



Australian Government

Australian Government Actuary

**ADJUSTMENT OF BENEFITS FOLLOWING FAMILY
LAW SPLITS - MSBS**

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1 Background

1.1 Under the default arrangements included in the Family Law (Superannuation) Regulations 2001 (the Regulations), amounts awarded to a non member spouse in respect of an interest in a defined benefit superannuation scheme do not need to be paid until the benefit becomes payable. Similarly, the default arrangements for such schemes provide for the member spouse's benefit to be adjusted at the time of payment.

1.2 The Regulations do, however, allow for a split to be brought to an end prior to the payment of benefits through the creation of a new interest for a non-member spouse of at least the base amount (adjusted, where appropriate). This is designed to facilitate the 'clean break' approach to family law splits of superannuation. The Commonwealth has taken the view that this principle should be adopted in relation to its own superannuation schemes.

1.3 The two instruments that establish the framework for creating new interests and adjusting members' benefits for the military superannuation schemes are:

- the Superannuation Legislation Amendment (Family Law and Other Matters) Act 2004, which made the necessary changes to the MSBS Act; and
- the Military Superannuation and Benefits Amendment Trust Deed 2004, which made the changes to the Scheme Rules;

1.4 The broad process which applies when a splitting order or agreement is received by ComSuper has three steps:

- determine the transfer amount
- determine the benefits for the associate interest
- determine the reduction in the member spouse benefit

1.5 The following sections deal with each of these elements in turn. The appendix to the report includes a number of examples of how the methods will operate in practice.

2 Determining the Transfer Amount

- 2.1 A splitting order or agreement will specify either a base amount or a splitting percentage.
- 2.2 Regulation 14G of the Regulations establishes the minimum value of a new interest created to satisfy the non member spouse entitlement as:
- the base amount, if the order or agreement specifies a base amount and the interest is created at the operative time;
 - the adjusted base amount, if the order or agreement specifies a base amount and the interest is created at time later than the operative time; or
 - if a splitting percentage is specified, that splitting percentage multiplied by the value that would be calculated under Part 5 of the Regulations at the time the interest is created.
- 2.3 The rules being implemented for the military superannuation schemes go further than this by comparing the scheme value against the family law value and pro-rating up the minimum value by the ratio of the two values if the scheme value is greater. The result of this calculation is the transfer amount.
- 2.4 In this context, the family law value is defined in rule 89 of the MSBS Rules as the amount which would be calculated as the value under the Regulations if the relevant date were the date on which the operative time occurs. This means that the gross value of the interest must be calculated using the scheme specific methodologies for the relevant type of interest and the scheme specific factors appropriate to the circumstances of the member at the operative time. The gross value of the interest is then reduced by the amount of any surcharge debt as stated in the most recent member information statement.
- 2.5 Note that the scheme specific factors for family law purposes are derived using the economic assumptions established by the Attorney-General's department for the purposes of calculating the default factors, together with the demographic assumptions taken from the 1999 Report on Long Term Costs (the LTCR). These latter assumptions cover the exit experience of contributory members, mortality experience of pensioners and commutation assumptions.
- 2.6 The method of calculating the scheme value is prescribed in Rule 98 of the MSBS Rules as the family law value methodology, with the exception that the scheme specific factors are replaced by the scheme value factors. The scheme value

factors have been provided separately. Again, any surcharge debt as reported in the most recent member information statement will need to be deducted from the gross value determined using the scheme specific methods and scheme value factors.

- 2.7 The scheme value factors have been calculated by Australian Government Actuary (AGA) using an identical methodology to that adopted for the scheme specific factors but incorporating the assumptions (both demographic and economic) from the 2002 LTCR. The use of a lower discount rate in the LTCR than that prescribed for family law purposes (6% versus 6.5%) and the incorporation of promotional salary increases have the most significant impact and result in an increase in virtually all factors. Changes in some exit assumptions and pensioner mortality rates have a second order effect. The 1999 and 2002 long term cost reports have a fairly detailed description of the assumptions adopted.
- 2.8 In most cases, therefore, the scheme value is higher than the family law value and the transfer value is commensurately higher than the base amount. Note that where the member spouse has only an associate benefit entitlement, both the family law and scheme values will be the account balance, since these benefits are accumulation interests.
- 2.9 In practical terms, the process of calculating the transfer value is the same for all splits and works as follows:
- (i) calculate the family law value of the member spouse interest;
 - (ii) calculate the scheme value of the member spouse interest;
 - (iii) if the scheme value of the interest greater than the family law value go to step v, otherwise go to step iv;
 - (iv) if the order or agreement provides for a base amount split, the transfer amount is the base amount. Otherwise, the transfer amount is the family law value times the splitting percentage;
 - (v) if the order or agreement provides for a base amount split, the transfer amount is the base amount in whole dollars (disregarding any cents) multiplied by the scheme value and divided by the family law value in whole dollars. Otherwise, the transfer amount is the scheme value times the splitting percentage;
- 2.10 The transfer amount forms the basis of both the associate interest created for the non-member spouse and the reduction of member spouse benefits.

