

"25.(1) In this section, "marriage breakdown" means divorce or separation "separation" means the separation of two persons who are spouses of each other.

(2) Notwithstanding section 18 and subject to this section, pension benefits or pension benefit credits shall be divided between the member and the member's spouse in accordance with subsections (3) to (8).

(3) Where a pension benefit is payable to a member under the plan at the time the marriage breakdown occurs,

(a) a pension benefit, the present value of which is equal to one-half of the present value of so much of the pension benefit payable to the member as is attributable to membership in the plan during the period that the marriage existed before the marriage breakdown, shall be payable to the spouse as of the date of the marriage breakdown; and

(b) the pension benefit payable to the member shall be reduced accordingly.

(4) Where the member is entitled to a deferred pension benefit under the plan at the time the marriage breakdown occurs,

(a) the spouse shall be entitled to a deferred pension benefit, the present value of which is equal to one-half of the present value of so much of the deferred pension benefit to which the member is entitled as is attributable to membership in the plan during the period referred to in paragraph 3(a); and

(b) any pension benefit that becomes payable to the member under the plan at any time after the marriage breakdown occurs shall be reduced accordingly.

(5) Where the deferred pension benefit referred to in subsection (4) becomes payable to the member, the spouse's deferred pension benefit shall become payable as a pension benefit in accordance with the terms and conditions of the plan on the later of,

(a) the day on which the pension benefit becomes payable to the member; and

(b) the day on which the spouse attains the age at which an employee becomes eligible for an immediate pension benefit under the plan; provided that the spouse is alive on the later of these two days.

(6) Where a member who is entitled to deferred pension benefit referred to in subsection (4) dies before the benefit becomes payable, the spouse's deferred pension benefit shall become payable as a pension benefit in accordance with the terms and conditions of the plan on the later of,

(a) the day on which the member would have become eligible for an immediate pension benefit under the plan; and

(b) the day on which the spouse attains the age described in paragraph 5(b), provided that the spouse is alive on the later of these two days.

(7) Where neither subsection (3) or (4) applies but the member would have been entitled to an immediate pension benefit or a deferred pension benefit if the member's service under the plan had been terminated at the time the marriage breakdown occurred, for the purpose only of making the division pursuant to this section,

(a) the member shall be deemed to have become entitled to a deferred pension benefit at the time the marriage breakdown occurred by reason of termination of his service under plan;

(b) the spouse shall be entitled to a deferred pension benefit, the present value of which is equal to one-half of the present value of so much of the deferred pension benefit to which the member is deemed to have become entitled as is attributable to membership in the plan during the period referred to in paragraph 3(a); and

(c) any pension benefit that becomes payable to the member under the plan at any time after the marriage breakdown occurs shall be reduced accordingly.

(8) The pension benefit referred to in paragraph 7(b) shall become payable to the spouse as a pension benefit payable in accordance with the terms and conditions of the plan,

(a) on the later of the two days described in paragraphs 5(a) and (b), where a benefit under the plan becomes payable to the member; or

(b) on the later of the two days described in paragraphs 6(a) and (b), where the member dies before he or she becomes entitled to an immediate pension benefit,

provided that in each case the spouse is alive on the later of the two days.

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(9) The provisions of section 18 and subsection 25 (3) to (8) are subject to the terms of any order of a court or an agreement between the member and the member's spouse."

Mr. Neil Young (Beaches) moved:

Motion No. 13

That Bill C-90, be amended in Clause 25 by striking out lines 33 and 34 at page 30 and substituting the following therefor:

"divorce, annulment, separation or the dissolution of a common-law relationship, be divided equally between spouses to reflect the pension credits earned during the period of the marriage or relationship unless the courts or the parties themselves determine otherwise."

Hon. Douglas C. Frith (Sudbury): Mr. Speaker, I wish to speak to Motion No. 12 because it involves an important principle.

In the May 1985 Budget, the Minister of Finance (Mr. Wilson) promised that pension benefits would be split equally between spouses upon marriage breakdown, unless the courts or the parties themselves determine otherwise. This has not been the case with Bill C-90. Instead, the Bill cedes jurisdiction to provincial matrimonial law.

As pointed out by the National Action Committee on the Status of Women, Bill C-90 makes credit splitting subject to the applicable provincial property law. This means that credit splitting will be uneven across the country. Ex-spouses will be entitled to some share in their spouses' pension credits in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia and Newfoundland.

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In New Brunswick, they will have uncertain rights, and in Quebec and Prince Edward Island, they have no rights to the credit splitting at all.

That is why Motion No. 12 is there, to establish the principle that in private pension areas that fall within federal jurisdiction, there should be a mandatory splitting so that the spouses can have equal access to the pension credits.

Mr. Neil Young (Beaches): Mr. Speaker, Motions Nos. 12 and 13 speak to the same matter. Very simply, we have just passed a Bill amending the Canada Pension Plan, which would provide for that kind of mandatory splitting. To be consistent, why the Government did not include that amendment in Bill C-90 escapes logic. In my remaining time, I would simply like to agree with the arguments that have been presented by the Hon. Member for Sudbury (Mr. Frith), based on strong arguments that the legislative committee heard from the National Action Committee on Women, and say that it would be the right thing to do.

Mr. McCrossan: Mr. Speaker, as the two Hon. Members have previously pointed out, earlier today, we entrenched credit splitting in the CPP Bill. This was negotiated with the provinces in late 1985. The basic package in the PBSA was put together in early 1985, and we did not have agreement at that time with respect to credit splitting, but we have given a verbal undertaking—and I will confirm it on the floor of the House