. 1988, Cap. P-25, Council appointed Lesa M. Barry of Charlottetown, Queens County, Prince Edward Island, as a Justice of the Peace in and for the Counties of Prince, Queens and Kings in the Province of Prince Edward Island for a term of five (5) years, effective March 13, 2016.

Further, Council ordered that the appointment of Lesa M. Barry be limited to matters related to the enforcement of City of Charlottetown municipal bylaws and should she cease to be employed with the City of Charlottetown Police Services, that her appointment as a Justice of the Peace shall terminate coincident with the date her employment terminates.

**EC2016-129**

PROVINCIAL COURT ACT  
JUSTICE OF THE PEACE  
APPOINTMENT

Under authority of section 14 of the *Provincial Court Act* R.S.P.E.I. 1988, Cap. P-25, Council appointed Sharon B. MacEachern of Charlottetown, in Queens County, Prince Edward Island, as a Justice of the Peace in and for the Counties of Prince, Queens and Kings in the Province of Prince Edward Island for a term of five (5) years, effective March 13, 2016.

Further, Council ordered that the appointment of Sharon B. MacEachern be limited to matters related to the enforcement of City of Charlottetown municipal bylaws and should she cease to be employed with the City of Charlottetown Police Services, that her appointment as a Justice of the Peace shall terminate coincident with the date her employment terminates.

## EC2016-130

**TEACHERS' SUPERANNUATION ACT  
REGULATIONS  
AMENDMENT**

Pursuant to section 33 of the *Teachers' Superannuation Act* R.S.P.E.I. 1988, Cap. T-1, Council made the following regulations:

**1. Section 3 of the *Teachers' Superannuation Act* Regulations (EC206/77) is revoked and the following substituted:**

**3.** (1) For the purposes of subsection 16(1) of the Act, and subject to subsection (2), in computing the amount of yearly pension payable to a member or former vested member who is under the age of 65 years and eligible to receive an unreduced yearly pension under clause 16(1)(b) of the Act, the yearly pension shall be adjusted by reducing the amount payable by the amount calculated in accordance with subsection 18(2) of the Act. Computation of pension

(2) The adjustment referred to in subsection (1) does not apply to the yearly pension payable to a member or vested former member who provides proof satisfactory to the Commission, upon the request of the Commission, that the member or vested former member is not receiving Canada Pension Plan disability benefits. *Idem*

**2. Section 4 of the regulations is revoked.**

**3. Subsection 5(1) of the regulations is revoked.**

**4. Section 6 of the regulations is revoked.**

**5. Section 7 of the regulations is revoked and the following substituted:**

**7.** For the purpose of determining the pensionable salary of a member under subsection 1(4) of the Act, unpaid leave for the following purposes shall be included in the determination if the period of leave is in excess of one year in duration: Unpaid leave in determination of pensionable salary

- (a) unpaid leave granted for the purpose of taking employment with the Department of Education, Early Learning and Culture;
- (b) unpaid leave granted for the purpose of seeking or holding public office as outlined in the Memorandum of Agreement between the Education Negotiating Agency and the Prince Edward Island Teachers' Federation.

**6. Section 8 of the regulations is revoked.**

**7. The regulations are amended by the addition of the following after section 9:**

**10.** (1) This section applies to indexation in respect of approved leaves that commence after December 31, 2013. Indexation during approved leave

(2) Where a member is on approved leave for a continuous period of at least one but not more than two years, section 17.1 of the Act applies to the member's pensionable salary as if the member were credited with service in respect of that period of leave. Leave of more than one but less than two years

(3) Where a member is on approved leave for a continuous period of more than two years, section 17.1 of the Act applies to the member's pensionable salary for the first two years of approved leave as if the member were credited with service in respect of those years, and subsection 19.1(6) of the Act applies for each year of the remainder of the approved leave. Leave of more than two years

**8. These regulations come into force on March 12, 2016.**

### EXPLANATORY NOTES

**SECTION 1** revokes section 3 of the regulations and substitutes a new section 3 to eliminate a reference to a section of the Act that was repealed in 2013 and to clarify the method of computing the adjustment to the yearly pension payable to a member or vested former member who retires under the age of 65 due to a total and permanent disability. The adjustment set out in the new subsection 3(1) does not apply to the yearly pension payable to a member or vested former member if he or she is not receiving Canada Pension Plan disability benefits.

**SECTION 2** revokes section 4 of the regulations. This section is no longer needed due to the repeal in 2013 of section 21 of the Act.

