

Pension Division on the Breakdown of a Relationship in BC

University of Victoria Money Purchase Pension Plan

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Pension benefits are family property and like other family property are subject to division when a marriage or *marriage-like* relationship ends. This publication is intended to explain a plan-administered division of pension benefits accrued under the University of Victoria Money Purchase Pension Plan. In the event of any discrepancy between the contents of this publication and the plan documents or applicable statutes, the plan documents and statutes apply.

If a separation agreement or court order states that the pension is to be divided under Part 6 of the *Family Law Act (BC)*, the provisions of the Act and the *Division of Pensions Regulation* apply unless varied by agreement between the member and *spouse* or a court makes a contrary order. This publication assumes that there is no variation and that the *spouse* is being allocated one-half the pension accrued during the relationship using the formulae set out in the *Regulation*. If your situation differs in any way, you will need to consult with the Pension Office and/or legal counsel.

It is highly recommended that members and spouses obtain independent legal advice about individual rights when dividing a pension or any other family asset, particularly when agreeing to leave a pension intact and dividing family assets another way.

Members and *spouses*, as well as consultants and lawyers, who have questions concerning the division of pension benefits, may refer to the “Questions and Answers About Pension Division on the Breakdown of a Relationship in British Columbia” at www.bcli.org.

Please refer to the Glossary of Terms for definitions of *italicized* text in the body of this publication.

INTRODUCTION

The Money Purchase Plan is a *defined contribution (DC)* plan. In a *DC* plan, benefits are determined by accumulated contributions and investment returns (rather like an *RRSP*). Every member of the Money Purchase Plan has a *DC* account called a *Money Purchase Contribution Account (MPCA)*. The balance in a member's *MPCA* is reported annually on the member's annual statement.

Under the *Family Law Act*, a *spouse's* share of a *DC* pension is settled with a lump sum transfer, generally to a locked-in *Registered Retirement Savings Plan (RRSP)* or *Life Income Fund (LIF)*.

DIVISION

Division of *DC* accounts is immediate because the *spouse's* proportionate share is one-half the contributions made during the relationship plus returns/interest. This share is then transferrable in a lump sum, usually on a locked-in basis.

DIVISION PROCESS FOR A *SPOUSE* OF A MONEY PURCHASE PLAN MEMBER

The first step in dividing a pension is for the *spouse* to file a *Form P1* with the Pension Office. The *Form P1* notifies the Pension Office that there is a pending claim on the pension and entitles the former *spouse* to receive *information* on the pension benefits. Following submission of the *Form P1*, if the final agreement or court order provides for the pension to be shared under Part 6 of the *Family Law Act*, the pension benefits will be divided as explained below.

The *spouse's* proportionate share of a *DC* account is one-half the contributions made during the relationship plus returns to the end of month prior to payment with interest added for the final month. *DC* Accounts include a *MPCA*, *Restricted Voluntary Account (RVA)*, *Unrestricted Voluntary Account (UVA)* or *Variable Benefit Account (VBA)*.

The *spouse's* proportionate share of a *DC* account is transferrable to one of the following:

- A (locked-in) *Registered Retirement Savings Plan (RRSP)*;
- Another registered pension plan (locked-in);
- A *Life Income Fund (LIF)* - the *spouse* or member must be at least age 55; or
- An insurance company for an immediate or deferred life annuity – the *spouse* or member must be at least age 55 to purchase an immediate annuity with locked-in funds.

The lock-in rules that apply to the *spouse's* transferred funds are essentially the same as those that apply to the member. Any portion of the contributions that was not locked-in for the member is not locked-in for the *spouse* and may be paid in cash (less withholding tax) or transferred to a regular *RRSP* or Registered Retirement Income Fund (vs *LIF*) (no age restriction). If the member is on the variable benefit, withdrawals made during the *entitlement period* are applied to the member and *spouse's* respective shares; withdrawals made after the *entitlement period* are applied to the member's share, subject to the withdrawals not exceeding limits set under the *Pension Benefits Standards Act (BC)*.

