



Sample Court Order - Specified Percentage Split (% 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:

1. In accordance with section 90MT(1)(b) 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 [____%] of the splittable payment and there shall be a corresponding reduction in the amount the [member’s name] would be entitled to receive 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



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)(b) 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, [spouse or other person specified in section 90ME of the Act] is entitled to be paid [____%] of the splittable payment and there shall be a corresponding reduction in the amount the [member's name] would be entitled to receive 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

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The DFRDB is administered by ComSuper

Located at: Unit 4, Cameron Offices,
 Chandler St, Belconnen
 ACT 2617
 Postal Address: DFRDB, PO Box 22,
 Belconnen ACT 2616

Internet: www.dfrdb.gov.au
 mail: members@dfrdb.gov.au
 Telephone: 1300 001 677
 Fax: (02) 6272 9616
 TTY: (02) 6272 9827