3 Determining the Benefits for the Associate Interest

- 3.1 The form which the associate interest takes depends upon whether the member spouse is in the payment phase or the growth phase at the operative time.

Payment Phase (Pension) Interests

- 3.2 If the member spouse is in the payment phase, the associate interest takes the form of an associate pension (see Rule 95 of the MSBS Rules).

- 3.3 Under Rule 99, the rate of the associate pension is determined as follows:

- (i) identify the transfer amount
- (ii) identify the single life indexed spouse pension factor that applies for the non member spouse's age and gender;
- (iii) divide the transfer amount by the pension factor to give the annual rate of associate pension.

- 3.4 There is an option for the non member spouse to commute the pension if the annual rate of pension is small (currently less than \$1,300 per annum). In this case, the non member spouse is entitled to receive a lump sum equal to the transfer amount.

Growth Phase Interests

- 3.5 Where the member spouse is in the growth phase at the operative time (that is, an active or deferred member), the associate interest is an accumulation interest in the MSBS.

- 3.6 The MSBS Rules provide for two types of associate benefits. An associate A benefit is held as units in an Investment Division of the MSBS Fund. An associate B benefit is a notional benefit which grows in line with movements in the long term bond rate. Both the associate A and associate B benefits are preserved in the MSBS until the non-member spouse reaches his or her preservation age.

- 3.7 The split between associate A and associate B benefits is calculated as follows:

- (i) add together the funded member component, the unfunded member component and the funded employer component of the member spouse's benefit at the operative time;

- (ii) multiply the result of step (i) by the transfer value and divide by the sum of the scheme value and any surcharge debt to give the amount allocated to the associate A benefit;
- (iii) subtract the associate A benefit from the transfer amount to give the associate B benefit.

3.8 It is important to note that associate benefits are calculated on the assumption that the surcharge liability remains with the member spouse. In step (ii) described above, therefore, the denominator is the scheme value plus any surcharge debt. The surcharge debt used in the calculations is the amount of surcharge debt reported in the most recent member information statement.

3.9 Where the member spouse interest was an associate interest, the method is the same except that the amount identified in step (i) is the associate A benefit of the member spouse at the operative time.

4 Determining the Reduction in Member Spouse Benefits

4.1 The method of reduction of member spouse benefits varies depending upon whether the interest is in the growth phase or payment phase.

Payment Phase (Pension) Interests

4.2 If the member spouse is in the payment phase, the member spouse pension (and any associated spouse reversions that may become payable following remarriage) is reduced by the proportion that the transfer amount bears to the scheme value (see Rule 100 of the MSBS Rules).

4.3 The process is specified as having the following steps:

- (i) identify the annual rate of pension that was payable to the member spouse immediately before the operative time;
- (ii) calculate the reduction factor as $(\text{scheme value} - \text{transfer value}) / \text{scheme value}$;
- (iii) multiply the result of step (ii) by the pension identified in step (i) to give the annual rate of pension payable immediately after the operative time;

4.4 This calculation needs only to be done for the pension being paid to the member as reversionary pensions are a set proportion of the member spouse's pension.

- 4.5 Children's pensions or the component of a spouse's pension that reflects the presence of eligible children being paid at the operative time are not reduced. The treatment of such pensions which become payable in future is an issue that still needs to be resolved.

