

Info Sheet

SPOUSAL RELATIONSHIP
BREAKDOWN BEFORE
JANUARY 1, 2012: YOUR
PENSION AND DIVIDING
YOUR FAMILY ASSETS

QUESTIONS AND ANSWERS

MAY 2013



Spousal Relationship Breakdown Before January 1, 2012: Your Pension and Dividing Your Family Assets

Questions and Answers

Question: Does this apply to me?

Answer: This information is for OPTrust members involved in a spousal relationship breakdown (same or opposite sex) from either a common-law relationship or legal marriage who have a domestic contract, court order or family arbitration award made *before* January 1, 2012.

For a spousal relationship breakdown where there is a domestic contract, court order or family arbitration award made *after* January 1, 2012, please read our fact sheet *Spousal Relationship Breakdown: Your Pension and Dividing Your Family Assets*.

Question: How does a spousal relationship breakdown affect my pension?

Answer: Ontario's *Family Law Act* states that the value of assets or "net family property" acquired by a couple during the spousal relationship, including pension assets, must be shared between the spouses.

You and your former spouse may have decided that you will keep your OPTrust pension and your former spouse receives assets of equal value (e.g. property), or you may decide to equalize assets by dividing your pension.

To ensure you understand your legal rights and obligations, you and your former spouse may want to seek independent legal counsel.

If you decide to divide your pension benefit with your former spouse, you are limited to a maximum of 50% of the benefit earned during your spousal relationship to equalize family assets. The limitation applies even if a separation agreement, court order or other document states a higher amount.

Question: How much is my former spouse entitled to?

Answer: If you decide to divide your pension benefit with your former spouse, you are limited to a maximum of 50% of the benefit earned during your spousal relationship to equalize family assets. **The limitation applies even if a separation agreement, court order or other document states a higher amount.**

Question: Can my former spouse still claim a survivor benefit?

Answer: Your former spouse is not entitled to a survivor pension. However, he or she may be entitled to claim against death benefits payable from OPTrust, if the separation agreement or court order provides for this.

Question: When should I file my domestic contract/court order with OPTrust?

Answer: You should have already provided a copy of your domestic contract or court order to OPTrust, even if the document does not divide your pension benefit. If OPTrust has information of a spousal relationship breakdown, such as a change in marital status or spousal beneficiary, we require a copy of a domestic contract or court order before paying your benefits.

Ideally your document will specify the division of your pension assets as exempt from a claim from your former spouse or to be divided by OPTrust.

It will be reviewed and kept on file for future reference. If further information is required, OPTrust will contact you.

Question: How will my pension be divided?

Answer: The division of pension assets may take one of two streams:

De-linked option

If you selected the de-linked option, OPTrust will set up two separate pensions. Your former spouse will receive a pension as indicated in the court order (subject to a 50% maximum for benefits earned during the spousal relationship), actuarially adjusted to reflect her or his age. Your former spouse’s pension will be integrated with the Canada Pension Plan when he or she turns 65.

The division of your pension is permanent and the death of either spouse has no impact on the pension of the other. For example, if your former spouse dies before you, your pension will not revert back to a full pension. Your former spouse’s pension is payable for life and stops when he or she dies. A residual balance, if any, will be calculated and payable to your former spouse’s estate.

Linked option

If you selected the linked option, your former spouse’s share of the pension is subject a 50% maximum and is based on your life events. As a result, the pension is not actuarially adjusted to reflect your former spouse’s age. If you die before your former spouse, his or her pension will stop. If your former spouse dies first, your pension will revert back to the full amount. Your former spouse’s pension is integrated with the Canada Pension Plan when you turn 65.

All domestic contracts or court orders are individually reviewed and administered under the linked or de-linked options according to the provisions of that document.

Question: When is the pension benefit divided between me and my former spouse?

Answer: Your former spouse’s share of the pension benefit is payable once you end your employment and membership in the OPSEU Pension Plan (i.e. leaving your job before or at retirement). Your pension benefit can be divided when you reach age 65 (the normal retirement age under the Plan), if you continue to work and contribute to the Plan after that time, but only if stated in your separation agreement or court order.

New rules for dividing pension benefits following the breakdown of a spousal relationship came into effect in 2012. The law allows an immediate split of the pension benefits when a court order, domestic contract or family arbitration award was made *on or after* January 1, 2012. If a court order or domestic contract existed before that date to divide a pension benefit, both parties cannot change the timing of payment to the former spouse.

Question: Is my former’s spouse’s pension frozen while I continue to work?

Answer: No. All OPTrust pensions are adjusted for the increase in the cost-of-living every January. The pension paid to your former spouse is adjusted annually for inflation from the separation date to the date of the first payment. The maximum increase in any one year is 8%. Any increase above 8% is rolled forward into the next year, to be used when the adjustment is less than 8%.

Question: How will my taxes be affected by a split pension with my former spouse?

Answer: Your former spouse’s portion of the pension is separate from your pension. All OPTrust pensions are considered taxable income and subject to the *Income Tax Act*.

Question: Does my former spouse have access to insured benefits in retirement?

Answer: If you and your former spouse’s separation or court order indicates you are separated, not divorced, your former spouse is eligible to receive benefits as your dependent. Your former does not qualify to receive Great-West Life coverage separately. Instead, he or she must file claims under your name and OPTrust ID.



Residual balance

When a pensioner dies and all eligible survivors have been paid, a calculation is done to determine if there is any money owing. This calculation compares the pension payments made plus all the survivor benefits paid to the total amount the member contributed, plus interest, to the Plan.

Insured benefits are not extended to your former spouse once you are divorced or end your common-law relationship, regardless of any arrangement you may have made in your divorce agreement or domestic contract.

Question: What happens if I have a new spouse at retirement?

Answer: The amount of survivor pension paid to your new spouse on your death is affected by the terms and conditions of the court order or separation agreement with your former spouse. Please contact OPTrust for further details.

Question: How do I change my beneficiary information?

Answer: If you want to make changes to your beneficiary information sign into your *Online Services* account or complete and send us a *Pension Beneficiaries* form available from our website.



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SECURE ONLINE SERVICES FOR REGISTERED MEMBERS AND PENSIONERS

Online Services... your pension information at your fingertips. To register for *Online Services*, click on the secure *Online Services* icon on the homepage of OPTrust's website at www.optrust.com, or call Member and Pensioner Services.



OPSEU Pension Trust Fiducie du régime de retraite du SEFPO

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