**SECTION 3** revokes subsection 5(1) of the regulations. This subsection is no longer needed since repurchase of service is dealt with under subsection 28(2) of the Act.

**SECTION 4** revokes section 6 of the regulations. There is no requirement or authority in the Act to establish a fiscal year in regulations. The Commission will set the fiscal year for the purposes of the Fund and the report the Commission is required to prepare for the Minister under subsection 4(1) of the Act.

**SECTION 5** revokes section 7 of the regulations and substitutes a new section 7 that clarifies the rules respecting the inclusion of specified types of unpaid leave in determining the pensionable salary of a member under subsection 1(4) of the Act.

**SECTION 6** revokes section 8 of the regulations, effective on January 1, 2016, to accommodate operational changes in the administration of the Fund.

**SECTION 7** establishes rules for indexation in respect of approved leaves of between one and two years' and more than two years' duration.

**SECTION 8** provides for the commencement of the regulations.

### EC2016-131

#### TEACHERS' SUPERANNUATION ACT DIVISION OF BENEFITS ON MARRIAGE BREAKDOWN REGULATIONS AMENDMENT

Pursuant to section 33 of the *Teachers' Superannuation Act* R.S.P.E.I. 1988, Cap. T-1, Council made the following regulations:

**1. Clause 1(c) of the *Teachers' Superannuation Act* Division of Benefits on Marriage Breakdown Regulations (EC672/09) is revoked.**

**2. The regulations are amended by the addition of the following after section 1:**

**1.1** These regulations apply where a person has made an application <sup>Application</sup> under subsection 31.1(1.1) of the Act for a division of the pension benefits of a member, vested former member or pensioner that is to be effected by a transfer of the person's share of those pension benefits in accordance with subsection 31.5(3.2) of the Act.

**3. The heading immediately before section 2 of the regulations is amended by the deletion of the words "THE AMOUNTS" and the substitution of the word "BENEFITS".**

**4. (1) Subsections 2(1) and (2) of the regulations are revoked and the following substituted:**

2. (1) Subject to section 3, if the pension benefits of a member, vested former member or pensioner are to be divided on the breakdown of a spousal relationship, the benefits to be divided shall equal Formula

$$A/B \times C$$

where

A is

(i) the number of years and part years of service included in “B” 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, plus

(ii) the number of years and part years of service completed prior to the date the spousal relationship commenced which was not included to calculate benefits at the date the spousal relationship commenced but was credited to the member, vested former member or pensioner during the period between the date the spousal relationship commenced and the date of separation and is included in “B” at the date of separation;

B is

the total number of years and part years of service which would be used to calculate the pension benefit of the member, vested former member or pensioner on the date of termination of employment or the date of separation, whichever occurred first; and

C is

the benefit determined as of the date of separation in subsections (2) and (3).

(2) In subsection (1), the value of C shall be

Calculation of total  
value of benefit C

(a) in the case 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 member’s contributions under the Act accumulated with interest to the date of separation, and prior to any adjustment in the member’s contributions being made with respect to any previous breakdown of a spousal relationship;

(b) in the case of a member who would have been entitled to a deferred pension at the date of separation had the member terminated employment on that date, the commuted value of the pension that would have been deferred at the date of separation based on the average weighted indexed pensionable salary, the contribution history and the benefit formula in force at the date of separation and prior to any adjustment to the deferred pension respecting the breakdown of any previous spousal relationship or, if greater than the commuted value, the member’s contributions and interest to the date of separation prior to any adjustment in the member’s contributions respecting the breakdown of any previous spousal relationship;

(c) in the case of a vested former member, the commuted value of the deferred pension at the date of separation before any adjustment to the deferred pension respecting the breakdown of any previous spousal relationship or, if greater than the commuted value, the vested former member’s contributions and interest to the date of separation before any adjustment in the vested former member’s contributions respecting the breakdown of any previous spousal relationship; and

(d) in the case of a pensioner, the commuted value of the pension to which the pensioner was entitled at the date of separation as if there had been no adjustment respecting any previous division of benefits respecting the breakdown of any previous spousal relationship.

**(2) Clause 2(3)(b) of the regulations is revoked and the following substituted:**

(b) the value of any annual accumulated pension indexing increases provided for under the Act.

