



Province of Alberta
Order in Council

O.C. 258/2019

NOV 26 2019

ORDER IN COUNCIL

Approved and ordered:

Lieutenant Governor
or
Administrator

The Lieutenant Governor in Council makes the Pension Plans Regulations (Family Property) Amendment Regulation set out in the attached Appendix.

CHAIR

FILED UNDER
THE REGULATIONS ACT

as ALBERTA REGULATION 169/2019
ON November 26 20 19

ACTING DEPUTY REGISTRAR
OF REGULATIONS

For Information only

Recommended by:

Authority:

President of Treasury Board and Minister of Finance

Court of Queen's Bench Act (sections 8 and 16)

Employment Pension Plans Act (section 159)

Interpretation Act (section 20)

Provincial Court Act (section 9.52)

Public Sector Pension Plans Act (Schedule 5, sections 4 and 12)

Teachers' Pension Plans Act (sections 14 and 23)

APPENDIX

**Court of Queen's Bench Act
Employment Pension Plans Act
Interpretation Act
Provincial Court Act
Public Sector Pension Plans Act
Teachers' Pension Plans Act**

**PENSION PLANS REGULATIONS (FAMILY
PROPERTY) AMENDMENT REGULATION**

**Regulations under the Employment
Pension Plans Act**

1(1) The *Employment Pension Plans Regulation* (AR 154/2014) is amended by this section.

(2) Section 11(6)(c) is amended by striking out “marriage” and substituting “relationship”.

(3) Section 35 is amended

(a) in subsection (1) by striking out “marriage” and substituting “relationship”;

(b) by adding the following after subsection (1):

(1.1) For the purposes of section 37(1)(a) of the Act, where there has been a relationship breakdown between a member and a person who is not a pension partner but is or was the member's adult interdependent partner within the meaning of the *Family Property Act*, an administrator of a pension plan must provide a statement on relationship breakdown to the member within 90 days after receiving a written request for it from the member.

(c) in subsections (2), (3) and (4) by striking out “marriage” and substituting “relationship”;

(d) by adding the following after subsection (4):

(5) For the purposes of subsection (1.1),

(a) all references in subsections (3) and (4)(a) to (h) to the “member pension partner” are to be read as references to the member, and

- (b) the reference in subsection (4)(i) to the “member pension partner and non-member pension partner” is to be read as a reference to the member.

(4) Section 36(1) is amended by striking out “matrimonial” wherever it occurs and substituting “family”.

(5) The heading before section 79 is repealed and the following is substituted:

Division 3 Relationship Breakdown

(6) Section 79(2) is amended

(a) in clause (a)

(i) by striking out “marriage” and substituting “relationship”;

(ii) by striking out “matrimonial” and substituting “family”;

(b) in clause (c)(i) by striking out “*Matrimonial Property Act*” and substituting “*Family Property Act*”.

(7) Section 80 is repealed and the following is substituted:

Family property orders and agreements

80 A family property order or agreement in respect of pension partners must specify

- (a) the dates when the period of joint accrual began and the date of relationship breakdown for the purposes of the *Family Property Act*, and
- (b) the non-member pension partner’s share, having regard to section 82(1) of the Act or, where distribution is to be delayed under section 81(3)(b) or (c) of this Regulation, how the amount of that share is to be calculated at that future date.

(8) Section 81(2) is amended by striking out “marriage” and substituting “relationship”.

(9) Section 82 is amended

(a) in subsection (4) by striking out “marriage” and substituting “relationship”;

(b) in subsection (11) by striking out “matrimonial” and substituting “family”;

(c) in subsections (12)(c) and (13) by striking out “marriage” and substituting “relationship”.

(10) Section 104(g)(iii)(B) is amended by striking out “marriage” and substituting “relationship”.

(11) Schedule 1, *Locked-in Retirement Account Addendum*, is amended in section 1(1)(i)(iii)(B) by striking out “marriage” and substituting “relationship”.

(12) Schedule 2, *Life Income Fund Addendum*, is amended in section 1(1)(k)(ii)(B) by striking out “marriage” and substituting “relationship”.