Growth Phase Interests

- 4.6 Rule 90(9) specifies that adjustment of benefits for members in the growth phase is to be made in accordance with benefit reduction factors and methodology developed and maintained by an actuary.
- 4.7 The rules which we have developed are closely modelled on the arrangements for payment phase members. That is, a reduction factor is calculated and applied to each component of the member's benefit immediately before the operative time.
- 4.8 The following steps should be followed:
- (i) identify each of the following elements of the member spouse's benefit immediately before the operative time: the funded member component; the unfunded member component; the benefit multiple (for active members); the unfunded employer component (for deferred members) and the funded employer component. For associate members, the relevant components are the associate A and associate B benefits
 - (ii) calculate the reduction factor as
$$\frac{\text{scheme value} + \text{surcharge debt} - \text{transfer amount}}{\text{scheme value} + \text{surcharge debt}}$$
 - (iii) multiply each of the values identified in step (i) by the reduction factor calculated in step (ii) to give the benefit entitlements (before any reductions for surcharge) immediately after the operative time;

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APPENDIX: Examples

The following examples show how the processes described in the report would work in a range of hypothetical situations. These scenarios (with the exception of the associate benefit member) are taken from the original application for scheme specific factors. They do not relate to real members and all of the benefit details have been made up.

The following scenarios are included:

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Note that the steps itemised in the examples refer back to the methods described in the body of the report.

As noted in paragraphs 2.4 and 2.6 of the report, both family law value and scheme value are net of any outstanding surcharge liability. That is, the gross value is calculated using the relevant valuation factors and then the surcharge liability, if any, is deducted from this value to give the family law or scheme value. Pensioner and associate members cannot have a surcharge debt. In examples 2 and 4, where surcharge debt is relevant but is assumed for the purposes of the example to be zero, this adjustment to the gross value has been shown in the calculations of family law and scheme values as a ‘ – 0’

Rounding

The definition of the transfer amount in the in Rule 89 of the MSBS Rules requires both the base amount and the family law value (but not the scheme value) to be expressed in whole dollars (that is, disregarding any cents) for the purposes of calculating the transfer amount when there is a base amount split and the scheme value is greater than the family law value.

There is no other prescription of the rounding conventions to be used in the adjustment process. The following conventions have been adopted:

- reduction factors have been calculated to six decimal places;
- dollar amounts have been calculated to two decimal places, but truncated to whole dollars where required for determining the transfer amount; and
- benefit multiples have been calculated to eight decimal places.

Example 1: MSBS Pensioner

Scenario

At the relevant date, the pensioner was aged exactly 60 with an annual pension of \$20,000.

The family law value at the relevant date was calculated as:

$$20,000 \times 14.3115 + .67 \times 20,000 \times 0.4622$$
$$= \$292,423.48$$

The court has awarded the non member spouse a percentage split of 40% with the operative time being exactly one year after the relevant date. The pension has been indexed over the intervening period and is now paid at the rate of \$20,500 per annum. The non member spouse is aged exactly 57 at the operative time.

Determination of the Transfer Amount

Step (i): Calculate the family law value at the operative time.

Male single life factor at 61 13.9413

Male reversion factor at 61 0.4708

$$\text{Family law value} = 20,500 \times 13.9413 + .67 \times 20,500 \times 0.4708$$
$$= \$292,263.09$$

Step (ii): Calculate the scheme value at the operative time.

Male single life factor at 61 14.8033

Male reversion factor at 61 0.5202

$$\text{Scheme value} = 20,500 \times 14.8033 + .67 \times 20,500 \times 0.5202$$
$$= \$310,612.60$$

Step (iii): The scheme value is greater than the family law value so go to step (v).

Step (v): The order specifies a splitting percentage, so calculate the transfer amount as the splitting percentage times the scheme value.

$$\begin{aligned}\text{Transfer amount} &= \$310,612.60 \times 0.4 \\ &= \$124,245.04\end{aligned}$$

Determining the Benefits for the Associate Benefit Interest (Payment Phase)

Step (i) The transfer amount has been calculated as \$124,245.04.

Step (ii): The female single life factor at 57 is 18.3062.

Step (iii): Calculate the amount of the associate pension as the transfer amount divided by the scheme value pension factor for the non member spouse.

$$\begin{aligned}\text{Associate pension} &= 124,245.04 / 18.3062 \\ &= \$6,787.05 \text{ per annum}\end{aligned}$$

This exceeds the limit set for commutation of small pensions so there is no option for the non member spouse to commute the pension.

Determining the Reduction in Member Spouse Benefits (Payment Phase)

Step (i): The annual rate of pension payable to the member spouse immediately before the operative time was \$20,500.

