



Sample Court Order - Base Amount Split

Family Law Act 1975

The Family Court may make a splitting order under section 90MT of the Family Law Act 1975 provided the Defence Force Retirement and Death Benefits Authority has been accorded procedural fairness as required by section 90MZD of the Act.

Rule 10.16 of the Family Law Rules 2004 requires that the Defence Force Retirement and Death Benefits Authority 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 ComSuper's concurrence with any proposed orders.

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

Example A Orders split the DFRDB Scheme 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*).

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FAMILY LAW ACT 1975

SHORT MINUTES OF ORDERS SOUGHT BY CONSENT

BY CONSENT it is ordered that:

- In accordance with section 90MT(1)(a) of the *Family Law Act 1975* (the Act), whenever a splittable payment within the meaning of section 90ME of the Act becomes payable to or on behalf of [member's name] from [his/her] interest in the Defence Force Retirement and Death Benefits Scheme (the DFRDB), [spouse or other person specified in section 90ME of the Act] is entitled to be paid (by the Trustee of the 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.
- 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 Family Law (Superannuation) Regulations 2001 and the *Defence Force Retirement and Death Benefits Act 1973* which together may provide for a separate superannuation interest to be created for the non-member spouse and for consequential effects on payments.

Dated: _____ / _____ / _____

 Spouse 1

 Spouse 2

 Solicitor for Spouse 1

 Solicitor for Spouse 2

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Example B Orders:

FAMILY LAW ACT 1975

SHORT MINUTES OF ORDERS SOUGHT BY CONSENT

BY CONSENT it is ordered that:

1. In accordance with section 90MT(1)(a) of the *Family Law Act 1975*, (the Act), whenever a splittable payment within the meaning of section 90ME of the Act becomes payable to or on behalf of [member's name] from [his/her] interest in the Productivity Benefit Scheme (the PBS), [spouse or other person specified in section 90ME 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 [\$_____] 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 the final orders on the Trustee]

NOTATION:

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

Dated: _____ / _____ / _____

 Spouse 1

 Spouse 2

 Solicitor for Spouse 1

 Solicitor for Spouse 2

DISCLAIMER

Any financial product advice in this document is general advice only and has been prepared without taking account of your personal objectives, financial situation or needs. Therefore, before acting on any such general advice, you should consider the appropriateness of the advice, having regard to your own objectives, financial situation or needs. You may wish to do so with or without the assistance of a licensed financial advisor.

The DFRDB is administered by ComSuper

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