Regulations under the Public Sector Pension Plans Act

2(1) The *Management Employees Pension Plan (AR 367/93)* is amended by this section.

(2) Section 2(1) is amended

(a) by adding the following after clause (q):

(q.1) “family property order” means a family property order within the meaning of the *Family Property Act*, or a similar order enforceable in Alberta of a court outside Alberta, that

(i) is made in respect of a participant or former participant and the participant’s or former participant’s pension partner, and

(ii) affects the payment or distribution of a benefit;

(b) by repealing clause (y).

(3) The following provisions are amended by striking out “matrimonial” and substituting “family”:

section 37(3)(c);
section 109(2)(a)(i).

3(1) The *Public Sector Pension Plans (Legislative Provisions) Regulation (AR 365/93)* is amended by this section.

(2) Section 21(1) is amended

(a) in clauses (d)(i) and (e) by striking out “matrimonial” and substituting “family”;

(b) by adding the following after clause (g):

(g.1) “family property order” or “order” means a family property order within the meaning of the *Family Property Act*, or a similar order enforceable in Alberta of a court outside Alberta, that

(i) is made in respect of a participant or former participant and the participant’s or former participant’s pension partner, and

(ii) affects the payment or distribution of a benefit

and, to avoid doubt, includes a consent order of a court adopting an agreement entered into between a participant or former participant and the participant’s or former participant’s pension partner in proceedings under the *Family Property Act*, or similar legislation of a jurisdiction other than Alberta, providing for the division and distribution of a benefit;

(c) by repealing clause (i);

(d) in clause (n) by striking out “matrimonial” and substituting “family”;

(e) in clause (q) by striking out “means” and substituting “means, except for the purposes of section 33(6) and (8).”.

(3) Section 22(2) and (3) are amended by striking out “matrimonial” and substituting “family”.

(4) Section 23 is amended

(a) in subsection (1)

(i) by striking out “*Matrimonial Property Act*” and substituting “*Family Property Act*”;

(ii) **by striking out** “matrimonial property order” **and substituting** “family property order”;

(b) **in subsection (2) by striking out** “*Matrimonial Property Act*” **and substituting** “*Family Property Act*”.

(5) **Section 24 is amended by striking out** “matrimonial” **and substituting** “family”.

(6) **Section 25 is amended**

(a) **by striking out** “matrimonial property order” **and substituting** “family property order”;

(b) **in clause (a) by striking out** “*Matrimonial Property Act*” **and substituting** “*Family Property Act*”.

(7) **The following provisions are amended by striking out** “matrimonial” **and substituting** “family”:

section 26;
section 27(d)(ii)(A);
section 30(4);
section 31(3);
section 32(b).

(8) **Section 33 is amended**

(a) **in subsection (1) by striking out** “who are or were married to each other, where a matrimonial” **and substituting** “where a family”;

(b) **in subsection (2) by striking out** “matrimonial”;

(c) **by repealing subsection (3);**

(d) **in subsection (4) by striking out** “The Minister shall provide to the participant pension partner, as soon as reasonably practicable after the division takes place,” **and substituting** “As soon as reasonably practicable after a division to which this Part applies takes place, the Minister shall provide to the participant pension partner”;

(e) **in subsection (5)**

(i) **in clause (a) by striking out** “married or formerly married individual referred to in subsection (1)” **and**

substituting “pension partner or former pension partner”;

(ii) in clause (b) by striking out “matrimonial” **and substituting** “family”;

(f) by adding the following after subsection (5):

(6) Where there has been a relationship breakdown between a participant and a person who is not a pension partner but is or was the participant’s adult interdependent partner within the meaning of the *Family Property Act*, the Minister shall, as soon as reasonably practicable after receiving a written request for it from the participant, provide to the participant a written statement specifying

- (a) an estimate of the total entitlement,
- (b) the date on which the participant became a participant,
- (c) the amount of pensionable service accumulated by the participant
 - (i) up to the date of the request, or
 - (ii) if the total entitlement is being calculated as of an earlier date specified in the request, up to that earlier date,
- (d) if requested, the amount of pensionable service accumulated by the participant during a period specified in the request but ending no later than the date of the request, and
- (e) the date, if applicable, on which the participant terminated.

