



Q1. What is this Application Form used for?

A1. If you are separated from or in the process of separating from your spouse/former spouse, and you are a member of a pension plan subject to the Ontario *Pension Benefits Act* (Plan Member), or the married spouse/formerly married spouse of a Plan Member, you must complete this Application Form to get the value of your pension or your spouse's/former spouse's pension from the pension plan administrator (Plan Administrator) for family law property purposes. This value is called the "Family Law Value" (or the "imputed value" in the Ontario *Pension Benefits Act*). It is the value that will be included in calculating the value of your net family property, and that value may be divided between you by a court order, family arbitration award or domestic contract made under the Ontario *Family Law Act*.

After you fill out this Application Form, give it to the Plan Administrator along with all required documents and the fee (if any). The Plan Administrator will then calculate the Family Law Value and send you a **Statement of Family Law Value (FSCO Family Law Form 4)** within 60 days (if your application was complete).

You may want to get legal advice before you complete the Application Form. – 12/11

Q2. Who can use this Application Form?

A2. You can use this Application Form **on or after January 1, 2012**, if:

1. You have, or your spouse/former spouse has, a pension that is subject to the Ontario *Pension Benefits Act*, and
2. You are the Plan Member, or you are/were married to the Plan Member; and
3. You and your spouse/former spouse do not have a court order, family arbitration award, or domestic contract made before January 1, 2012, that provides for the division of the pension, or the final settlement of your family property, including the value of the pension. – 12/11

Q3. What is a domestic contract?

A3. A domestic contract is a written agreement between you and your spouse/former spouse that sets out the rights and obligations of you and your spouse/former spouse. Under the Ontario *Family Law Act*, domestic contracts include marriage contracts, separation agreements, cohabitation agreements and family arbitration agreements. To be enforceable your domestic contract must be signed by both of you and witnessed.

You may want to get legal advice before you and your spouse/former spouse enter into a domestic contract with each other. – 12/11

Q4. I am the common-law spouse of a Plan Member. Can I use this Application Form?

A4. No. The Ontario *Pension Benefits Act* specifies that only the Plan Member or spouse/former spouse who is/was married to the Plan Member may use this Application Form. This is because married and common-law spouses have different property rights under the Ontario *Family Law Act*. Only the Plan Member in a common-law relationship may use this Application Form. – 12/11

Q5: Are there any situations where my spouse/former spouse and I can make an application using this Application Form under the new rules for the division of the Family Law Value if we are separated and have a court order, family arbitration award or domestic contract made before January 1, 2012?

A5. Yes, there may be some situations where you may be able to use this Application Form to make an application under the new rules. It is important that you get legal advice to find out if you can apply under the new rules.

For example, you may be allowed to use this Application Form to apply under the new rules if you and your spouse/former spouse have a court order, family arbitration award or domestic contract made before January 1, 2012, that **does not** provide for the division or settlement of the pension (because you wanted to wait for the new pension valuation and division rules). – 12/11

Q6: Who cannot use this Application Form?

A6: You cannot use this Application Form if you are/were in a common-law relationship with the Plan Member. Only the Plan Member in a common-law relationship can use this Application Form.

You cannot use this Application Form if you have a court order, family arbitration award or domestic contract dated before January 1, 2012, that provides for the:

- division of the pension or the pension assets; or
- final settlement of your family property, including the value of the pension or pension assets.

For example, assume that you and your spouse have a domestic contract that provides for the division of the pension. It was signed by both of you prior to January 1, 2012. If you separate based on this domestic contract, the pension valuation and division rules in effect prior to January 1, 2012 will apply to you.

Note that if you have not yet separated and you and your spouse want to amend your domestic contract or make a new domestic contract you are free to do so.

You may want to get legal advice in order to determine whether you will be permitted to apply for the valuation and division of a pension under the new rules. – 12/11

Q7. Who can I contact to help me fill out this Application Form?

A7. You should contact the Plan Administrator (or the Office of the Plan Administrator) if you have questions about plan specific information such as the name of the pension plan, the plan registration number, amount of the fee or where the form is to be sent. Contact information for the Plan Administrator will usually be found in the annual pension statements given to the Plan Member, member booklets or on the pension plan's/employer's website.

The Plan Administrator is the person(s) or company responsible for administering a pension plan that is subject to the Ontario *Pension Benefits Act*. Often, but not always, the Plan Administrator is the employer that sponsors the pension plan.

The Plan Administrator cannot provide you with legal advice. You may want to speak to your lawyer or another professional advisor if you need help filling out other parts of this Application Form such as the starting date or separation date of your spousal relationship.

You need to fill out this Application Form completely and correctly, provide all required documents and pay the fee (if any), or the Plan Administrator will not provide the Family Law Value. – 12/11

Q8. Who do I send this Application Form to?

A8. You send this Application Form to the Plan Administrator (or the Office of the Plan Administrator). The Plan Administrator will be able to provide you with an address and other contact information (**Part B** of the User Guide for the Application Form gives you information on how to contact the Plan Administrator). **Do not send this form to the Financial Services Commission of Ontario (FSCO).** – 12/12

Q9. Can I send this Application Form electronically to the Plan Administrator?

A9. Ask the Plan Administrator if it will accept the Application Form and any of the required documents in electronic format. Note that electronic delivery may not be secure. – 12/11

Q10. Can a Plan Administrator charge a fee for calculating my Family Law Value?