Step (ii): Calculate the reduction factor to apply to the member spouse as (scheme value – transfer value)/scheme value.

$$\begin{aligned}\text{Reduction factor} &= \frac{310,612.60 - 124,245.04}{310,612.60} \\ &= 0.600000\end{aligned}$$

Step (iii): Apply the reduction factor to the member spouse's pension to give the annual rate of pension payable after the operative time in respect of the member spouse's interest.

$$\begin{aligned}\text{Pension payable} &= \$20,500 \times 0.600000 \\ &= \$12,300.00 \text{ per annum}\end{aligned}$$

Example 2: MSBS Deferred Benefit Member

Scenario

At the relevant date the member was a former Other Rank, male aged exactly 35 with a nominal Preserved Benefit of \$29,000 (\$7,000 Fund earning rate component and \$22,000 CPI linked) with no Member Account. The member had no surcharge debt.

The family law value at the relevant date was calculated as:

$$7,000 \times 1.2132 + 22,000 \times 0.5642 - 0$$

$$= \$20,904.10$$

The court has awarded the non-member spouse a base amount of \$10,000 with the operative time being six months after the relevant date. Over that period the funded component has grown to \$7,210 and the unfunded component to \$22,275.

Determination of the Transfer Amount

Step (i): Calculate the family law value at the operative time using the relevant family law factors.

FDB Factor at 35 1.2132

FDB Factor at 36 1.2122

FDB Factor at 35.5 1.2127

UDB Factor at 35 0.5642

UDB Factor at 36 0.5857

UDB Factor at 35.5 0.5750

$$\text{Family law value} = 7,210 \times 1.2127 + 22,275 \times 0.5750 - 0$$

$$= \$21,551.69$$

Step (ii): Calculate the scheme value at the operative time using the relevant scheme value factors

FDB Factor at 35 1.3240

FDB Factor at 36 1.3227

FDB Factor at 35.5 1.3234

UDB Factor at 35 0.6765

UDB Factor at 36 0.6989

UDB Factor at 35.5 0.6877

$$\begin{aligned}\text{Scheme value} &= 7,210 \times 1.3234 + 22,275 \times 0.6877 - 0 \\ &= \$24,860.23\end{aligned}$$

Step (iii): The scheme value is greater than the family law value so go to step (v).

Step (v): Calculate the transfer amount as the scheme value times the base amount in whole dollars (disregarding any cents) divided by the family law value in whole dollars.

$$\begin{aligned}\text{Transfer amount} &= 24,860.23 \times \frac{10,000}{21,551} \\ &= \$11,535.53\end{aligned}$$

Determining the Benefits for the Associate Benefit Interest (MSBS Growth Phase)

Step (i): Add together the funded member component, the unfunded member component and the funded employer component at the operative time.

$$= 0 + 0 + 7,210$$

$$= \$7,210$$

Step (ii): Calculate the Associate A benefit as amount identified in step (i) multiplied by the transfer amount divided by the sum of the scheme value and the surcharge debt account.

$$\begin{aligned}\text{Associate A benefit} &= 7,210 \times \frac{11,535.53}{24,860.23} \\ &= \$3,345.55\end{aligned}$$

Step (iii): Calculate the Associate B benefit as the transfer amount less the associate A benefit.

$$\begin{aligned}\text{Associate B benefit} &= 11,535.53 - 3,345.55 \\ &= \$8,189.98\end{aligned}$$

Determining the Reduction in Member Spouse Benefits (MSBS Growth Phase)

Step (i): Identify the elements of the member spouse's benefit immediately before the operative time.

$$\text{Funded member component} = \$0$$

$$\text{Unfunded member component} = \$0$$

$$\text{Funded employer component} = \$7,210$$

$$\text{Unfunded employer component} = \$22,275$$

Step (ii) Calculate the reduction factor to apply to the member spouse as:

$$\frac{\text{scheme value} + \text{surcharge debt} - \text{transfer amount}}{\text{scheme value} + \text{surcharge debt}}$$

$$\begin{aligned}\text{Reduction factor} &= \frac{24,860.23 + 0 - 11,535.53}{24,860.23 + 0} \\ &= 0.535985\end{aligned}$$

Step (iii): Apply the reduction factor to each element of the member spouse's benefit to give the reduced benefit.

$$\begin{aligned}\text{Funded employer component} &= 7,210 \times 0.535985 \\ &= \$3,864.45\end{aligned}$$

$$\begin{aligned}\text{Unfunded employer component} &= 22,275 \times 0.535985 \\ &= \$11,939.07\end{aligned}$$

Example 3: MSBS Contributory Member Aged Over 55

Scenario

At the relevant date the member was a male officer aged exactly 56 with an accrued benefit multiple of 5.4, a final average salary of \$60,000 and a member account of \$140,000, of which \$80,000 is unfunded. He has a surcharge debt account of \$5,000.

