

MARRIAGE/COMMON-LAW BREAKDOWN

INTRODUCTION

If you and your partner (married or common-law) have separated, it is important to contact TRAF promptly for information on how your pension is affected. A delay in settling your relationship breakdown can delay your pension.

If the separation is permanent, your former partner may be entitled to up to 50% of the pension value earned from the date the relationship began to the date of separation.

If your separation date occurred prior to pension commencement, this fact sheet applies to you.

We encourage you to seek legal advice regarding your family law entitlements, and financial advice regarding the implications of a relationship breakdown to your pension.

HOW TO START

Complete a [Marriage/Common-Law Breakdown Calculation Request](#), along with your proof of age, and send it to TRAF. Once we receive these, we will calculate the pension value earned during the period of your relationship. You and your former partner will each receive a statement outlining your former partner's entitlement, the impact on your future pension and information on the settlement options available.

If you have a separation agreement, court order or other documents relating to your relationship breakdown, we request that you forward copies to us as soon as possible. We require a copy of them before any payment can be made.

IMPACT OF SEPARATION DATE

If your separation date is prior to October 1, 2021, the available options include not dividing the pension, dividing 50% of the pension, or potentially dividing the net difference between your and your former partner's pension values.

If your separation date is on or after October 1, 2021, there is additional flexibility as you and your former partner may decide to not divide the pension or specify the percentage to be divided, up to a maximum of 50%.

SEPARATION DATE BEFORE OCTOBER 1, 2021

Options

1. Upon receipt of the required documents, your former partner can apply for a 50% share of the pension, which must be transferred to one of the following:
 - A locked-in retirement account (LIRA);
 - A life income fund (LIF);
 - A pension plan, other than TRAF, in which your former partner is a member, provided it will accept the transfer; or
 - A pooled registered pension plan.

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If you and your former partner decide to divide, we will require:

- A court order under *The Family Property Act* (Manitoba) or a written agreement between the parties indicating family assets have been divided; or
- A court order from another province or territory in Canada requiring the division of the pension or pension benefit credit; or
- An order of the Court of King's Bench (Manitoba) requiring the division of the pension or pension benefit credit in the case of a common-law relationship.

If division occurs, your pension will be reduced by half the pension that accrued during the relationship, including adjustments for actuarial equivalence (if applicable) and cost of living adjustments between the date of separation and the date your pension starts.

2. If you are both members of pension plans, you and your former partner may choose to divide the net difference between pension values. You must each agree to this in writing and provide TRAF with the required documents. The options available and the impact to your pension will depend on the specifics of your personal situation. Contact TRAF for details.
3. You do not have to divide your pension when both parties have entered into a written agreement acknowledging that each of the parties:
 - Is entering into the agreement voluntarily and without duress, coercion or compulsion of any kind;
 - Has received independent legal advice with respect to the effect of the agreement; and
 - Has received the statement from TRAF indicating the value of the plan member's pension earned during the relationship.

TRAF will require a copy of this agreement.

Consult your lawyer to ensure you have the proper documentation.

SEPARATION DATE ON OR AFTER OCTOBER 1, 2021

Options

1. Upon receipt of the required documents, your former partner can apply for a share of up to 50% of the pension, which must be transferred to one of the following:
 - A locked-in retirement account (LIRA);
 - A life income fund (LIF);
 - A pension plan, other than TRAF, in which your former partner is a member, provided it will accept the transfer; or
 - A pooled registered pension plan.

If you and your former partner decide to divide, we will require:

- A court order under *The Family Property Act* (Manitoba) or a written agreement between the parties indicating family assets have been divided; or
- A court order from another province or territory in Canada requiring the division of the pension or pension benefit credit; or
- An order of the Court of King's Bench (Manitoba) requiring the division of the pension or pension benefit credit in the case of a common-law relationship.

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The written agreement or court order must:

- Specify the percentage of the pension to be paid on division, to a maximum of 50%;
- Include the date the relationship began and the date of separation; and
- Be filed with TRAF.

If any of the above conditions are not met, we cannot divide the pension.

If division occurs, your pension will be reduced by the specified percentage of the pension that accrued during the relationship, including adjustments for actuarial equivalence (if applicable) and cost of living adjustments between the date of separation and the date your pension starts.

2. You and your former partner do not have to divide your pension. The written agreement or court order may state that your former partner is not entitled to any percentage of the pension. TRAF will require a copy of this agreement.

Consult your lawyer to ensure you have the proper documentation.

Before agreeing to a division of less than 50% of the value of the pension, your former partner should seek legal advice with respect to their family law entitlements and financial advice as to the implications of agreeing to receive less than a 50% share of the pension.

We recommend that you and your former partner obtain a relationship breakdown statement from TRAF in all circumstances (whether dividing or not). See "How to start" above for details on how to obtain your statement.

OTHER IMPORTANT INFORMATION

COMMON-LAW RELATIONSHIP RULES

The provision to divide the pension applies to common-law partners who:

- Began living separate and apart from each other on or after June 30, 2004;
- Began living separate and apart from each other after 1983 and before June 30, 2004, if a declaration was filed in respect of the relationship; or
- Were living separate and apart on June 30, 2004, but resumed cohabiting for at least 90 days after that day.

A common-law partner can apply to the Court of King's Bench (Manitoba) for an order requiring a member's pension or pension benefit credit to be divided if the last common habitual residence was in Manitoba. The application must be made within three years after the common-law partner and the member last began to live separate and apart, or in the case of the member's death, within six months after the grant of probate or letters of administration, whichever occurs first.

ENSURE YOUR BENEFICIARY DESIGNATION IS UP TO DATE

If you have not yet commenced your pension, check your beneficiary designation through your **Online Services** account and ensure that your marital or common-law relationship status and your beneficiary information is updated and accurate.

PRENUPTIAL AGREEMENTS

A prenuptial or cohabitation agreement may impact the treatment of your pension on relationship breakdown. If you entered into this type of agreement, please provide a copy to our office so we can determine if your pension will be affected.