



Family Law Act 1975

Standard court order – base amount splitting

Important information

The Family Court may make a splitting order under section 90XT of the *Family Law Act 1975* provided Commonwealth Superannuation Corporation (CSC) has been accorded procedural fairness as required by section 90XZD of the Act.

Rule 10.16 of the Family Law Rules 2004 requires that CSC be provided with a copy of the draft splitting order and be given a period of 28 days within which to advise of any objection.

Orders sought in terms similar to that suggested below would facilitate CSC's concurrence with any proposed orders.



Important: For family law purposes, DFRDB and the Productivity Benefit Scheme are regarded as two different superannuation schemes. Therefore, separate orders must be used splitting DFRDB and Productivity Benefit Scheme benefits.

Example A Orders split DFRDB benefit (established under the *Defence Force Retirement and Death Benefits Act 1973*).

Example B Orders split the interest in the Productivity Benefit Scheme (established under the *Defence Force (Superannuation) (Productivity Benefit) Determination 1988* issued under the *Defence Act 1903*).

EXAMPLE A: FAMILY LAW ACT 1975 SHORT MINUTES OF ORDERS SOUGHT BY CONSENT (DFRDB)

BY CONSENT it is ordered that:

1. In accordance with section 90XT(1)(a) of the *Family Law Act 1975* (the Act), whenever a splittable payment within the meaning of section 90XE of the Act becomes payable to or on behalf of [member's name] from [his/her] interest in Defence Force Retirement and Death Benefits Scheme (DFRDB), [non-member spouse or other person specified in section 90XE of the Act] is entitled to be paid (by the Trustee of DFRDB) the amount calculated in accordance with Part 6 of the *Family Law (Superannuation) Regulations 2001*, using a base amount of:

\$

and there is a corresponding reduction in the entitlement [member's name] would have had but for these Orders.

2. The operative time for Order 1 is [four business days after the service of these Orders on the Trustee].

NOTATION:

The parties note that this Order, and payments made as a result, will be affected by the *Superannuation Legislation Amendment (Family Law) Act 2004* which came into effect on 18 May 2004, the *Family Law (Superannuation) Regulations 2001*, the *Defence Force Retirement and Death Benefits Act 1973* and the Military Superannuation and Benefits Trust Deed which together may provide for a separate superannuation interest to be created for the non-member spouse and for consequential effects on payments.



Defence Force
Retirement & Death
Benefits Scheme

**EXAMPLE B: FAMILY LAW ACT 1975
SHORT MINUTES OF ORDERS SOUGHT BY CONSENT
(PRODUCTIVITY BENEFIT SCHEME)**

BY CONSENT it is ordered that:

1. In accordance with section 90XT(1)(a) of the *Family Law Act 1975* (the Act), whenever a splittable payment within the meaning of section 90XE of the Act becomes payable to or on behalf of *[member's name]* from *[his/her]* interest in the Productivity Benefit Scheme (PBS), *[non-member spouse or other person specified in section 90XE of the Act]* is entitled to be paid (by the Trustee of the PBS) the amount calculated in accordance with Part 6 of the *Family Law (Superannuation) Regulations 2001*, using a base amount of:

\$

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and there is a corresponding reduction in the entitlement *[member's name]* would have had but for these Orders.

2. The operative time for Order 1 is *[four business days after the service of these Orders on the Trustee]*.

NOTATION:

The parties note that this Order, and payments made as a result, will be affected by the *Superannuation Legislation Amendment (Family Law) Act 2004* which came into effect on 18 May 2004, the *Family Law (Superannuation) Regulations 2001* and the Military Superannuation and Benefits Trust Deed which together may provide for a separate superannuation interest to be created for the non-member spouse and for consequential effects on payments.

End



**Need assistance?
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