**(3) Subsection 2(4) of the regulations is amended**

**(a) by the deletion of the words “Where “B”” and the substitution of the words “where B”;**

**(b) by the deletion of the words “Act, “A”” and the substitution of the words “Act, A”;** and

**(c) by the deletion of the words “of the marriage” and the substitution of the words “the spousal relationship commenced”.**

**(4) Subsection 2(5) of the regulations is amended**

**(a) by the deletion of the words “subsection 31.5(3) of the Act, determination of the commuted value” and the substitution of the words “subsection 31.5(3.2) of the Act, determination of the pension benefits”; and**

**(b) by the addition of the words “or the spouse” after the words “gender of the member”.**

**5. (1) Subsection 3(1) of the regulations is amended**

**(a) by the deletion of the words “on marriage breakdown” after the words “benefits are being divided”; and**

**(b) by the deletion of the words “the lump-sum amount” and the substitution of the words “the pension benefits”.**

**(2) Subsections 3(2) and (3) of the regulations are revoked and the following substituted:**

(2) Where the pension benefits for each party are

(a) equal, no portion of the pension benefits shall be subject to division; or

(b) not equal, then the lesser of the respective pension benefits shall be subtracted from the greater pension benefits and the difference shall be the pension benefits that are subject to division.

Equality of pension benefits

(3) For the purposes of this section, section 5 and sections 31.1, 31.2, 31.5, and 31.6 of the Act, the term “spouse” or “former spouse” shall refer to the person for whom the pension benefits calculated in accordance with section 2 is the lesser of the two respective pension benefits and the term “member”, “vested former member” or “pensioner”, as the case may be, shall refer to the person for whom the pension benefits calculated in accordance with section 2 is the greater of the two respective pension benefits.

Application of terms

**6. The heading immediately before section 4 of the regulations is amended by the deletion of the words “LUMP-SUM AMOUNT” and the substitution of the words “SHARE OF BENEFITS”.**

**7. (1) Subsection 4(1) of the regulations is amended**

**(a) by the deletion of the words “the lump-sum amount” and the substitution of the words “the share of pension benefits”;**

**(b) by the deletion of the words “the lump-sum value of the pension benefit” and the substitution of the words “the pension benefits”; and**

**(c) by the addition of the words “referred to in subsection 31.1(2) of the Act” after the words “domestic contract”.**

**(2) Subsection 4(2) of the regulations is amended**

**(a) by the deletion of the words “The lump-sum amount” and the substitution of the words “The share of pension benefits”; and**

**(b) by the deletion of the words “the date of marriage breakdown” and the substitution of the words “date of separation”.**

**(3) Subsection 4(3) of the regulations is revoked and the following substituted:**

(3) The share of pension benefits that includes interest calculated in accordance with subsection (2), shall be further adjusted if pension payments were made between the date of separation and the date the amount is transferred pursuant to subsection 31.5(1) of the Act, by subtracting the total amount of the spouse’s or former spouse’s share of

Further adjustment re pension payments already made



the pension payments made, including interest as determined in subsection (5), to the date of transfer of the share of pension benefits with interest calculated in subsection (2).

**(4) Subsection 4(5) of the regulations is amended by the deletion of the words “per annum” and the substitution of the words “, compounded annually”.**

**8. The heading immediately before section 5 of the regulations is amended by the deletion of the words “BENEFITS WHERE LUMP-SUM VALUE” and the substitution of the words “PENSION BENEFITS WHERE BENEFITS”.**

**9. Section 5 of the regulations is revoked and the following substituted:**

**5. (1)** Where only one spouse or former spouse is a member, vested former member or pensioner and a division of benefits was effected under subsection 31.5(1) of the Act, the monthly pension of the member, vested former member or pensioner shall be adjusted at retirement or, if later, at the date the division was effected, by subtracting an amount in respect of each division of benefits which equals

Formula for revaluation – one party a plan member

$$(D/C) \times F \times G \times H \times S$$

where

D equals the pension benefits subject to division calculated in accordance with section 2;

C equals C as defined in subsection 2(1);

F is the monthly pension that corresponds to the value described in

- (i) clause 2(2)(b) in the case of a member,
- (ii) clause 2(2)(c) in the case of a vested former member, or
- (iii) clause 2(2)(d) in the case of a pensioner;

G is a factor which adjusts pension F in the same proportion as the total adjustment or indexing to pensions under section 19.1 of the Act from the date of separation to the retirement date or, if later, the date at which the division was effected;

H is a factor used to adjust pension F from the assumed age at retirement used in calculating C to the actual date at retirement with regard to the reduction factor applied under subsection 16(1.3) of the Act, regarding reduced pension on early retirement; and

S is the percentage share of benefits of the spouse or former spouse, as defined in a court order or domestic contract referred to in subsection 31.1(2) of the Act, but in no case shall the share exceed 50 per cent of the pension benefits of the member, vested former member or pensioner.

