

# Dividing Pensions

For agreements signed on or after January 1, 2012

New rules for members and former members of the PSPP

Read this booklet if you were a member or a former member of the PSPP on your Family Law Valuation Date (i.e., your separation date from your former spouse), even if you have retired and started to receive a PSPP pension since that date.

## Your pension is an asset



Like your house, car, or bank account, your pension is an asset. And, in the event of a marriage breakdown it is considered 'family property', and it may be subject to division.

Spousal relationship breakdown is not easy for anyone. And the last thing you want to worry about is how it will affect your Public Service Pension Plan (PSPP) pension. The Ontario Pension Board (OPB) is here to help you understand what happens to your PSPP pension if your marriage were to end, and if you choose to assign a portion of your pension to your former spouse.

## What you need to know

Here are some things you need to know about dividing your PSPP pension:

- You are not obligated to divide your pension. It's up to you and your former spouse to decide how your family assets will be divided.
- Your former spouse may be entitled to share up to 50% of the value of the pension accrued during your relationship.
- If you think you would like to divide your pension, you need to get the Family Law Value of your pension. As the Administrator of the PSPP, OPB provides Family Law Values to clients of the PSPP, and also to their former spouses, and authorized contact persons.
- If you choose to divide your pension, this decision must be documented in your Settlement Instrument (court order, separation agreement, family arbitration award, or domestic contract).

## What you need to do

Please contact OPB if your spousal relationship ends to discuss the pension options and implications. In the meantime:

- Read this brochure thoroughly and review the information on our website at [OPB.ca](http://OPB.ca), in the section, [Separation or Divorce](#) (located in 'Current Members' under Changes in your life).
- To apply for the Family Law Value (FLV) of your pension, you or your former married spouse must send OPB a completed **Application for Family Law Value** (Family Law Form FL-1). For more information go to [page 5](#) of this document in the Frequently Asked Questions (FAQ) section.
- Provide OPB with a copy of your Settlement Instrument (court order, separation agreement, family arbitration award, or domestic contract)
- Read Dividing a pension – the major steps ([page 2](#)) to learn about the process and which forms you may need to complete