To request a lump sum transfer from a member's *DC* account(s) ***in full satisfaction of the claim*** on the pension, the following is required:

- an administrative fee of \$200 per account (cheque payable to University of Victoria Money Purchase Pension Plan if fees are to be paid up front)
- *Form P3*
- a copy of the relevant pages of the separation agreement or court order (first page, last page and pages dealing with pension) or *Form P9*;
- Direct Transfer form (T2151) - a separate form is required for each account (*MPCA/VBA, RVA, UVA*) and for locked-in and non locked-in funds and a specimen number is required if the destination is a locked-in *RRSP*; and
- Carrier lock-in agreement if any portion is being transferred to a locked-in *RRSP* - Part II is to be completed by the *spouse* and Part I is to be completed by the carrier (the financial institution) accepting the funds for the locked-in transfer.

A *spouse* who is considering requesting a transfer, can obtain a calculation of their share of the *MPCA/VBA, UVA* and *RVA* if the administrative fee has been paid and they submit a *Form P3* and copy of the separation agreement or court order; the other transfer forms can be submitted at a later date. The Pension Office is not obligated to provide a calculation more frequently than once per calendar year.

DEADLINE FOR DIVISION

The deadline date for division is the date the member commences a benefit. When the member selects a benefit, the *spouse* will be notified and given 30 days to submit transfer forms.

If the *spouse* does not respond, the *spouse's* share may be included with the benefit the member selects in which case the member will be responsible for paying the former *spouse*.

If the *spouse's* share is retained in the plan, no returns or interest will be added beyond the deadline date.

NOTE: *The dollar value of a spouse's share of a MPCA fluctuates with the net returns of the Balanced Fund in which the monies are invested. The Balanced Fund comprises approximately 54% equities, 36% fixed income and 10% real estate. As a result there can be significant month-to-month fluctuations in balances. To mitigate the risk of short-term market volatility negatively impacting the spouse's share of the pension at a time when the spouse is required to transfer out their share, a spouse may want to consider requesting a transfer before the deadline.*

CALCULATIONS FROM THE PENSION OFFICE

Upon request, and subject to providing the dates of the *entitlement period*, the Pension Office will provide ONE preliminary calculation of the *spouse's* approximate share of the member's *MPCA*.

Subsequent calculations are available annually, after the appropriate forms have been filed and fees paid.

SEPARATION AGREEMENTS AND COURT ORDERS

If the separation agreement provides for a plan-administered division of the pension, prior to final signoff it is a good idea to send the Pension Office a draft of the pension section to ensure there is sufficient clarity for the Pension Office to divide the pension. Required elements are:

- the correct name of the pension plan;
- that the pension is to be divided in accordance with Part 6 of the *Family Law Act (BC)*;
- the *entitlement period*;
- the percent to be allocated to the *spouse*, if other than 50%;
- if the member has voluntary and/or accruals under the Supplemental Benefit Arrangement, the agreement must clearly state whether they are also subject to division; and
- explanation of any other special provision for dividing the pension that varies from those under the *Family Law Act*.

When submitting a copy of a separation agreement or court order, all that is required is the first page, last page (with signatures), and the portions pertaining to the pension.

IMPACT OF A DIVISION ON A MEMBER'S REMAINING PENSION

If a *spouse* files a claim on a member's pension or a request for *information (Form P1)*, the claim remains on the member's pension until the pension is divided or the claim is removed. A claim may be removed with either a *Form P7* or submission of a separation agreement or court order confirming the pension was not divided. A silent agreement is deemed to allocate the pension 100% to the member.

A claim on a pension must be settled prior to payment of a benefit to the member.

If there is a claim on a pension, the member's benefit statements continue to show the UNDIVIDED benefit amounts until the claim has been "discharged". A claim is discharged when a *spouse* has transferred their share of the *MPCA* out of the plan. Once a claim

has been discharged, the member’s *MPCA* will be reduced by the amount allocated to the *spouse* and the benefits reported on any future statements will be 100% the member’s.

