

**Proposed Regulations Respecting Pooled Registered Pension Plans
made under the *Pooled Registered Pension Plans Act***

Citation

1 These regulations may be cited as the *Pooled Registered Pension Plans Regulations*.

Interpretation

Definitions

2 In these regulations,

“Act” means the *Pooled Registered Pension Plans Act*;

“deferred life annuity” means a deferred life annuity as defined in the *Pension Benefits Regulations* made under the *Pension Benefits Act*;

“domestic contract” means a written agreement referred to in and for the purpose of Section 14 of the Act that provides for the division between a member and the member’s spouse of the funds in the member’s PRPP account, and includes a marriage contract as defined in the *Matrimonial Property Act*;

“federal *Income Tax Act*” means the *Income Tax Act*(Canada) and, unless specified otherwise, includes the regulations made under that Act;

“immediate life annuity” means an immediate life annuity as defined in the *Pension Benefits Regulations* made under the *Pension Benefits Act*;

“joint and survivor annuity” means an annuity payable during the joint lives of the person entitled to the annuity and that person’s spouse and thereafter during the life of the survivor of them;

“joint and survivor pension” means a joint and survivor pension as defined in the *Pension Benefits Act*, and includes a joint and survivor benefit as described in that Act;

“life annuity” means a life annuity as defined in the *Pension Benefits Regulations* made under the *Pension Benefits Act*;

“LIF” or “life income fund” means a “LIF” or “life income fund” as defined in Section 2 of the *Pension Benefits Regulations* under the *Pension Benefits Act*;

“LIRA” or “locked-in retirement account” means a “LIRA” or “locked-in retirement account” as defined in Section 2 of the *Pension Benefits Regulations* under the *Pension Benefits Act*;

“retirement savings arrangement” is a “retirement savings arrangement” as defined in Section 2 of the *Pension Benefits Regulations* made under the *Pension Benefits Act*, and means a LIRA or a LIF;

“registered retirement savings arrangement” means a registered retirement savings plan established in accordance with the *Income Tax Act* (Canada) or a registered retirement income fund established in accordance with that Act;

“survivor” means, in relation to a deceased member, the spouse of the member at the time of the member’s death;

Conflict

- 3 Where there is a conflict between any provision of these regulations and any provision of any other regulations, the provision of these regulations prevails, except where there is a provision in the other regulations that expressly provides that these regulations do not apply.

Applicability of federal Act

- 4 (1) The following definitions in subsection 2(1) of the federal Act do not apply to the Act or these regulations:
- (a) common-law partner;
 - (b) common-law partnership;
 - (c) designated province;
 - (d) included employment;
 - (e) Minister;
 - (f) prescribed;
 - (g) spouse;
 - (h) Superintendent;
 - (i) survivor.
- (2) The header immediately before Section 53, sections 1, 4, 8, 10, 37, 53, 63, 72, 73, 78, 79 to 95 subsections 2(2), 6(3), 75(9), 76(2) and 77(3), and clauses 76(1)(a) to (r), (u) and (v) and of the federal Act do not apply to the Act and these regulations.
- (3) For the purpose of its application to the Act and these regulations, a reference in a provision of the federal Act to any of the following must be read as if the reference were omitted:
- (a) “common-law partner”;
 - (b) “common-law partner or former common-law partner”;
 - (c) “or common-law partner”;

(d) “survivor”.

- (4) For the purpose of its application to these regulations, a reference in a provision of the federal Act to a word or expression set out in Column 1 of the following table must be read as a reference to the word or expression set out opposite in Column 2

Column 1	Column 2
designated province	designated jurisdiction (under the Act)
included employment	Provincial employment (under the Act)

- (5) For the purpose of its application to the Act and these regulations, clause 6(4)(c) of the federal Act must be read as if “the Province’s” was substituted for “the Government of Canada’s”.
- (6) For the purpose of its application to the Act and these regulations, Section 71 of the federal Act must be read as if the words “or, in Quebec, null”, were omitted from the Section.
- (7) For the purpose of its application to the Act and these regulations, Section 74 of the federal Act must be read as if the words “*Regulations Act*” were substituted for the words “*Statutory Instruments Act*”, in that Section.

