

Memorandum

To: Our Pension Clients
From: Pension Administration Department
Date: December 30, 2011



Re: New Marriage Breakdown Rules in Ontario

Executive Summary

The purpose of this memo is to inform our clients with registered pension plans that have members in Ontario of the new marriage breakdown rules and procedures that come into effect on January 1, 2012. The new regime involves a number of steps and forms. For your reference, we have provided a summary of the steps and forms; however, rest assured that we will guide our clients through the process when the time comes.

The first step when a member or former spouse contacts a Plan Administrator in regard to a marriage breakdown is to have them complete the FSCO Family Law Form 1 (and possibly Form 2 and Form 3, depending on their circumstances). They should submit this form to the Plan Administrator, along with any required supporting documents, plus the payment of any required fees payable to the Plan Administrator (i.e. the corporation). Please forward all documents to ASI for processing.

Plan Administrators may charge a fee to plan members for this process. A maximum fee of \$200 may be charged if the pension plan provides DC benefits, \$600 if the plan provides DB benefits and \$800 if the plan provides a separate DB and DC benefits. These fees are doubled if two calculations are required when the member and/or former spouse provide two different separation dates (as indicated in Appendix A of Form 1).

Once ASI receives the completed Form 1 we will perform the required calculations and complete the appropriate Form 4 on behalf of the Plan Administrator. We will return a package to the client for review and signature before forwarding it onto the member and former spouse.

Once the member and the former spouse have finalized their marriage breakdown, there are a number of other potential steps regarding the division and settlement of the pension. These requests will be documented by the former spouse submitting Form 5, Form 6 or Form 7 to the Plan Administrator. Again, please forward all documents to ASI for processing.

Finally, clients should also consider the need to amend their pension plan documents to reflect these new marriage breakdown rule and procedures.

Purpose

The purpose of this memo is to inform our clients with registered pension plans that have members in Ontario of the new marriage breakdown rules and procedures that come into effect on January 1, 2012. Our understanding is that these new rules are not applicable to members outside of Ontario. We also understand that these rules, with appropriate modifications, may be applicable to Ontario members of supplemental pension plans (i.e. non-registered plans or SERPs) and plans registered in other provinces or federally; however, we encourage clients with SERPs or non-Ontario registered plans to review these rules to determine the applicability to their specific situation.

Recent Developments

The Government of Ontario recently introduced changes to the family law provisions of the Pension Benefits Act that will come into effect on January 1, 2012. These changes establish a new process for the valuation and division of pension assets following the breakdown of a spousal relationship. This new family law pension valuation and division regime requires the pension plan administrator to calculate the value of the pension, provide the opportunity for an immediate division of the pension, and mandates the use of Superintendent of Financial Services approved forms throughout the process.

The Financial Services Commission of Ontario (“FSCO”) has developed family law forms to be used in the various steps in the new regime. FSCO has also developed additional material related to the new regime, such as instructions for the Statements of Family Law Value forms, and questions and answers that will clarify transitional issues and other key requirements of this new regime.

Process Starting on January 1, 2012

The new regime involves a number of steps and forms. For your reference, the remainder of this section provides an overview of the steps and forms; however, rest assured that we will guide our clients through the process when the time comes.

Step 1 - The pension plan member or former spouse applies for the Family Law Value by filing an application with the Plan Administrator.

Form 1 is mandatory. Form 2 and Form 3 are only used if necessary.

FSCO Family Law Form 1 - Application for Family Law Value

- This form is used to request the Family Law Value of a pension from the Plan Administrator.
- To be completed by the pension plan member (active member, former member or retired member) and/or the spouse who was or is married to the pension member. (Note: common-law spouses of the pension plan member cannot use this form.)

making it simple™



FSCO Family Law Form 2 - Joint Declaration of Period of Spousal Relationship

- This form is used to jointly declare the starting date and separation date of the spousal relationship.
- To be jointly completed by the pension plan member (active member, former member or retired member) and his or her former spouse.

FSCO Family Law Form 3 - Contact Person Authorization

- This form is used to authorize a lawyer or another person to communicate with and receive information from the Plan Administrator about the calculation and division of the Family Law Value.
- To be completed by the pension plan member (active member, former member or retired member) and/or his or her former spouse.

Step 2(a) - The Plan Administrator advises the applicant if the application is incomplete.

Form 1A is only required if there are deficiencies with Form 1, 2 and/or 3.

FSCO Family Law Form 1A - Plan Administrator Request for Information/ Payment of Fee

- This form is used to provide information to the applicant identified in the Application for Family Law Value about missing information, required documents or the applicable fee.
- To be completed by the Plan Administrator.

Step 2(b) - If the application is complete, the Plan Administrator or its authorized agent or representative provides the statement of the Family Law Value using the form that applies.