**(2)** Where only one spouse or former spouse is a member, vested former member or pensioner, the contributions with interest made by the member, vested former member or pensioner shall be revalued as of the date of separation by subtracting from them an amount equal to

Formula for revaluation of contribution - one party a plan member

$$(D/C) \times T \times S$$

where

D equals the pension benefits subject to division calculated in accordance with section 2;

C equals C as defined in subsection 2(1);

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

S is the percentage share of benefits of the spouse or former spouse, as defined in a court order or domestic contract referred to in subsection 31.1(2) of the Act, but in no case shall the share exceed 50 per cent of the pension benefits of the member, vested former member or pensioner.

**(3)** Pursuant to subsection 31.5(6) of the Act, where

- (a) both spouses or former spouses are either a member, vested former member or pensioner, the monthly pension of the person who is deemed for this purpose to be the member, vested former member or pensioner as indicated in subsection 3(3) shall be adjusted in accordance with subsection (1); and

Formula for revaluation - both parties plan members

(b) the monthly pension of the person who is deemed for this purpose to be the spouse or former spouse as indicated in subsection 3(3) shall be adjusted by adding an amount which equals

$$(D/C) \times F \times G \times H \times S$$

where

D equals the pension benefits subject to division calculated in accordance with section 3;

C equals C as defined in subsection 2(1) with respect to the spouse or former spouse;

F is the monthly pension that corresponds to the value described in clause 2(2)(b), (c) or (d), as it applies in the case of the spouse or former spouse;

G is a factor which adjusts pension F in the same proportion as the total adjustment or indexing to pensions under section 19.1 of the Act from the date of separation to the retirement date or, if later, the date at which the division was effected;

H is a factor used to adjust pension F from the assumed age at retirement used in calculating C to the actual date at retirement with regard to the reduction factor applied under subsection 16(1.3) of the Act, regarding reduced pension on early retirement; and

S is the spouse's or former spouse's percentage share of benefits, as defined in a court order or domestic contract referred to in subsection 31.1(2) of the Act, but in no case shall the share exceed 50 per cent.

(4) Pursuant to subsection 31.5(6) of the Act, where

(a) both spouses or former spouses are either a member, vested former member or a pensioner, the contributions with interest of the person who is deemed for this purpose to be the member, vested former member or pensioner as indicated in subsection 3(3) shall be revalued in accordance with subsection (3); and

(b) the contributions with interest of the person who is deemed to be the spouse or former spouse as indicated in subsection 3(3) shall be revalued as of the date of separation by adding to them an amount equal to

Formula for revaluation of contributions-both parties plan members

$$(D/C) \times T \times S$$

where

D equals the pension benefits subject to division calculated in accordance with section 3;

C equals C as defined in subsection 2(1) with respect to the spouse or former spouse;

T is the total contributions with interest made by the spouse or former spouse to the date of separation; and

S is the spouse's or former spouse's percentage share of benefits as defined in a court order or domestic contract referred to in subsection 31.1(2) of the Act, but in no case shall the share exceed 50 per cent.

(5) The adjustment applied to the pension after the pensioner reaches sixty-five years of age shall bear the same proportion to the adjustment applied to the pension before the pensioner reaches sixty-five years of age as the total pension earned during the spousal relationship after age sixty-five bears to the total pension earned during the spousal relationship prior to age sixty-five.

Adjustment after 65

**10. Section 6 of the regulations is revoked and the following substituted:**

**6.** (1) In this section, "locked-in retirement vehicle" means a registered retirement savings plan, registered retirement income fund, or registered pension plan as defined in the *Income Tax Act* (Canada), or a life annuity purchased from an insurance company licensed to sell annuities in Canada, which states in writing that, while the spouse or former spouse is alive,

"locked-in retirement vehicle", defined

(a) any amount in the locked-in retirement vehicle shall continue to be subject to section 31.8 of the Act;

(b) in the case of a registered retirement savings plan, payments are allowed only to another locked-in retirement vehicle;

(c) in the case of a registered retirement income fund or a registered pension plan, payments are allowed only to another locked-in retirement vehicle or to the spouse or former spouse;