The family law value at the relevant date was calculated as:

$$\begin{aligned} &5.4 \times 60,000 \times 1.2510 + 140,000 - 5,000 \\ &= \$540,324.00 \end{aligned}$$

The court has awarded the non-member spouse a base amount of \$200,000 with the operative time being exactly one year after the relevant date. Over that period, the accrued benefit multiple has increased to 5.68, the member spouse's final average salary has increased to \$62,500 and the member account has grown to \$153,000, of which \$87,428.57 is unfunded. The employer funded benefit at the operative time is \$40,000 and the surcharge debt account is \$6,500 (as shown on the most recent Member Information Statement).

Determination of the Transfer Amount

Step (i): Calculate the family law value at the operative time using the relevant family law factors.

FDB Factor at 57	1.2466
Family law value	$= 5.68 \times 62,500 \times 1.2466 + 153,000 - 6,500$
	$= \$589,043.00$

Step (ii): Calculate the scheme value at the operative time using the relevant scheme value factors.

FDB Factor at 57	1.3105
Scheme value	$= 5.68 \times 62,500 \times 1.3105 + 153,000 - 6,500$
	$= \$611,727.50$

Step (iii): The scheme value is greater than the family law value so go to step (v).

Step (v): Calculate the transfer amount as the scheme value times the base amount in whole dollars (disregarding any cents) divided by the family law value in whole dollars.

$$\begin{aligned}\text{Transfer amount} &= 611,727.50 \times \frac{200,000}{589,043} \\ &= \$207,702.15\end{aligned}$$

Determining the Benefits for the Associate Benefit Interest (MSBS Growth Phase)

Step (i): Add together the funded member component, the unfunded member component and the funded employer component at the operative time.

$$\begin{aligned}&= 153,000 + 0 + 40,000 \\ &= \$193,000\end{aligned}$$

Step (ii): Calculate the Associate A benefit as amount identified in step (i) multiplied by the transfer amount divided by the sum of the scheme value and any surcharge debt.

$$\begin{aligned}\text{Associate A benefit} &= 193,000 \times \frac{207,702.15}{611,727.50 + 6,500.00} \\ &= 64,841.04\end{aligned}$$

Step (iii): Calculate the Associate B benefit as the transfer amount less the associate A benefit.

$$\begin{aligned}\text{Associate B benefit} &= 207,702.15 - 64,841.04 \\ &= \$142,861.11\end{aligned}$$

Determining the Reduction in Member Spouse Benefits (MSBS Growth Phase)

Step (i): Identify the elements of the member spouse's benefit immediately before the operative time.

$$\text{Funded member component} = \$65,571.43$$

$$\text{Unfunded member component} = \$87,428.57$$

Funded employer component = \$40,000.00

Accrued benefit multiple = 5.68

Step (ii) Calculate the reduction factor to apply to the member spouse as:

$$\frac{\text{scheme value} + \text{surcharge debt} - \text{transfer amount}}{\text{scheme value} + \text{surcharge debt}}$$

$$\text{Reduction factor} = \frac{611,727.50 + 6,500.00 - 207,702.15}{611,727.50 + 6,500.00}$$

$$= 0.664036$$

Step (iii): Apply the reduction factor to each element of the member spouse's benefit identified in step (i).

$$\text{Accrued benefit multiple} = 5.68 \times 0.664036$$

$$= 3.77172448$$

$$\text{Funded member benefit} = 87,428.57 \times 0.664036$$

$$= \$58,055.72$$

$$\text{Unfunded member benefit} = 65,571.43 \times 0.664036$$

$$= 43,541.79$$

$$\text{Funded employer benefit} = 40,000 \times 0.664036$$

$$= \$26,561.44$$

Example 4: MSBS Contributory Member Aged Less Than 55

Scenario

At the relevant date the member was a female other rank aged exactly 34 with exactly 10 years service. Her accrued benefit multiple was 1.95, her final average salary was \$41,000, her employer funded component was \$12,240 and her funded member account of \$24,000. She had no unfunded member account or surcharge debt.

