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What B.C. Family Law Changes To Pension Rules Mean For You

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This week, the new Family Law Act and Division of Pension Regulations came into force in B.C. For British Columbians, it's important to understand what these changes mean and how you're affected.

These [new rules](#) clarify the complex law of dividing a pension between two people after the breakdown of a marriage or relationship. They simplify the financial separation of spouses, while protecting the financial security of both individuals.

If you are living with your significant other and have been in a marriage-like relationship for at least two years, you are now placed in the same category as married couples with regard to pension division rules. This is a marked change from the previous legislation, which only applied to married couples.

Statistics Canada estimates that the number of common law couples across Canada is growing four times faster than the number of marriages. Consequently a much broader number of British Columbians are subject to these pension division rules, should a break-up occur.

So what's new? Here are the key changes:

- The new act expands the options available to your former spouse. In defined contribution plans (where your benefit is based on contributions), your former spouse can choose to immediately receive their share of the pension as a lump sum (on a locked-in basis). In defined benefit plans (where your benefits are generally based on earnings and length of service), your former spouse can choose to receive their share of the pension as either a lump sum or a separate pension, both payable after you are eligible to retire.
- You can now offer to give your former spouse more than half of your pension. Previously this was only permitted by a court order.
- If you die before your pension begins, then your former spouse's share of benefits will be determined as of the day before you die. Prior to this, your spouse would only be entitled to a share of survivor benefits, which would generally be between 60 per cent and 100 per cent of the value of the benefits.
- Now there is only one event that can trigger the division of the pension: the date of separation. Previously, the date for a pension being divided could be triggered by four different events: a separation agreement, an order declaring there is no possibility of reconciliation, a divorce order or the declaration of a marriage being annulled.

In the event of separation, the portion of pension benefits divided is based on the date of your marriage or the establishment of a marriage-like relationship (whichever comes first) to the date of separation.

There are various other pension plans that are now affected by the new act. To understand the specific rules around dividing pensions through the different schemes, you can read our [detailed overview here](#).

Common-law couples will automatically be subject to these pension division rules should they go through a break-up from March 18. If you would prefer to "opt-out," then you can seek a legally-binding co-habitation agreement.

Pensions can be complicated. If you are concerned or interested in finding out more about how the new act could affect your or your former spouse's pension, be sure to contact a legal services provider.