(7) The Minister is not required to provide a statement referred to in subsection (2) or (6) more than once in a calendar year.

(8) For the purposes of subsection (6),

- (a) “participant” includes a former participant;

- (b) “total entitlement” means the total benefit, or the value of that benefit, accrued to the participant, calculated as of the date of the request referred to in subsection (6), or such earlier date as is specified in the request, in accordance with the following:
 - (i) if the participant is not then vested, as equal to the value of the participant’s employee contributions;
 - (ii) if the participant has already commenced to receive a pension, as the pension itself;
 - (iii) if the participant is then vested and has not yet commenced to receive a pension, as equal to the commuted value of the pension, calculated on the assumption that the participant will commence to receive the pension
 - (A) if pensionable age has not yet been reached, at pensionable age, or
 - (B) if pensionable age has already been reached, as of the date of the request or such earlier date as is specified in the request.

(9) The following provisions are amended by striking out “matrimonial” and substituting “family”:

section 34(1);
section 35(1);
section 37.

(10) Schedule 5 is amended in the following provisions by striking out “matrimonial” and substituting “family”:

section 24.4(b);
section 24.92.

**Regulations under the
Teachers’ Pension Plans Act**

4(1) The *Teachers’ and Private School Teachers’ Pension Plans (AR 203/95)* are amended by this section.

(2) Schedule 1, Teachers' Pension Plan, is amended

(a) in section 1(1)

(i) by adding the following after clause (s):

(s.1) "family property order" means a family property order within the meaning of the *Family Property Act*, or a similar order enforceable in Alberta of a court outside Alberta, that

(i) is made in respect of a member and the member's pension partner, and

(ii) affects the payment or distribution of a benefit;

(ii) by repealing clause (z);

(b) in the following provisions by striking out

"matrimonial" **and substituting** "family":

section 28(3)(b);

section 36;

section 62(2)(a).

5(1) The Teachers' Pension Plans (Legislative Provisions) Regulation (AR 204/95) is amended by this section.

(2) Section 29(1) is amended

(a) in clauses (c)(i) and (d) by striking out "matrimonial" and substituting "family";

(b) by adding the following after clause (f):

(f.1) "family property order" or "order" means a family property order within the meaning of the *Family Property Act*, or a similar order enforceable in Alberta of a court outside Alberta, that

(i) is made in respect of a member and the member's pension partner, and

(ii) affects the payment or distribution of a benefit

and, to avoid doubt, includes a consent order of a court adopting an agreement entered into between a member and the member's pension partner in proceedings under the *Family Property Act*, or similar legislation of a jurisdiction other than Alberta, providing for the division and distribution of a benefit;

(c) by repealing clause (h);

(d) in clause (m) by striking out "matrimonial" and substituting "family";

(e) in clause (n) by striking out "means" and substituting "means, except for the purposes of section 41(6) and (8),".

(3) Section 30(1) and (2) are amended by striking out "matrimonial" and substituting "family".

(4) Section 31 is amended

(a) in subsection (1)

(i) by striking out "*Matrimonial Property Act*" and substituting "*Family Property Act*";

(ii) by striking out "matrimonial property order" and substituting "family property order";

(b) in subsection (2) by striking out "*Matrimonial Property Act*" and substituting "*Family Property Act*".

(5) Section 32 is amended by striking out "matrimonial" and substituting "family".

(6) Section 33 is amended

(a) by striking out "matrimonial property order" and substituting "family property order";

(b) in clause (a) by striking out "*Matrimonial Property Act*" and substituting "*Family Property Act*".

(7) The following provisions are amended by striking out "matrimonial" and substituting "family":

section 34;
section 35(d)(ii)(A);

section 38(3);
section 39(3);
section 40(b).