Applicability of federal regulations

- 5 (1) These regulations adopt the federal regulations, and the federal regulations apply *mutatis mutandis* with respect to PRPPs as though they had been enacted as provisions of these regulations, except where otherwise stated in these regulations.
- (2) For the purposes of applying a provision of the federal regulations to subsection (1), unless a contrary intention appears in the Act or these regulations, a reference in the provision to a word or expression set out in Column 1 of the

table in subsection 4(2) of the Act must be read as a reference to the word or expression set out opposite in Column 2 of the table.

- (3) Sections 38, 39, 40, 41 and 42 of the federal regulations do not apply to these regulations.
- (4) The following provisions of the federal regulations must be read without the references to “or common law partner”, “or common-law partner”, “OR COMMON-LAW PARTNER” or “or Common-law Partner”, for purposes of their application to these regulations:
 - (a) in Section 1, “child” and “related party”;
 - (b) clauses 6(e) and (f);
 - (c) in Form 2,
 - (i) the header,
 - (ii) clauses 3(a) and (b), and
 - (iii) Sections 6 and 7.
- (5) For the purpose of their application to these regulations, a reference in a provision of the federal regulations to:
 - (a) “life annuity”, “immediate life annuity” or “deferred life annuity” must be read by substituting the definition of the corresponding term in these regulations; and
 - (b) “immediate or deferred life annuity” must be read as a reference to “immediate life annuity or a deferred life annuity”, in accordance with the definitions of “immediate life annuity” and “deferred life annuity” in these regulations.

Requirement for spousal consent - commencement of variable payments

- 6 (1) For the purpose of applying Section 48 of the federal Act to these regulations, a member may not elect to receive variable payments from the funds in their account, pursuant to Section 48 of the federal Act, unless the member's spouse has consented to the payments in accordance with subsection (3).
- (2) Despite subsection (1), a member may elect to receive variable payments from the funds in their account if the member's spouse is living separate and apart from the member with no reasonable prospect of resuming cohabitation on the date that the consent is obtained.
- (3) The consent of the spouse of a member required by subsection (1) must be in writing, in a form approved by the Superintendent.

Transfer of Funds and Purchase of Life Annuities

Retirement savings plans under the *Pension Benefits Regulations*

- 7 A retirement savings arrangement is a retirement savings plan of the prescribed kind for the purposes of clauses 50(1)(b) and (3)(b), and 54(2)(b) of the federal Act.

Life annuities

- 8 A life annuity is a retirement savings plan of the prescribed kind for the purposes of clauses 50(1)(c) and (3)(c), and 54(2)(c) of the federal Act.

Contracts that provide for life annuities

- 9 An insurance contract that provides for a life annuity resulting from a transfer of the funds from a PRPP account must include all of the following terms:
- (a) that, except as permitted by subsection 12(3) or 14(2) or Section 13 of the Act or by these regulations, no money transferred, including interest, will be assigned, charged, alienated or anticipated and is exempt from execution, seizure or attachment, and any transaction purporting to assign, charge, alienate or anticipate the money transferred is void and in contravention of this clause;

- (b) that except in the case of the unexpired period of a guaranteed annuity when the annuitant is deceased, no benefit provided under the life annuity shall surrendered during the lifetime of the annuitant's spouse and that any transaction appearing to do so is void;
- (c) that an order under Section 14 of the Act dividing the funds in a life annuity, or a domestic contract that provides for the division of the funds in a life annuity is not effective to the extent that it purports to entitle a spouse of the annuitant to a share that exceeds 50% of the life annuity earned during the marriage or cohabitation, as determined in accordance with Section 14 of the Act and these regulations;
- (d) that if the annuitant has a spouse at the time payments begin, the life annuity will be in the form of a joint and survivor annuity, as required by Section 9, unless the circumstances in subsection 9(5) apply;
- (e) that, for the purposes of purchasing an immediate life annuity, a determination as to whether the annuitant has a spouse will be made on the date the annuity is purchased;
- (f) that the amount of the life annuity will be determined on a basis that does not take into account the sex of the annuitant;
- (g) that in the case of a deferred life annuity, if the annuitant dies prior to the day on which the annuity payments begin, the survivor is entitled, on the death of the annuitant, to an amount equal to the commuted value of the deferred life annuity;
- (h) that in the case of deferred life annuity, any amount to which the survivor is entitled shall be
 - (i) transferred to a registered retirement savings plan established in accordance with the *Income Tax Act* (Canada),