The family law value at the relevant date was calculated as:

$$1.95 \times 41,000 \times 0.6332 + 12,240 \times 0.4864 + 24,000 - 0$$
$$= \$80,577.88$$

The court has awarded the non-member spouse a base amount of \$20,000 with the operative time being exactly one year after the relevant date. Over that period, the accrued benefit multiple has increased to 2.18, the member spouse's final average salary has increased to \$43,000, the employer funded benefit is \$14,400 and the funded member account has grown to \$27,500.

Determination of the Transfer Amount

Step (i): Calculate the family law value at the operative time using the relevant family law factors.

EB Factor at 35 with 11 years service 0.6609

FE Factor at 35 with 11 years service 0.4451

$$\text{Family law value} = 2.18 \times 43,000 \times 0.6609 + 14,400 \times 0.4451 + 27,500 - 0$$
$$= \$95,862.21$$

Step (ii): Calculate the scheme value at the operative time using the relevant scheme value factors.

EB Factor at 35 with 11 years service 0.8495

FE Factor at 35 with 11 years service 0.4749

$$\text{Scheme value} = 2.18 \times 43,000 \times 0.8495 + 14,400 \times 0.4749 + 27,500 - 0$$

$$= \$113,970.69$$

Step (iii): The scheme value is greater than the family law value so go to step (v).

Step (v): Calculate the transfer amount as the scheme value times the base amount in whole dollars (disregarding any cents) divided by the family law value in whole dollars.

$$\text{Transfer amount} = 113,970.69 \times \frac{20,000}{95,862}$$

$$= \$23,778.07$$

Determining the Benefits for the Associate Benefit Interest (MSBS Growth Phase)

Step (i): Add together the funded member component, the unfunded member component and the funded employer component at the operative time.

$$= 27,500 + 0 + 14,400$$

$$= \$41,900$$

Step (ii): Calculate the Associate A benefit as amount identified in step (i) multiplied by the transfer amount divided by the sum of the scheme value and any surcharge debt.

$$\text{Associate A benefit} = 41,900 \times \frac{23,778.07}{113,970.69 + 0}$$

$$= \$8,741.73$$

Step (iii): Calculate the Associate B benefit as the transfer amount less the associate A benefit.

$$\text{Associate B benefit} = 23,778.07 - 8,741.73$$

$$= \$15,036.34$$

Determining the Reduction in Member Spouse Benefits (MSBS Growth Phase)

Step (i): Identify the elements of the member spouse's benefit immediately before the operative time.

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Funded member component = \$27,500

Unfunded member component = \$0

Funded employer component = \$14,400

Accrued benefit multiple = 2.18

Step (ii) Calculate the reduction factor to apply to the member spouse as:

$$\frac{\text{scheme value} + \text{surcharge debt} - \text{transfer amount}}{\text{scheme value} + \text{surcharge debt}}$$

$$\begin{aligned}\text{Reduction factor} &= \frac{113,970.69 + 0 - 23,778.07}{113,970.69 + 0} \\ &= 0.791367\end{aligned}$$

Step (iii): Apply the reduction factor to each element of the member spouse's benefit to give the reduced benefit.

$$\begin{aligned}\text{Accrued benefit multiple} &= 2.18 \times 0.791367 \\ &= 1.72518006\end{aligned}$$

$$\begin{aligned}\text{Funded member benefit} &= 27,500 \times 0.791367 \\ &= \$21,762.59\end{aligned}$$

$$\begin{aligned}\text{Funded employer benefit} &= 14,400 \times 0.791367 \\ &= \$11,395.68\end{aligned}$$

Example 5: MSBS Contributory Member Aged Less Than 55 with a Preserved Benefit from Previous Membership

Scenario

At the relevant date the member was a male officer aged exactly 52 with exactly 2 years service in respect of the current period of membership. His accrued benefit multiple was 0.56 and his final average salary was \$90,000. His employer funded component in respect of the current period of membership was \$5,800 and his funded member account was \$9,800. He also had a preserved benefit comprising \$20,000 in funded employer benefits, \$540,000 in unfunded employer benefits and \$120,000 in member benefits, half of which was unfunded. He had a surcharge debt of \$8,500 based on the last information statement. The surcharge debt is in relation to both the current and previous periods of membership.