A10. Yes, the Plan Administrator can charge a fee. The fee must not be more than the following amounts:

- \$200.00 for a pension plan that provides a defined contribution benefit to the Plan Member;
- \$600.00 for a pension plan that provides a defined benefit (which includes a target benefit) to the Plan Member;
- \$800.00 for a pension plan that provides a combination of a defined benefit and a defined contribution benefit or a benefit that is the greater of a defined benefit or a defined contribution benefit to the Plan Member.

The person applying for the Family Law Value must arrange to pay the fee. The cost does not have to be shared between the Plan Member and his or her spouse/former spouse. If the required fee is not paid, the Plan Administrator is not required to calculate the Family Law Value. Contact the Plan Administrator to find out the amount of the fee and how to make your payment (see **Part B** of the User Guide for the Application Form about contacting the Plan Administrator). – 12/12

Q11. My spouse/former spouse and I are both members of the same pension plan. Do we need to make two separate applications to get our Family Law Value?

A11. Yes, you will need to make two separate applications to get the **Family Law Value** for each pension and pay two separate fees (if any). – 12/11

Q12. I am the Plan Member and have a pension entitlement under more than one pension plan. Do separate Application Forms have to be filled out for each pension plan?

A12. Yes, separate Application Forms will have to be filled out and sent to the Plan Administrator for each pension plan along with the required documents and the fee (if any). – 12/11

Q13. Do I have to get the Family Law Value from the Plan Administrator?

A13. Yes. Only the Plan Administrator can provide a Family Law Value that will be used in a court order, family arbitration award or domestic contract made under the Ontario *Family Law Act* on or after January 1, 2012. – 12/11

Q14. Can I have my lawyer (or someone else) deal with the Plan Administrator on my behalf?

A14. Yes. You may authorize your lawyer or someone else to communicate and receive information from the Plan Administrator on your behalf. You provide your authorization by completing the **Contact Person Authorization (FSCO Family Law Form 3)** and sending it to the Plan Administrator. You must sign this Authorization Form (and any other required form).

If you want to change the person you have authorized as your contact person, you need to provide the Plan Administrator with another **Contact Person Authorization (FSCO Family Law Form 3)**.

There may be situations where someone is authorized to act on your behalf through a power of attorney for property or a court order.

If you are acting on behalf of the Plan Member or the spouse/former spouse of the Plan Member under a power of attorney for property, you may complete this Application Form and sign on his or her behalf. You must include a certified copy of the power of attorney for property with this Application Form. You must identify yourself under **Part C** or **Part D** of this Application Form (whichever applies).

If you are acting on behalf of the Plan Member or the spouse/former spouse of the Plan Member under a court order, you may complete this Application Form and sign on his or her behalf if you have been given this authority under the court order. You must include a certified copy of the court order with this Application Form. You must identify yourself under **Part C** or **Part D** of this Application Form (whichever applies). – 12/11

Q15: Do I have to provide the name of a contact person under Part C or Part D (as applicable) of the Application Form?

A15: If you do not have a contact person, you do not have to complete the contact person section of this Application Form. You only need to provide this information if you are authorizing someone, such as your lawyer, to communicate with, receive and/or request information from the Plan Administrator on your behalf with respect to the calculation and division of the Family law Value. – 12/11

Q16: Do I have to provide the name of a contact person for my spouse/former spouse under Part C or Part D (as applicable) on the Application Form?

A16: If you do not know your spouse's/former spouse's mailing address, you need to provide the name and contact information of your spouse's/former spouse's lawyer or someone else who is authorized to accept information on his or her behalf.

The Plan Administrator is required by law to provide both you and your spouse/former spouse with a **Statement of Family Law Value (FSCO Family Law Form 4)**. Your Application Form will not be considered complete if the Plan Administrator is unable to provide the **Statement of Family Law Value (FSCO Family Law Form 4)** to both you and your spouse/former spouse, or to your respective contact person(s), if applicable. – 12/11

Q17: I only deal with my former spouse's lawyer. Is the Contact Person Authorization (FSCO Family Law Form 3) required from my former spouse?

A17: If your former spouse wants the Plan Administrator to communicate directly with his/her lawyer, your former spouse must complete the **Contact Person Authorization (FSCO Family Law Form 3)** in order to provide this authorization. – 12/11

Q18. I don't want to provide the Plan Administrator with my current mailing address. Is my telephone or cell number or e-mail address sufficient?

A18. The Plan Administrator is required by law to provide both you and your spouse/former spouse with a **Statement of Family Law Value (FSCO Family Law Form 4)**. Contact the Plan Administrator to find out what alternate arrangements can be made in order for you to receive this Statement.

If you have a contact person, you also need to complete the **Contact Person Authorization (FSCO Family Law Form 3)** and send this form to the Plan Administrator. – 12/11

Q19. When is my application considered to be complete?

A19. Your application will be considered complete when the Plan Administrator receives the following:

- a correctly completed **Application for Family Law Value (FSCO Family Law Form 1)**;
- proof of the date of birth for you and your spouse/former spouse (see **Part C** and **Part D** of the User Guide for the Application Form);
- proof of the starting date of your spousal relationship (see **Part E** of the User Guide for the Application Form);
- proof of your separation date (Family Law Valuation Date) (see **Part F** of the User Guide for the Application Form);
- the correct fee (if any);
- a completed **Contact Person Authorization (FSCO Family Law Form 3)** for you and your spouse/former spouse, if required; and
- a copy of a power of attorney for property or a court order, if applicable.

You must provide the Plan Administrator with a complete application or the Plan Administrator will not be able to calculate the Family Law Value.

Once the Plan Administrator receives your complete application, including all required documents and the fee (if any), a **Statement of Family Law Value (FSCO Family Law Form 4)** from the Plan Administrator will be sent to you and your spouse/former spouse within 60 days.

– 12/12