- (ii) transferred to a PRPP,
 - (iii) transferred to a pension plan if the pension plan permits such a transfer and administers the benefit attributed to the transferred funds as if the benefit were that of a plan member,
 - (iv) used to purchase an immediate life annuity or a deferred life annuity, or
 - (v) transferred to a LIF.
- (i) that the annuity will be administered in accordance with Section 9 of these regulations if the annuitant dies before payments under the life annuity begin;

Requirement for joint and survivor annuity

- 10 (1)** Every benefit paid under a life annuity to an annuitant or the survivor of the annuitant where the annuitant has a spouse on the date that the payment of the first instalment of the benefit is due is a joint and survivor annuity.
- (2) In the case of a deferred life annuity, if the annuitant dies prior to the day on which the annuity payments begin, the survivor is entitled, on the death of the annuitant, to an amount equal to the commuted value of the deferred life annuity.
- (3) Upon the death of the annuitant, the amount of the life annuity payable to the survivor must not be less than sixty per cent of the life annuity paid to the annuitant during their joint lives.
- (4) For the purposes of subsection (2), the commuted value of a deferred life annuity must not be less than the value determined in accordance with Section 3500 of the *Canadian Institute of Actuaries Standards of Practice*.

- (5) Subsections (1) to (3) do not apply in respect of an annuitant who is living separate and apart from the spouse of the annuitant on the date that payment of the first instalment of the annuity is due, with no reasonable prospect of the resumption of cohabitation, and the spouse,
- (a) delivered a written waiver to the administrator in a form approved by the Superintendent with respect to the annuity before the date that payment of the first instalment of the annuity is due,
 - (b) is not entitled to receive an amount in respect of the annuity in accordance with the terms of a written agreement for the division of an annuity if such agreement has been entered into before the date that payment of the first instalment of the annuity is due, or
 - (c) is not entitled to receive an amount in respect of the annuity by court order issued prior to the date that payment of the first instalment of the annuity is due.

Breakdown of Spousal Relationship

Definitions for division of PRPP entitlement - Sections 11 to 20

11 In this Section and Sections 11 to 20,

“court order” means an order of the Supreme Court of Nova Scotia, or an equivalent order of a court of competent jurisdiction made outside the Province and enforceable in the Province, that provides for the division of the funds in a PRPP account;

“division” means a division of the funds in a PRPP account between a member and the member’s spouse made in accordance with Section 14 of the Act by court order, domestic contract or otherwise as prescribed by these regulations;

“pensionable service” means the months or parts of months in respect of which the funds in a PRPP account accrue under a PRPP and includes the months or parts of

months in respect of which the funds were earned by the member under another PRPP or pension plan and have been transferred to the plan;

“proportionate share” of the funds in a PRPP account of a member means the share of the funds to which the spouse of the member is entitled, calculated in accordance with this Section;

“separation date” means the date a spouse of a member becomes entitled to a division of the funds in a PRPP account of the member.

Application of Sections 10 to 20

- 12 (1)** Except as provided in subsection (2), if a spouse of a member is entitled to an interest in the funds in the member’s PRPP account, all of the following must be calculated in accordance with Sections 10 to 20:
- (a) the spouse’s proportionate share in the funds;
 - (b) the manner of determining the spouse’s entitlement to a proportionate share of the funds.
- (2)** Sections 10 to 20 do not apply to an interest in funds in a PRPP account of a member and that person’s spouse that has been determined by court order or domestic contract before the date these regulations come into force.