The family law value at the relevant date was calculated as:

$$0.56 \times 90,000 \times 1.1980 + 5,800 \times 0.0079 + 9,800 + 20,000 \times 1.2908 + 540,000 \times 1.1508 + 120,000 - 8,500$$

$$= \$828,973.02$$

The court has awarded the non-member spouse a base amount of \$400,000 with the operative time being exactly one year after the relevant date. Over that period, the accrued benefit multiple has increased to 0.84, the member spouse’s final average salary has increased to \$93,000, the employer funded benefit is \$9,100 and the funded member account has grown to \$15,400. His preserved benefit has also increased and now comprises \$21,500 in funded employer benefits, \$556,000 in unfunded employer benefits and \$129,000 in member benefits, of which half is unfunded. His surcharge debt has grown to \$13,000, again based on the last member information statement.

Determination of the Transfer Amount

Step (i): Calculate the family law value at the operative time using the relevant family law factors.

EB Factor at 53 with 3 years service 1.2175

FE Factor at 53 with 3 years service 0.0033

FDB Factor at 53 1.2790

UFDB Factor at 53 1.1847

$$\begin{aligned}\text{Family law value} &= 0.84 \times 93,000 \times 1.2175 + 9,100 \times 0.0033 + 15,400 + 21,500 \times 1.2790 + \\ &\quad 556,000 \times 1.1847 + 129,000 - 13,000 \\ &= \$912,732.83\end{aligned}$$

Step (ii): Calculate the scheme value at the operative time using the relevant scheme value factors.

EB Factor at 53 with 3 years service 1.3590

FE Factor at 53 with 3 years service 0.0033

FDB Factor at 53 1.3484

UFDB Factor at 53 1.2609

$$\begin{aligned}\text{Family law value} &= 0.84 \times 93,000 \times 1.3590 + 9,100 \times 0.0033 + 15,400 + 21,500 \times 1.3484 + \\ &\quad 556,000 \times 1.2609 + 129,000 - 13,000 \\ &= \$967,646.11\end{aligned}$$

Step (iii): The scheme value is greater than the family law value so go to step (v).

Step (v): Calculate the transfer amount as the scheme value times the base amount in whole dollars (disregarding the cents) divided by the family law value in whole dollars.

$$\begin{aligned}\text{Transfer amount} &= 967,646.11 \times \frac{400,000}{912,732} \\ &= \$424,065.82\end{aligned}$$

Determining the Benefits for the Associate Benefit Interest (MSBS Growth Phase)

Step (i): Add together the funded member components (both in respect of the current and previous memberships), the unfunded member component and the funded employer component (again in respect of both the current and previous memberships) at the operative time.

$$= 15,400 + 64,500 + 64,500 + 9,100 + 21,500$$

$$= \$175,000$$

Step (ii): Calculate the Associate A benefit as amount identified in step (i) multiplied by the transfer amount divided by the sum of the scheme value and any surcharge debt.

$$\begin{aligned}\text{Associate A benefit} &= 175,000 \times \frac{424,065.82}{967,646.11 + 13,000} \\ &= \$75,676.15\end{aligned}$$

Step (iii): Calculate the Associate B benefit as the transfer amount less the associate A benefit.

$$\begin{aligned}\text{Associate B benefit} &= 424,065.82 - 75,676.15 \\ &= \$348,389.67\end{aligned}$$

Determining the Reduction in Member Spouse Benefits (MSBS Growth Phase)

Step (i): Identify the elements of the member spouse's benefit immediately before the operative time.

Current Membership

$$\begin{aligned}\text{Funded member component} &= \$15,400 \\ \text{Unfunded member component} &= \$0 \\ \text{Funded employer component} &= \$9,100 \\ \text{Accrued benefit multiple} &= 0.84\end{aligned}$$

Preserved Membership

$$\begin{aligned}\text{Funded member component} &= \$64,500 \\ \text{Unfunded member component} &= \$64,500 \\ \text{Funded employer component} &= \$21,500 \\ \text{Unfunded employer component} &= \$556,000\end{aligned}$$

Step (ii) Calculate the reduction factor to apply to the member spouse as:

$$\frac{\text{scheme value} + \text{surcharge debt} - \text{transfer amount}}{\text{scheme value} + \text{surcharge debt}}$$

$$\begin{aligned}\text{Reduction factor} &= \frac{967,646.11 + 13,000 - 424,065.82}{967,646.11 + 13,000} \\ &= 0.567565\end{aligned}$$

Step (iii): Apply the reduction factor to each element of the member spouse's benefit to give the reduced benefit.