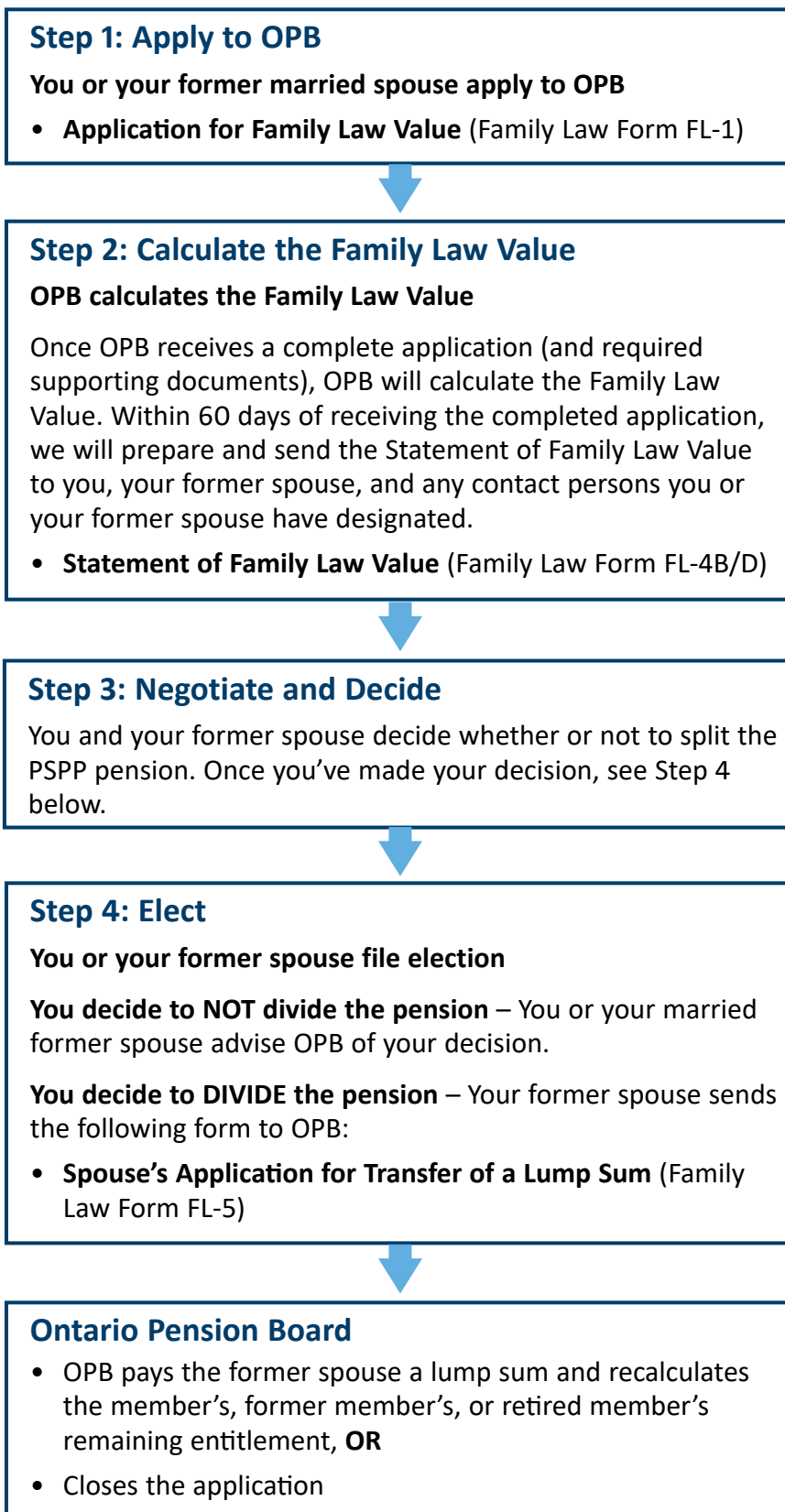
### About your personal information

Your privacy is important to us at OPB. Family law legislation requires your information to be shared with your former spouse and authorized persons identified by your former spouse. You and your former spouse (and any contact persons named as authorized contact persons) will be advised of the Family Law Value.

If you have any questions about the sharing of your information, contact OPB's Privacy Officer at 416-364-5035 or toll-free at 1-800-668-6203.

# Dividing a pension – the major steps

The diagram below provides an overview of the major steps involved for dividing a pension. The following pages provide an explanation of each of these steps.



**The Financial Services Regulatory Authority of Ontario (FSRA)** requires special forms that must be used in the division of pensions. We know this process may be confusing and we're here to help. Contact us if you have any questions.

**Family Law Value**

The portion of the pension accrued during the spousal relationship that may be transferred to your former spouse (see Glossary of Terms on [page 6](#) for more information).

**For more information**

OPB recommends that you consult with a family law lawyer if your spousal relationship is ending to learn about your options and rights.

For more information about pensions and spousal relationship breakdown, please visit:

- OPB's website at [OPB.ca](http://OPB.ca)
- FSRA's website at [fsrao.ca](http://fsrao.ca)

## Step 1: Apply to OPB

- **To apply for the Family Law Value** – you or your former married spouse send an **Application for Family Law Value** (Family Law Form FL-1) to OPB.

### Who can apply?

By law, only the following may apply for the Family Law Value of a pension entitlement in the PSPP:

- member, former member, or retired member of the PSPP
- married spouse or former married spouse of member, former member, or retired member of the PSPP
- persons acting on behalf of the above with Power of Attorney or as legal guardian

Note: Former common-law spouses cannot apply for a family law division, only the member, former member, or retired member can do so. See FAQ for details ([page 5](#)).

## Step 2: Calculate the Family Law Value

### Statement of Family Law Value

Once OPB receives a complete **Application for Family Law Value** (Family Law Form FL-1), accompanied by all required supporting documents, OPB will provide a Statement of Family Law Value to the member, former member or retired member, the former spouse, and their authorized contact persons (if any). We'll also let you know what the next steps are at this stage so that you know how to proceed.

The Statement of Family Law Value will provide the Family Law Value and the maximum amount that may be assigned and transferred to your former spouse, as well as details about how these amounts were calculated.

### Cost for providing Family Law Values

Legislation allows OPB to charge a processing fee of up to \$600 per application. OPB does not currently charge a fee to provide a Family Law Value.