ADMINISTRATIVE FEES

The *Family Law Act* allows administrators to charge fees for a plan-administered division of pension benefits. The Pension Board has decided to charge the maximum fees permissible by legislation. This is because the fees only partially offset the costs of administering the division and do not amount to full recovery. Plan administration costs are deducted from returns and reduce the net return credited to all members’ accounts. Charging the maximum, limits the extent to which costs are passed on to other members of the plan. The member and *spouse* are jointly responsible for paying the fee(s). If either pays more than half, they can recover the excess from the other party. Fees are either payable in the form of a cheque made payable to the “University of Victoria Money Purchase Pension Plan” **or**, if the fee is not paid upfront by the member or spouse or both, the fee will be deducted from the total value of the benefit prior to payment.

	Form	Fee
Divide a <i>Money Purchase Contribution Account (MPCA)</i>	Form P3	\$200
Divide a <i>Variable Benefit Account (VBA)</i>	Form P3	200
Divide a <i>Restricted Voluntary Account (RVA)</i>	Form P3	200
Divide an <i>Unrestricted Voluntary Account (UVA)</i>	Form P3	200

If a claim is withdrawn after payment of a fee but before the division is complete, the fees are not refundable.

WITHDRAWING A CLAIM

A claim may be withdrawn with either a *Form P7* or submission of the separation agreement or court order confirming the pension was not divided. A silent agreement is deemed to allocate the pension 100% to the member. A *Form P7* cannot itself be withdrawn and cannot be used to cancel a division that is already in progress (or that has been completed). If a claim is withdrawn after payment of a fee but before the division is complete, the fees are not refundable.

CONFIDENTIALITY

Information provided regarding a member and his/her pension benefits is confidential. It is provided in accordance with the provisions of Part 6 of the *Family Law Act* and the *Division of Pensions Regulation* and in accordance with Section 13 of the *Regulation* must be kept in confidence and not be disclosed other than for the purpose of dividing benefits under Part 6 of the *Act* or determining compensation for those benefits or in the course of permitting the documents to be introduced into evidence in proceedings involving the benefits.

SPECIAL SITUATIONS

If the member has entitlements under the Supplemental Benefit Arrangement, the Pension Office should be consulted. The same is true for any other situations not addressed in this publication.

SUMMARY OF PROCESS FOR DIVIDING A MONEY PURCHASE PLAN ENTITLEMENT

	Step 1	Step 2
	Breakdown of relationship	Negotiation of separation agreement
Both		
Member	Request <i>information</i> from Pension Office on Pension.	If the pension is to be divided, give the Pension Office a draft of the pension section of the agreement.
Spouse	File <i>Form P1</i> with Pension Office and request <i>information</i> on the member's pension.	If the pension is not being divided, withdraw the claim (<i>Form P1</i>) with a <i>Form P7</i> .
Pension Office	Send member a <i>Form P6</i> when a <i>Form P1</i> , <i>P3</i> or <i>P7</i> is received	
	Provide <i>information</i> to the member or to a <i>spouse</i> who has submitted a <i>Form P1</i> within 60 days of a request.	<p>Notify the member/<i>spouse</i> if any clarification is required regarding provisions in the separation agreement (eg: the <i>entitlement period</i> must be specified).</p> <p>Provide ONE preliminary calculation of the <i>spouse's</i> share of the benefits (see Calculations from the Pension Office).</p>

Step 3
Division
Pay admin fee (\$200 in total, per account) or , if the fee is not paid upfront by the member or spouse or both, the fee will be deducted from the total value of the benefit prior to payment.
All benefit statements continue to show undivided benefits until the transfer has been completed. After the transfer, the <i>MPCA/VBA</i> is reduced by amount of transfer (before the final month's interest).
Submit final agreement or court order. To request a lump sum transfer, submit a <i>Form P3</i> (plus T2151 form(s) and carrier lock-in agreement, if applicable). File <i>Form P8</i> if there is a change of name, address, phone and/or email before the transfer has been completed.
(within 30 days of receipt).
Calculate the lump sum transferrable and transfer it per <i>spouse's</i> directions (end of month following calendar month in which all documentation and fees received).

GLOSSARY OF TERMS

Defined contribution (DC) - is when pension benefits are determined by accumulated contributions and investment returns (rather like an *RRSP*).

Entitlement period - is determined by dates specified in the agreement or court order, usually determined by the date the relationship began and the date of separation, but other dates can be used.