Current Membership

$$\begin{aligned}\text{Accrued benefit multiple} &= 0.84 \times 0.567565 \\ &= 0.47675460\end{aligned}$$

$$\begin{aligned}\text{Funded member benefit} &= 15,400 \times 0.567565 \\ &= \$8,740.50\end{aligned}$$

$$\begin{aligned}\text{Funded employer benefit} &= 9,100 \times 0.567565 \\ &= \$5,164.84\end{aligned}$$

Preserved Membership

$$\begin{aligned}\text{Funded member component} &= 64,500 \times 0.567565 \\ &= \$36,607.94\end{aligned}$$

$$\begin{aligned}\text{Unfunded member component} &= 64,500 \times 0.567565 \\ &= \$36,607.94\end{aligned}$$

$$\begin{aligned}\text{Funded employer component} &= 21,500 \times 0.567565 \\ &= \$12,202.65\end{aligned}$$

$$\begin{aligned}\text{Unfunded employer component} &= 556,000 \times 0.567565 \\ &= \$315,566.14\end{aligned}$$

Example 6: MSBS Associate Member

Scenario

The non-member spouse of the previous example was a male who subsequently remarried. His interest in the scheme at the operative time of the original divorce was an associate A benefit of \$8,741.71 and an associate B benefit of \$15,036.31. Ten years later, he is divorcing his new spouse. Note that an associate member will not have any surcharge debt associated with their benefit.

At the relevant date for his second divorce, his associate A benefit has grown to \$17,196.27 and his associate B benefit has grown to \$23,608.37. These benefits will both be accumulation benefits for family law purposes so the family law value and scheme value will be \$40,804.64.

The court awards the new non-member spouse \$25,000 at the operative time which is six months after the relevant date. By the operative time, the associate A benefit is \$17,746.35 and the associate B benefit is \$23,306.30.

Determination of the Transfer Amount

Step (i) Calculate the family law value of the member spouse interest. The member spouse interest is an accumulation interest so the family law value is the sum of the associate A and associate B benefits.

Family law value = \$41,052.65

Step (ii) Calculate the scheme value of the interest. This is the same as the family law value.

Step (iii): The scheme value is not greater than the family law value so go to step (iv).

Step (iv): The order specifies a base amount, so the transfer value is the base amount of \$25,000.

Determining Benefits for the Associate Benefit Interest (MSBS Growth Phase)

Step (i): Identify the associate A benefit of the member spouse at the operative time as \$17,746.35.

Step (ii): Calculate the Associate A benefit as the amount identified in step (i) multiplied by the transfer amount divided by the sum of the scheme value and any surcharge debt.

$$\begin{aligned}\text{Associate A benefit} &= 17,746.35 \times \frac{25,000}{41,052.65 + 0} \\ &= \$10,807.07\end{aligned}$$

Step (iii): Calculate the Associate B benefit as the transfer amount less the associate A benefit.

$$\begin{aligned}\text{Associate B benefit} &= 25,000.00 - 10,807.07 \\ &= \$14,192.93\end{aligned}$$

Determining the Reduction in Member Spouse Benefits (MSBS Growth Phase)

Step (i): Identify the elements of the member spouse's benefit immediately before the operative time.

$$\text{Associate A benefit} = \$17,746.35$$

$$\text{Associate B benefit} = \$23,306.30$$

Step (ii) Calculate the reduction factor to apply to the member spouse as:

$$\begin{aligned}\text{Reduction factor} &= \frac{\text{scheme value} + \text{surcharge debt} - \text{transfer amount}}{\text{scheme value} + \text{surcharge debt}} \\ &= \frac{41,052.65 + 0 - 25,000}{41,052.65 + 0} \\ &= 0.391026\end{aligned}$$

Step (iii): Apply the reduction factor to each element of the member spouse's benefit to give the reduced benefit.

$$\begin{aligned}\text{Associate A benefit} &= 17,746.35 \times 0.391026 \\ &= \$6,939.28\end{aligned}$$

$$\begin{aligned}\text{Associate B benefit} &= \$23,306.30 \times 0.391026 \\ &= \$9,113.37\end{aligned}$$