

Your pension and separation or divorce



Spousal Relationship Breakdown



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Many people go through a breakdown in their marriage or common-law relationship during their working career. If you find yourself in this situation, it is important to keep in mind that your pension may represent a significant part of the family property you've built during your relationship with your former spouse.

Is this booklet for you?

On January 1, 2012, new laws came into effect concerning the valuation and possible division of pension when a marital or common-law relationship breaks down. These new rules, explained in this pamphlet, apply to you even if you and your former spouse separated or divorced prior to 2012, unless you have a court order, family arbitration award, or domestic contract made before January 1, 2012 that provided for the division of pension assets.

This booklet applies to your CAAT Plan pension. For information about splitting your Canada Pension Plan benefits following a divorce or separation, visit Service Canada's website: <http://www.servicecanada.gc.ca>.

Spousal relationship breakdown

The laws governing the treatment of your pension if you separate or divorce depend on your marital status.

If you and your spouse/former spouse were married, the Ontario Family Law Act requires that the value of the pension you earned during your time together be included in the calculation of net family property. There is no requirement to divide the pension, only to consider its value in the division of all family property.

For common-law spouses, there is no requirement under the Ontario Family Law Act to divide net family property (including the value of any pension assets) on breakdown of the spousal relationship. However, these couples may decide to do so.

This pamphlet summarizes the process to obtain the Family Law Value of your pension and to instruct the Plan on whether or not your pension is to be divided under the terms of your separation or other legal agreement with your former spouse.

Pension law and family law are complex, and they interact in a number of ways in the case of spousal relationship breakdown. As a result, it is strongly recommended to obtain advice from a lawyer with experience in this area before making any decisions regarding the division of your pension.



Definitions

Who qualifies as a spouse?

The CAAT Pension Plan considers your "spouse" to be someone who is legally married to you or has been living with you in a common-law relationship of at least three year's duration. Under the Plan's definition of spouse, a spousal relationship no longer exists if you are living separate and apart at the time of your retirement or death, even if you have not yet divorced.

Who qualifies as a former spouse?

For simplicity, we have used the term "former spouse" to refer to a spouse you have either separated from or divorced.

The process to follow

The Financial Services Commission of Ontario (FSCO) sets out the process to follow and the forms to be used by you and your spouse/former spouse to obtain the Family Law Value of your pension from the Plan and to instruct us on whether or not your pension will be divided. Copies of the FSCO forms are available for printing or download from our website at www.caatpension.on.ca, or you can call the Plan to request that printed copies of the forms be mailed to you.

Step 1 – Request the Family Law Value of your pension

a) Either you or your legally married spouse/former spouse may request the Family Law Value of the pension you earned during your time together by filing an application with the Plan using the *FSCO Family Law Form 1 – Application for Family Law Value*. In the case of common-law relationships, only the member and not the common-law spouse/former spouse can file the application. Regardless of who files the application, both you and your former spouse will receive copies of the Statement of Family Law Value at Step 2. The application should be sent to the CAAT Pension Plan together with the documents listed in Part G of the form as well as any relevant forms listed in Step 1b).

b) The following forms will need to be included with the application (Form 1) if the reasons listed apply to your situation:

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

Use this form, which must be signed by both parties, to verify the starting date of your spousal relationship and of your separation date if acceptable documents (such as a marriage certificate or separation agreement) are not available. If you and your spouse/former spouse disagree on the date your relationship began or ended, do not use this form. Instead, complete Appendix A of the application (Form 1).

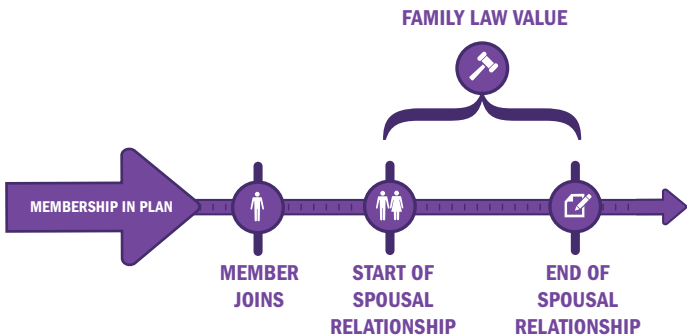
FSCO Family Law Form 3 - Contact Person Authorization

Include this form with the application to authorize a lawyer or other person to communicate with the Plan on your behalf regarding the valuation and division of your pension. You and your spouse/former spouse must each submit Form 3 if you have different contact people. This form is not for use by those acting under power of attorney for property or by court order. Persons in these roles should instead identify themselves on Form 1.