Matrimonial Property Act settlements

- 13 (1)** Nothing in Sections 10 to 20 prevents the division of funds under Section 13 of the *Matrimonial Property Act* in settlement of the value of any funds in a PRPP account under the Act or these regulations that, because of the termination of the marriage relationship, the person will lose the chance of acquiring.
- (2)** Sections 10 to 20 do not apply if there is an unequal division of funds under the *Matrimonial Property Act* in the circumstances described in subsection (1).

Separation date specified in court order or domestic contract

14 The separation date must be specified in any court order or domestic contract that determines a division of the funds in a PRPP account.

Information about PRPP provided to spouse

15 (1) A spouse who claims an interest in the funds in their spouse's PRPP account and who submits a request in an approved form to the administrator for information about their spouse's PRPP, is entitled to receive any information necessary from the administrator to determine the value of the funds in the PRPP account.

(2) An administrator must provide the information requested under subsection (1) no later than 60 days after receiving the request.

(3) An administrator must provide updates to any information requested under subsection (1) no more frequently than once each calendar year if the update is requested by the spouse.

Notice to member of spouse's request

16 (1) An administrator must send a notice in an approved form to any member whose spouse submits a request under the following provisions:

(a) subsection 14(1), for a request for information about a PRPP;

(b) subsection 16(2), for a request to transfer their proportionate share.

(2) The notice in subsection (1) must be sent no later 30 days after the date the request is submitted to the administrator or financial institution.

Transfer of proportionate share out of PRPP account

17 (1) A transfer of a proportionate share of the funds in a PRPP account to the credit of a spouse must be made in accordance with the requirements for transferring a member's or survivor's PRPP account under Section 54 of the federal Act and under this Section.

- (2) A spouse who submits a request in an approved form to an administrator together with a copy of the court order or domestic contract that determines the division of the funds in a PRPP account is entitled to transfer the spouse's proportionate share of the funds from the PRPP to the pension fund of a pension plan, if the plan permits, to a retirement savings arrangement or to a PRPP or for the purchase of a life annuity.

Calculation of proportionate share of funds in a PRPP account

- 18 (1) The proportionate share of the funds in a PRPP account of a member must be calculated in accordance with the following formula:

$$\text{proportionate share} = P \times (A \div B) \times C$$

in which

P = the percentage of the funds to be credited to the spouse under a court order or domestic contract

A = pensionable service accumulated by the member, accruing from the earliest of all of the following dates to the separation date:

- (i) the date of the marriage,
- (ii) the beginning of the domestic partnership,
- (iii) the beginning of the cohabitation in a conjugal relationship that satisfies the requirements in subclause 2(q)(iii) or (v) of the *Act*

B = the total pensionable service accumulated by the member to the separation date

C = the total of all of the following:

- (i) the contributions to the PRPP to the credit of the member as at the separation date,
 - (ii) the net investment returns that are allocated, or that are to be allocated, in respect of those contributions to the date that the spouse's proportionate share is transferred from the PRPP under subsection 16(2).
- (2) The proportionate share of the funds in the member's PRPP account must be paid from the plan to the member's spouse.

Notice to spouse if member's interest may be affected

19 An administrator must provide a spouse who has submitted a request for information about a member's PRPP under subsection 14(1) with at least 30 days advance notice of any transaction relating to the member's, interest in the PRPP, as a result of any of the following:

- (a) the member's death;
- (b) an election by the member to receive variable payments from the funds in their account;
- (c) any direction given to the administrator by the member.

General

Condition for issuance of a licence to authorize a corporation to be an administrator

20 In addition to the conditions prescribed in Section 7 of the federal regulations for the issuance of a licence authorizing a corporation to be an administrator, it is prescribed as a term and condition for purposes of subsection 11(2) of the federal Act that all of the PRPPs the corporation intends to administer must also be registered under the federal Act.

- 21 A plan that is to be administered by an administrator to provide members of the plan with a means of retirement savings is not permitted to be registered by the Superintendent if the plan is not capable of being registered under the federal Act.