

Dividing Pensions

For agreements signed on or after January 1, 2012

New rules for Retired members of the PSPP

Read this booklet if you were a retired member of the PSPP on your Family Law Valuation Date (i.e., your separation date from your former spouse).

If you are now a retired member, but were a member or a former member on your Family Law Valuation Date, please read **Dividing pensions: For agreements signed on or after January 1, 2012 – New rules for members and former members of the PSPP**, available on our website.

Your pension is an asset



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

Spousal relationship breakdown is not easy for anyone. Ontario Pension Board (OPB) is here to help you understand what happens to your PSPP pension if your spousal relationship ends, and if you choose to divide your pension with 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 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 (e.g., 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, in the section, [Starting or ending a relationship in retirement](#) (located in 'Retired Members' under Relationship Changes in Retirement).
- 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

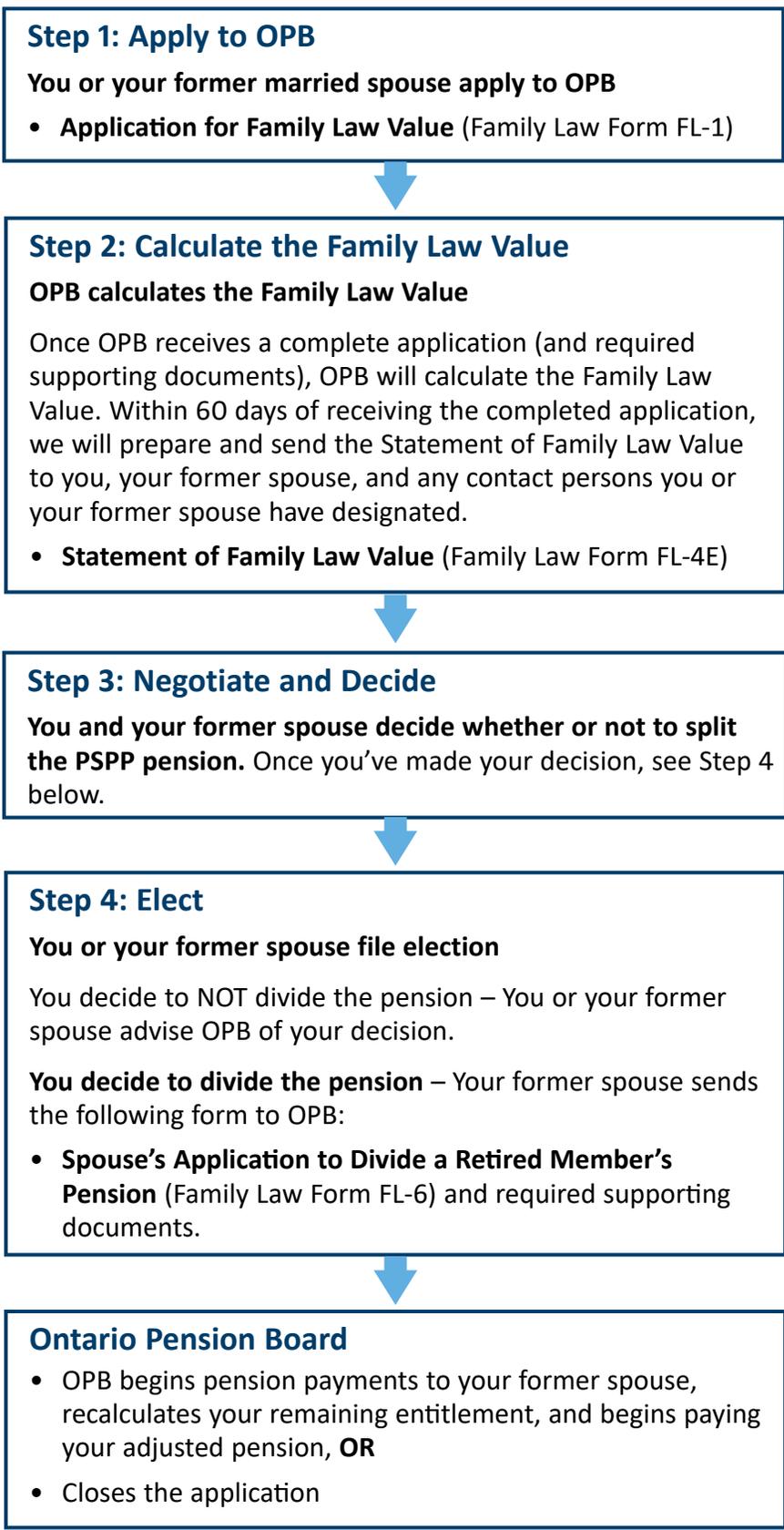
Your privacy is important to us at OPB. Family law legislation requires your information to be shared with your former spouse and authorized persons identified by your former spouse. You and your former spouse (and any contact persons named as authorized contact persons) will be advised of the Family 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
- FSRA's website at 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** (Family Law Form FL-4E) to the 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 include Family Law Value, details of the calculation, and the maximum amount of your pension that may be shared with your former spouse