The relevant Form 4 is prepared by the Plan Administrator based on the nature of the pension benefit (i.e. DB only, DC only, DB and DC) and the status of the plan member (i.e. active, deferred or retired).

Form 4 provides the value of the pension benefit for Family Law purposes and also provides details of the calculations, assumptions, pension plan provisions and the member data used for the calculations.

making it simple™



FSCO Family Law Form 4A - Statement of Family Law Value (Defined Contribution Benefit)

- This form applies to a pension plan member who, on the date he or she separated from his or her former spouse had:
 - (i) only a defined contribution benefit under the pension plan; or,
 - (ii) a benefit that is the greater of a defined contribution benefit or a defined benefit and the defined contribution benefit is the greater benefit.

FSCO Family Law Form 4B - Statement of Family Law Value (Active Plan Member with a Defined Benefit)

- This form applies to an active member who, on the date he or she separated from his or her former spouse had:
 - (i) only a defined benefit under the pension plan; or
 - (ii) a benefit that is the greater of a defined benefit or a defined contribution benefit and the defined benefit is the greater benefit.

FSCO Family Law Form 4C - Statement of Family Law Value (Active Plan Member with a Combination Benefit)

- This form applies to an active member who, on the date he or she separated from his or her former spouse, had a combination of a defined benefit and a defined contribution benefit.

FSCO Family Law Form 4D - Statement of Family Law Value (Former Plan Member with a Defined Benefit or a Combination Benefit)

- This form applies to a former (deferred vested) member who, on the date he or she separated from his or her former spouse had:
 - (i) only a defined benefit under the pension plan; or
 - (ii) a combination of a defined benefit and a defined contribution benefit.

FSCO Family Law Form 4E - Statement of Family Law Value (Retired Member with a Defined Benefit Pension)

- This form applies to a retired member who, on the date he or she separated from his or her former spouse, was receiving a pension from the pension plan.

Step 3 - The pension plan member and his or her former spouse determine how the Family Law Value is to be treated and get a court order, enter into a domestic contract or seek a family arbitration award.

This is a negotiation between the member and his or her former spouse. Their agreement must be documented by a court order, a domestic contract or a family arbitration award.

making it simple™



Step 4 - The former spouse of the member advises the Plan Administrator of the decision to divide or not to divide the Family Law Value.

If the decision is to divide the pension then either Form 5 (if the member is not retired) or Form 6 (if the member is retired) must be completed.

If the decision is to not divide the pension then Form 7 must be completed.

FSCO Family Law Form 5 - Application to Transfer the Family Law Value

- This form is used to request the transfer of the former spouse's share of the Family Law Value.
- To be completed by the former spouse of a pension plan member who received a Statement of Family Law Value (FSCO Family Law Form 4A, 4B, 4C or 4D) from the Plan Administrator.

FSCO Family Law Form 6 - Application to Divide a Retired Member's Pension

- This form is used to request the division of the retired member's pension.
- To be completed by the former spouse of a retired member who received a Statement of Family Law Value (FSCO Family Law Form 4E) from the Plan Administrator.

FSCO Family Law Form 7 - No Division of Family Law Value/Pension Assets

- This form is used to let the Plan Administrator know that the Family Law Value or pension assets (if a Family Law Value was not requested) will not be divided.
- To be jointly completed by the pension plan member (active member, former member or retired member) and his or her former spouse.

Fees

Plan Administrators may charge a fee to plan members for providing a Statement of Family Law Value. A maximum fee of \$200 may be charged if the pension plan provides DC benefits, \$600 if the plan provides DB benefits and \$800 if the plan provides a separate DB and DC benefits. These fees are doubled if two calculations are required when the member and former spouse provide two different separation dates.

Plan Documents and Communications

Clients are recommended to review the terms of their plans that address marriage breakdown and determine whether any amendments are required. Many plans include general language that benefits are to be divided in accordance with the Ontario Pension Benefits Act, in which case an amendment may not be needed. However, if the plan has very specific language based on the previous regime then an amendment may be needed. This also applies to other communication materials related to the plan (i.e. employee booklets).



Clients will also need to consider whether they want to amend their plans to permit the option for a non-member former spouse of a retiree to combine his or her survivor pension with the divided pension to receive a single life pension.

Next Steps

Clients should contact their pension administration contact (Scott or Dorota) when informed by a plan member or their (former) spouse of a marriage breakdown. We will provide you with direction on the proper forms to be completed by the member and spouse to begin the process.

Clients should also consider the need to amend their pension plan documents to reflect these new marriage breakdown rule and procedures.

As a reminder, Actuarial Solutions Inc. does not and cannot provide legal advice and we therefore suggest that our clients consider reviewing this correspondence with their legal counsel.

Please feel free to contact your consultant (Jason, Dean or Joe) if you would like to discuss any of the above.

making it simple™

