

Pension Commission

Update #7

Revised January 2002

Pension Benefits Spousal/Common-Law Partners Agreement

Reference: *The Pension Benefits Act Section 31(6), Regulation 205/92*

On June 24, 1992, amendments to the Act were enacted to allow spouses or common-law partners to opt-out of the mandatory pension benefit credit splitting requirement.

More specifically, the amendment stipulates that where both spouses or common-law partners:

- a. receive independent legal advice and
- b. receive specified financial information about the pension benefit(s) from the plan administrator, they may enter into a written agreement with each other to the effect that the pension benefit credits shall not be divided between them.

This **agreement** must be in form and content as the Minister may by Regulation prescribe.

The form must be completed and signed by each spouse or common-law partner in the presence of their respective lawyers. Upon completion, a copy must be filed with the plan administrator(s).

This opt out provision is available to spouses or common-law partners who separated on or after June 24, 1992 and to spouses or partners who separated before June 24, 1992 who have not yet finalized either the transfer of entitlements to locked-in RRSPs, or the division of pension in payment.

Where mutual agreement cannot be obtained, the mandatory splitting of pension benefits credits is applicable in accordance with Section 31(2) of the Act.

This update has no legal authority. The Pension Benefits Act of Manitoba and The Pension Benefits Regulation, 188/87 R amended should be used to determine specific requirements.