Family Law Act (BC) - replaced the *Family Relations Act (BC)* effective 18 March 2013. The *Division of Pensions Regulation* was also replaced at that time.

Form P1 Claim and Request for Information and Notice – is used by a *spouse* who is claiming or considering claiming an interest in the member's pension. A *Form P1* enables the *spouse* to obtain certain *information* from the Pension Office about the member's pension benefits. *Information* must be provided within 60 days of request. Updates must be provided within 30 days of request. The Pension Office is only required to respond to requests for *information* or updates once per calendar year. The *Form P1* also entitles the *spouse* to 30 days' notice of certain actions, such as a member's request for a benefit or a change in beneficiary. It is common to submit a *Form P1* pending final division of family assets. A *Form P1* can be withdrawn with a *Form P7*.

Form P3 Request for Transfer from Defined Contribution Account – is used by a *spouse* to request a lump sum transfer from a *MPCA*, *RVA*, *UVA* or *VBA* in full satisfaction of the claim on the pension.

Form P7 Withdrawal of Notice/Waiver of Claim – is used by a *spouse* to withdraw a notice or other document delivered to the Pension

Office. A *Form P7* cannot be withdrawn. It also cannot be used to cancel a division that is already in progress.

Form P9 Agreement to Have Benefits Divided Under Part 6 – is only used if there is not already an agreement or court order dividing the benefits.

Notice of assignment of survivor benefits by agreement or Order (Form P10)

A Form P10 is used if

- the member's pension/annuity has commenced,
- the spouse is entitled to survivor benefits under the pension/annuity, and
- the spouse has entered into a written agreement or has been ordered by the Supreme Court to pay some or all of the survivor benefits to another person under section 126.1 of the Family Law Act.

Information - is available annually to a *spouse* who has filed a *Form P1*. The information that must be provided is prescribed under the *Division of Pensions Regulation* and must be provided within 60 days of request (updates within 30 days of request). The prescribed *information* is:

- a copy of the member's last annual statement (with personal information edited out);
- report of member's most recent *MPCA* balance;
- report of member's history of salary and contributions;
- a copy of the plan document (or where it can be found on-line);
- a copy of the most recent annual report for the plan which contains information on options; and

- information as to whether or not the *spouse* is the member's beneficiary.

Life Income Fund (LIF) - a type of registered retirement income fund that is used to hold locked-in pension funds, and eventually pay out retirement income. The *life income fund (LIF)* cannot be withdrawn in a lump sum; rather, owners must use the fund in a manner that supports retirement income for their lifetime. Withdrawals are subject to a minimum and maximum, which are determined annually.

Marriage-Like - For purposes of dividing a pension, a relationship was "*marriage-like*" if the parties lived in a *marriage-like* relationship for a continuous period of at least 2 years (section 3 of *Family Law Act*)

Money Purchase Contribution Account (MPCA) – is a member's *defined contribution (DC)* account. The balance in a *MPCA* is the sum of employee contributions, University contributions, and returns on those contributions. Returns are calculated monthly and are distributed to *MPCAs* approximately 3-4 weeks following month end. A member's *MPCA* is divided into non locked-in and locked-in portions. Contributions made prior to 1993 and the returns on those contributions are non locked-in. Contributions made after 1992 and returns on those contributions are locked-in.

Registered Retirement Savings Plan (RRSP) - is a savings plan for individuals which allows them to defer tax on money to be used for retirement. A locked-in *RRSP* is an *RRSP* that receives locked-in money from a registered pension plan.

Restricted Voluntary Account (RVA) – is a voluntary account to which is credited transfers from other pension plans (and *RRSP*) on a locked-in basis.

Spouse - for the purpose of this publication includes a former *spouse* and includes *marriage-like* relationships of at least 2 years.

Unrestricted Voluntary Account (UVA) – is a voluntary account to which is credited additional contributions made by payroll deduction and transfer(s) from *RRSPs* or other pension plans on a non locked-in basis.

Variable Benefit Account (VBA) – is a *LIF*-type account within the plan. When a member selects a variable benefit pension, their *MPCA* is converted to a *VBA*. *VBA*'s are divided on an immediate basis with a lump sum transfer.