Step 2 – CAAT Plan provides Family Law Value

Within 60 days of receiving your completed application, we will provide both you and your spouse/former spouse (married or common-law) with copies of the *Statement of Family Law Value* of your CAAT pension. If your application was incomplete, we will request the missing information from you and/or your spouse/former spouse before issuing the *Statement of Family Law Value*.

The Family Law Value of your pension is the value of the pension you built during your relationship with your former spouse. The calculations for determining it are set out in pension law, and for defined benefit plans such as the CAAT Pension Plan these calculations can be complex.



Step 3 – Determine if pension will be divided

You and your former spouse determine how the Family Law Value of your pension is to be treated within the context of all of your family property. If you agree that your pension will be divided, the maximum amount that your former spouse can receive is 50 per cent of the Family Law Value of your pension. You then get a court order, enter into a domestic contract or seek a family arbitration award that spells out the agreement you have reached. Advise the CAAT Plan of the treatment of the Family Law Value of your pension in the next step.

Step 4 – Inform the CAAT Plan of agreement

If your pension will be divided, your former spouse informs the Plan by submitting a copy of your court order, domestic contract or family arbitration award together with one of two FSCO forms (Form 5 or 6, depending on whether or not your pension is already in pay), which will be included with your former spouse's copy of the Statement of Family Law Value at Step 2. In the form, your former spouse will elect from their options for receiving their portion of the Family Law Value of your pension. The available options and the impact on your pension are as follows:

If you are an active or deferred member (not yet receiving your pension), your former spouse will receive their share of the Family Law Value of your pension as a locked-in lump sum that can be transferred to a registered retirement vehicle. Your

pension will be offset to reflect the Family Law Value transferred to your former spouse.

If you are retired and already receiving your pension, it will be divided into two pensions, one paid directly to your former spouse and the other to you. You will be advised of the amount by which your pension will be reduced to offset the pension to be paid to your former spouse.

You and your former spouse will each receive a separate T4A tax form, and be subject to separate income tax withholding that reflects each of your financial circumstances.

If your pension will not be divided, either you or your former spouse sends to the Plan *FSCO Form 7 – No Division of Family Law Value/Pension Assets*, which must be signed by both of you. A copy of this form will be included with the *Statement of Family Law Value* (at Step 2).

Blank copies of the forms that will be sent to your former spouse at this step in the process are also posted on our website for your information.

Questions and Answers

Q. My spouse and I are separating. Are we required to obtain the Family Law Value of my pension?

A. You are only required to obtain the Family Law Value if you are or were married and your net family property is being valued for your separation agreement.

You must inform the Plan about your changed spousal relationship and – if you are not dividing your pension – provide us with either FSCO's Form 7 or a copy of your court order, family arbitration award or domestic contract specifying that your CAAT pension will not be divided.

Q. My spouse and I have separated and we have not gone through the process of requesting a Family Law Value. Can we move straight to informing the Plan that my CAAT pension will not be divided?

A. Yes, if you and your spouse agree, please use FSCO Form 7 to inform us, so our records are up-to-date and accurate. This will avoid future disputes over the division of pension. You may instead send us a complete copy of your signed court order, family arbitration award or domestic contract specifying that your CAAT pension will not be divided.

Forms available on website

The Financial Services Commission of Ontario forms to be completed by the member and/or their spouse/former spouse are available on our website, with the CAAT Pension Plan's basic information pre-filled. You will find the forms in our Member and Pensioner sections of the website under Life Events.

For more information

If you have questions about the forms or the process, you can call or write us. Please be aware that Plan staff cannot give advice on the division of pension.

We strongly recommend consulting a lawyer specializing in family law before making decisions about your pension following the breakdown of a spousal relationship.



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