## Step 3: Negotiate and decide

You and your former spouse decide whether or not to divide the Family Law Value and document your decision in your Settlement Instrument.

You and your former spouse may take as much time as you need to discuss and negotiate your options with respect to the pension division.

### About your Settlement Instrument

Before OPB can divide the pension, OPB must receive a copy of your Settlement Instrument (court order, separation agreement, family arbitration award or domestic contract) and it must address how to divide or not divide your pension.

## Step 4: Elect

### If you and your former spouse decide to NOT divide the pension

If you and your former spouse decide to NOT divide your PSPP pension, we ask that you advise OPB of your decision.

### If you and your former spouse decide to divide the pension

If you choose to divide the pension assets, your former spouse must file a **Spouse's Application for Transfer of a Lump Sum** (Family Law Form FL-5).

### When your pension is divided with your former spouse

Your spouse/former spouse must send OPB a **Spouse's Application for Transfer of a Lump Sum** (Family Law Form FL-5), to transfer their share of the Family Law Value to a locked-in retirement account (LIRA), a life income fund (LIF), or to another registered pension plan (RPP) as long as it is accepted by that plan.

## Additional required forms

Along with the **Spouse's Application for Transfer of a Lump Sum** your former spouse will also need to provide OPB with the following completed forms:

**Available on our website at [OPB.ca](https://www.opb.ca)**

- OPB 1048 – Locking-in Agreement for Funds Transferred from the PSPP to a LIRA/LIF

**Available on the Government of Canada website at [Canada.ca](https://www.canada.ca)**

- T2151 – Direct Transfer of a Single Amount under Subsection 147(19) or Section 147.3

OPB will let your former spouse know what other documents we may require.

Once OPB receives the appropriate forms and other required documents, OPB will pay your former spouse a lump sum.

We will then adjust your remaining pension entitlement to reflect the portion of your pension benefits that was transferred to your former spouse.

### Timelines

If you start receiving your PSPP pension before we receive a complete Spouse's Application for Transfer of a Lump Sum, your monthly pension will be reduced to account for the Family Law Value payment to your former spouse.

**Important:** If your pension benefits are transferred out of the PSPP or you die before we receive a completed Spouse's Application for Transfer of a Lump Sum, your benefits will no longer be available for division.

## When your pension is divided

### Considerations

1. The lump-sum entitlement from the PSPP cannot be paid directly to your former spouse – it must be transferred as a locked-in amount to a LIRA, LIF, or RPP.
2. Any amounts to be paid from the Retirement Compensation Arrangement (RCA), must be paid in cash (i.e., cannot be transferred to a LIRA, LIF, or RPP) and are subject to withholding taxes. See below for details.
3. Where your Settlement Instrument requires that a percentage of the Family Law Value be transferred to your former spouse, interest will be paid on the lump sum amount. Where your Settlement Instrument requires that a specific dollar amount be transferred, no interest will be payable unless your Settlement Instrument specifically requires that interest be added.

### Amounts from the Retirement Compensation Arrangement (RCA)

The federal *Income Tax Act* (ITA) limits the amount of pension you can build in the PSPP each year. Any pension benefits above the ITA limit are paid from the RCA, subject to certain conditions.

If any amount of the Family Law Value to be transferred to your former spouse is to be paid from the RCA, that amount will be subject to tax and paid in cash.

### Effect on your pension

If you and your former spouse agree to divide your pension, your pension entitlement will be adjusted to reflect the portion of your pension benefit that has been transferred to your former spouse. After the Family Law Value payment is made, OPB will send you additional information that shows in detail your adjusted pension amount.

### Important note about buybacks

Income tax rules do not allow you to buy back pension credit in the PSPP to replace the family law entitlements paid out to former spouses.

# Frequently Asked Questions (FAQ) about dividing pensions

## I'm separating. How much is my pension worth?

Specific rules apply for how the value of a pension for spousal relationship breakdown purposes is determined and these rules apply to agreements signed and dated on or after January 1, 2012.

The value of pension benefits on the breakdown of a spousal relationship will be calculated by OPB, the Administrator for the PSPP. You or your former married spouse can apply for a Family Law Value by sending OPB a complete **Application for Family Law Value** (Family Law Form FL-1) (see [page 3](#)). Once OPB receives all necessary documents, OPB will send you, your former spouse, and all authorized contact persons, a Statement of Family Law Value (Family Law Form FL-4B/D).