(d) in the case of a registered retirement income fund, the total cash payments to the spouse or former spouse during the first year after the date the registered retirement income fund is entered into does not exceed twice the amount initially transferred into the fund divided by the difference between 90 and the age of the spouse or former spouse (to the nearest whole number) at the transfer date and, during subsequent years, does not exceed twice the minimum annual payments required by the *Income Tax Act* (Canada) to be made from the fund to the spouse or former spouse;

(e) in the case of a registered pension plan, payments to the spouse or former spouse must be monthly lifetime payments in a form which is allowed under the *Income Tax Act* (Canada) to a member of a registered pension plan who retires; and

(f) in the case of a life annuity, only payments in a form to the spouse or former spouse are allowed and such payments must be monthly lifetime payments in a form which is allowed under the *Income Tax Act* (Canada) to a member of a registered pension plan who retires.

(2) A share of pension benefits may be transferred to a retirement savings plan or fund for the spouse or former spouse that is a locked-in retirement vehicle. Transfer of pension benefits permitted

(3) A share of pension benefits may be transferred to a financial institution authorized to sell immediate or deferred annuities that are locked-in retirement vehicles, for the purchase of such an annuity for the spouse or former spouse. *Idem*

(4) A non-member spouse or non-member former spouse may elect to have subsections (2) and (3) apply to a division effected prior to the coming into force of these regulations. Application to prior division

**11. The regulations are amended by the addition of the following after section 7:**

**7.1** These regulations are revoked on December 31, 2019. Revocation

**12. These regulations come into force on March 12, 2016.**

**EXPLANATORY NOTES**

**SECTION 1** revokes clause 1(c) of the regulations to delete the definition of “locked-in retirement vehicle”. This term will from now on be used only in the new section 6 of the regulations, and the definition will be relocated there for ease of reference.

**SECTION 2** adds a new section 1.1 to the regulations to clarify that the regulations apply only to a division of the pension benefits of a member, vested former member or pensioner that is to be effected by a transfer in accordance with subsection 3.15(3.2) of the Act.

**SECTION 3** amends the heading immediately preceding section 2 of the regulations to substitute the term “Benefits” for the term “Amounts”, for consistency with other changes in the Act and these regulations that use the term “benefits”.

**SECTION 4** amends section 2 of the regulations to clarify and update the terminology used throughout, for consistency with recent amendments to the Act.

**SECTION 5** amends section 3 of the regulations to clarify and update the terminology used throughout, for consistency with recent amendments to the Act.

**SECTION 6** amends the heading immediately preceding section 4 of the regulations to substitute the words “Share of Benefits” for the term “Lump-Sum Amounts”, for consistency with other changes in the Act and these regulations that use the term “benefits”.

**SECTION 7** amends section 4 of the regulations to clarify and update the terminology used throughout, for consistency with recent amendments to the Act, and also to update a section reference in the Act that has been changed.

**SECTION 8** amends the heading immediately preceding section 5 of the regulations to substitute the words “Pension Benefits Where Benefits” for the words “Benefits Where Lump-Sum Value”, for consistency with other changes in the Act and these regulations that use the term “benefits”.

**SECTION 9** revokes section 5 of the regulations and substitutes a new section 5 that provides in subsection (1) the basic formula for revaluation of pension benefits where a division of benefits has been effected under subsection 31.5(1) of the Act, with additional formulas in subsection (2) to provide for the case where only one of the spouses or former spouses is a member, vested former member or pensioner, and in subsections (3) and (4) to provide for the case where both of the spouses or former spouses are members, vested former members or pensioners.

**SECTION 10** revokes section 6 of the regulations and substitutes a new section 6 that specifies the types of “locked-in retirement vehicle” to which a transfer of pension benefits is permitted.

**SECTION 11** adds a new section 7.1 to the regulations that provides that the regulations are automatically revoked on December 31, 2019.

**SECTION 12** provides for the commencement of the regulations.

## EC2016-132

### TEACHERS’ SUPERANNUATION ACT DIVISION OF BENEFITS AND SEPARATE PENSION REGULATIONS

Pursuant to section 33 of the *Teachers’ Superannuation Act* R.S.P.E.I. 1988, Cap. T-1, Council made the following regulations:

#### INTERPRETATION

**1.** (1) In these regulations, “Act” means the *Teachers’ Superannuation Act* R.S.P.E.I. 1988, Cap. T-1. Act, defined

(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 31.1(1.1) of the Act. Application of regulations

#### APPLICATION FOR DIVISION OF BENEFITS

**2.** (1) An application for information in respect of a division of pension benefits under subsection 31.1(1) of the Act shall include Application for information

- (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).