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 your pension, your former spouse must send to OPB a completed **Spouse's Application to Divide a Retired Member's Pension** (Family Law Form FL-6), requesting division of the pension.

Your pension will be adjusted to account for the division and for any missed monthly payments to your former spouse.

When your pension is divided

The effect on your pension

Once OPB receives the **Spouse's Application to Divide a Retired Member's Pension** (Family Law Form FL-6), and all required supporting documents, OPB will calculate the payments to be made to your former spouse and then recalculate your remaining entitlement in the PSPP.

Your pension will be adjusted to reflect the portion that will be paid to your former spouse, as well as for any arrears owed. Once OPB completes the division of your pension we will send you additional information that shows the impact to your pension.

If you predecease your former spouse, all pension payments will stop (including payment of your former spouse's share). If your former spouse dies first, their portion of the pension will be administered in accordance with your Settlement Instrument.

Survivor pension and waiver

Your eligible spouse at retirement is entitled to a survivor pension, paid monthly for their lifetime, beginning the month after your death. Your former spouse may choose to waive their right to this survivor pension. To do so, you and your former spouse must complete a **Post-retirement Waiver of Survivor Pension after Separation** (Family Law Form FL-8). This form must be submitted before the retired member's pension is divided. Any actuarial reduction made to your pension at retirement to provide for the survivor pension is permanent and would not be affected by a waiver of the survivor pension.

Waiving the survivor pension does not automatically entitle a member's new spouse to a survivor pension. If the member has a new spouse, they may choose to apply to provide a survivor pension to their new spouse. The member could be required to provide certification that they are in good health and, if approved, there would be a cost associated with providing the benefit. For more on this process, please call us.

Residual balance

In the event that you and your eligible spouse and/or eligible children (if any) die before the total of your pension payments and survivor pension payments add up to your contributions plus interest (adjusted for the family law division), the balance will be paid to your designated beneficiary or your estate.

Tax considerations

In accordance with the federal Income Tax Act (ITA), OPB will deduct income tax on the amount of pension you and your former spouse receive directly from OPB and will provide separate T4As.

Frequently Asked Questions (FAQ) about dividing pensions

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

Specific rules for how the value of a pension for spousal relationship breakdown purposes is determined 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 spouse can apply for a Family Law Value by sending OPB a complete **Application for Family Law Value** (see [page 3](#)). Once OPB receives all necessary documents, OPB will send to you, your former spouse, and all authorized contact persons, a **Statement of Family Law Value** (Family Law Form FL-4E).

Where can I get the forms I need?

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

No. Common-law spouses cannot apply for a Family Law Value.

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.

If you predecease your former spouse and they are entitled to a survivor pension, they will qualify for insured benefits after your death if you qualified for them in retirement.

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.

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 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 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 shared with 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.

Residual balance – Residual balance is the difference between your total contributions plus interest (after any adjustment for family law division) and the total pension and survivor pension payments made from the PSPP.

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).