## Where can I get the forms I need?

- FSRA Family Law Forms can be downloaded from the FSRA website at [fsrao.ca](http://fsrao.ca). We also link to these forms on our website at [OPB.ca](http://OPB.ca).
- OPB forms can be downloaded from our website at [OPB.ca](http://OPB.ca).
- Canada Revenue Agency (CRA) forms can be downloaded from the Government of Canada website at [Canada.ca](http://Canada.ca).

## I'm a common-law spouse of a member, former member, or retired member of the PSPP. Can I apply for the Family Law Value (FLV)?

No. Common-law spouses cannot apply for the Family Law Value — the member, former member, or retired member may do so.

The *Family Law Act* treats married spouses differently from common-law spouses. Former married spouses have the right to divide the value of their family property, which includes pensions. Common-law spouses may agree to a pension division, but they do not have the same property division rights.

## What happens to insured benefits?

If you qualify for insured benefits in retirement, you may choose to cover your former spouse for as long as you and your former spouse remain legally married. If you and your former spouse divorce or were in a common-law relationship, the coverage for your former spouse must end. A member can only cover one spouse at a time.

## Are there limits to what can be paid?

Your former spouse may be entitled to up to 50% of the value of the pension accrued during your marriage. You are not obligated to divide your pension benefit. It's up to you and your former spouse to decide how your family assets will be divided.

If you choose to divide your pension, your former spouse's lump-sum entitlement cannot be paid directly to your former spouse, and must be transferred to a locked-in retirement account (LIRA), a life income fund (LIF), or to another registered pension plan (RPP) that agrees to accept the locked-in entitlement.

Any amount of your former spouse's entitlement payable from the RCA is taxable and is available only in cash, less withholding taxes.

## Can I buy back the family law entitlement after it is paid to my former spouse?

No. Income tax rules do not allow you to buy back pension credit in the PSPP to replace the family law entitlement paid out to your former spouse.

## Glossary of Terms

Here's a list of family law terms and definitions, which together with the Frequently Asked Questions, may answer most questions you may have.

**Family Law Value (FLV)** – The Family Law Value is the value of the pension accrued during the spousal relationship that may be divided between the former spouses.

**Family Law Valuation Date (FLVD)** – The Family Law Valuation Date (also known as the separation date) is the date when the spousal relationship ended and is key in determining the value of the pension assets for division.

**Former member** – A former member of the PSPP is an individual whose employment or PSPP membership has been terminated, who is entitled to a deferred pension or any other, who is entitled to benefits from the PSPP, and whose pension is not yet due to start.

**FSRA** – Financial Services Regulatory Authority of Ontario

**Life Income Fund (LIF)** – A LIF is a registered retirement income fund that holds pension funds to be paid out in retirement. You can begin receiving payments from a LIF as early as age 55. There are minimum and maximum limits to how much you can withdraw each year.

**Locked-in Retirement Account (LIRA)** – A LIRA is an investment account specifically designed to hold tax-sheltered funds transferred from a pension plan on a locked-in basis until at least age 55. To start receiving payments, you will have to convert your LIRA to a Life Income Fund (LIF), or purchase an immediate life annuity by no later than age 71. Once you start receiving payments, there are minimum and maximum limits to how much you can withdraw each year.

**Maximum entitlement** – Maximum entitlement is the maximum amount of the Family Law Value that may be assigned and transferred to the former spouse. The former spouse cannot be entitled to more than 50% of the Family Law Value, plus interest.

**Member** – An employee on whose behalf an employer makes contributions to the PSPP and who has not terminated employment or PSPP membership.

**Registered pension plan (RPP)** – A pension plan registered under the ITA.

If you are the former spouse and a member of an RPP, you may be able to transfer your full family law entitlement to your RPP as long as it is accepted by the other plan.

**Retired member** – A retired member of the PSPP is an individual who is receiving a PSPP pension or whose pension was due to start in the past.

**Spouse** – Either of two persons who are married to each other, or who are not married to each other but have been living together in a conjugal relationship:

- continuously for at least three years, or
- of some permanence, if they are the parents of a child as set out in section 4 of the *Children's Law Reform Act* (Ontario).