(8) Section 41 is amended

- (a) in subsection (1)(a) by striking out** “who are or were married to each other, where a matrimonial” **and substituting** “where a family”;
- (b) in subsection (2) by striking out** “matrimonial”;
- (c) by repealing subsection (3);**
- (d) in subsection (4) by striking out** “The Board shall provide to the member pension partner, as soon as reasonably practicable after the division takes place,” **and substituting** “As soon as reasonably practicable after a division to which this Part applies takes place, the Board shall provide to the member pension partner”;
- (e) in subsection (5)**
 - (i) in clause (a) by striking out** “married or formerly married individual referred to in subsection (1)” **and substituting** “pension partner or former pension partner”;
 - (ii) in clause (b) by striking out** “matrimonial” **and substituting** “family”;
- (f) by adding the following after subsection (5):**
 - (6)** Where there has been a relationship breakdown between a member of the Plan and a person who is not a pension partner but is or was the member’s adult interdependent partner within the meaning of the *Family Property Act*, the Board shall, as soon as reasonably practicable after receiving a written request for it from the member, provide to the member a written statement specifying
 - (a) an estimate of the total entitlement,
 - (b) the first date of accumulation of pensionable service by the member under the Plan,

- (c) the amount of pensionable service accumulated by the member
 - (i) up to the date of the request, or
 - (ii) if the total entitlement is being calculated as of an earlier date specified in the request, up to that earlier date,
- (d) if requested, the amount of pensionable service accumulated by the member during a period specified in the request but ending no later than the date of the request, and
- (e) the last or latest date of pensionable service accumulated by the member.

(7) The Board is not required to provide a statement referred to in subsection (2) or (6) more than once in a calendar year.

(8) For the purposes of subsection (6), “total entitlement” means the total benefit, or the value of that benefit, accrued to the member, calculated as of the date of the request referred to in subsection (6), or such earlier date as is specified in the request, in accordance with the following:

- (a) if the member is not then vested, as equal to the value of the member’s employee contributions;
- (b) if the member has already commenced to receive a pension, as the pension itself;
- (c) if the member is then vested and has not yet commenced to receive a pension, as equal to the greater of the value of the member’s employee contributions and the commuted value of the pension, calculated on the assumption that the member will commence to receive the pension
 - (i) if pensionable age has not yet been reached, on the first day of the month following pensionable age, or

- (ii) if pensionable age has already been reached, on the first day of the month following the date of the request or such earlier date as is specified in the request.

(9) The following provisions are amended by striking out “matrimonial” and substituting “family”:

section 42(1);
section 43(1);
section 45.

**Regulations under the Court of Queen’s Bench Act,
Interpretation Act and Provincial Court Act**

6(1) The *Provincial Judges and Masters in Chambers Registered and Unregistered Pension Plans (AR 196/2001)* are amended by this section.

(2) Schedule 1, Provincial Judges and Masters in Chambers (Registered) Pension Plan, is amended

(a) in section 1(1)

(i) by adding the following after clause (e):

(e.1) “family property order” means a family property order within the meaning of the *Family Property Act*, or a similar order enforceable in Alberta of a court outside Alberta, that

- (i) is made in respect of a participant or former participant and the participant’s or former participant’s pension partner, and
- (ii) affects the payment or distribution of a benefit;

(ii) by repealing clause (l);

(b) in the following provisions by striking out “matrimonial” wherever it occurs and substituting “family”:

section 28(3)(c) and (6)(b);
section 57(2)(a)(i);
section 58;

(c) in the Subschedule in Form 2 in section 1(c) by striking out “matrimonial” and substituting “family”.

**(3) Schedule 2, Provincial Judges and Masters in Chambers
(Unregistered) Pension Plan, is amended**

(a) in section 1(2)

**(i) by striking out ““contributions”,” and substituting
““contributions”, “family property order”,”;**

(ii) by striking out ““matrimonial property order”,”;

**(b) in the following provisions by striking out
“matrimonial” and substituting “family”:**

section 28(3);
section 57(2)(a);
section 58;
section 72(4).

7 This Regulation comes into force on January 1, 2020.