(2) An application for division of pension benefits under subsection 31.1(1.1) of the Act shall include Application for division

- (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 31.1(2) of the Act, whichever provides for the division of the pension benefits of the member, vested former member or pensioner.

**3.** For the purposes of subsection 31.2(2) of the Act, a notice of receipt of an application under subsection 31.1(1.1) shall be sent to each interested party by regular mail.

Notice of receipt of application

**4.** An applicant may withdraw an application under section 31.1 of the Act by submitting to the Minister, in writing, a notice of withdrawal of application.

Withdrawal of application

**5.** For the purposes of subsection 31.9(2) of the Act, 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:

Required information

(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 Fund;

(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 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;

(h) the member contributions that were 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.

#### PENSION BENEFITS SUBJECT TO DIVISION

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

Formula for member or vested former member

(a) an amount determined by the formula

$$A + B$$

where

A is the amount determined by the formula in subsection 31.92(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 31.92(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.

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

$$A + B$$

where

A is the amount determined by the formula in subsection 31.92(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 31.92(2) of the Act, where applicable, prior to multiplying by D as defined in that subsection.

(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. Where member not entitled to deferred pension

#### SEPARATE PENSION

7. (1) For purposes of subsections 31.92(1) and (2) of the Act, A shall be determined Time of determination

(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.

(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. Commencement of separate pension not later than age seventy-one

#### CASH PAYMENTS

8. (1) Subject to subsection (3), if a member would not have been 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 31.1(6) of the Act shall equal Formula

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

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 30 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.

(2) Subject to subsection (3), the amount payable to a spouse or former spouse who makes an election under clause 31.5(3)(b) of the Act shall be calculated in accordance with subsection (1). Calculation of amount payable

(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 28(1) of the Act. Interest

#### REVALUATION OF PENSION BENEFITS WHERE BENEFITS DIVIDED

**9.** (1) This section applies where a division of pension benefits has been effected by a transfer or payment under subsection 31.1(6), 31.5(3) or 31.5(3.1) of the Act. Application of section

(2) The yearly pension payable to a member, vested former 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 Formula – yearly pension

$$A \times B \times C$$

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 31.92(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 31.92(4) of the Act;

B is a factor which adjusts A for indexing pursuant to subsections 31.92(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 16(1.3) of the Act.

(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 Formula – temporary yearly pension

$$A \times B \times C$$

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 31.92(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 31.92(4) of the Act;

B is a factor which adjusts A for indexing pursuant to subsections 31.92(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 16(1.3) of the Act.

(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 Formula - contributions

$$A \times B \div C \times D$$

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 30 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.

10. These regulations come into force on March 12, 2016.

Commencement

### EXPLANATORY NOTES

**SECTION 1** establishes a definition of "Act" for the purposes of the regulations, and also provides that the regulations apply to all applications to divide the pension benefits of a member, vested former member or pensioner under subsection 31.1(1) of the Act.

**SECTION 2** specifies the information to be provided for an application for information under subsection 31.1(1) of the Act and an application for division under subsection 31.1(1.1) of the Act.

**SECTION 3** specifies to whom a notice of receipt is required to be sent for the purposes of subsection 31.2(2) of the Act.

**SECTION 4** authorizes an applicant to withdraw an application under section 31.1 of the Act by submitting a written notice of withdrawal to the Minister.

**SECTION 5** specifies the information required to be provided for the purposes of 31.9(2) of the Act.

**SECTION 6** sets out, in subsection (1), the formula to be used in determining the pension benefits subject to division of a member or vested former member, and in subsection (2), the formula to be used in determining the pension benefits subject to division of a pensioner.

**SECTION 7** specifies the method of determining factor A for the purposes of subsections 31.91(1) and (2) of the Act. The section also provides that 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 year in which the spouse or former spouse turns seventy-one.



**SECTION 8** sets out the formula for determining the cash payment to be made to a spouse or former spouse under subsection 31.1(6) of the Act, and provides for interest to be credited to that amount from the date of separation to the date of payment.

**SECTION 9** sets out the formula for determining the yearly pension payable to a member, vested former member or pensioner where a division of pension benefits has been effected by a transfer or payment under subsection 31.1(6), 31.5(3) or 31.5(3.1) of the Act.

**SECTION 10** provides for the commencement of the regulations.