



# User Guide Statement of Family Law Value Retired Member with a Defined Benefit Pension FSCO Family Law Form 4E

## Information About This Statement

This form is to be completed by the pension plan administrator or the Plan Administrator's authorized agent or representative (Plan Administrator). The information provided in this User Guide is in summary form only and should not be substituted for a complete review of the applicable provisions of the [Ontario Pension Benefits Act \(PBA\)](#) and [Ontario Regulation 287/11 \(Regulation 287/11\)](#) made thereunder. It is the responsibility of the Plan Administrator to ensure compliance with the statute and regulation.

This form is a **Statement of Imputed Value** prescribed under section 24 of Regulation 287/11. The imputed value for family law purposes under section 67.2(5) of the PBA is called the Family Law Value in this Statement. The Family Law Value must be calculated as of the Family Law Valuation Date determined in accordance with section 67.1 of the PBA.

This Statement applies to a pension plan member whose first installment of his/her pension was due (Retired Member) on or before the Family Law Valuation Date. In other circumstances, refer to the list of the Financial Services Commission of Ontario's (FSCO) Family Law Forms and use the statement that applies to the pension plan member.

The information provided in this Statement is required for the court order, family arbitration award or domestic contract that will provide for any division of the Retired Member's pension and to complete an **Application to Divide a Retired Member's Pension (FSCO Family Law Form 6)**.

Upon receipt of a **completed Application for Family Law Value (FSCO Family Law Form 1)** the Plan Administrator must provide a copy of this Statement (at the same time) to both the applicant and the applicant's spouse/former spouse, within **60 days**, in accordance with section 67.2(9) of the PBA and section 25 of Regulation 287/11.

If the Plan Administrator is not the employer (e.g. as in the case of a multi-employer pension plan), the Plan Administrator will need to obtain information from the employer to complete this Statement. In such cases, the Plan Administrator must make best efforts to obtain the necessary information from the employer in order to provide a copy of this Statement to both the applicant and the applicant's spouse within the 60 day period.

If the **Application for Family Law Value (FSCO Family Law Form 1)** is not complete, the Plan Administrator may complete the **Plan Administrator Request for Information/Payment of Fee (FSCO Family Law Form 1A)** to inform the applicant of any deficiencies. The 60 day period will start from the day the Plan Administrator receives a correctly completed **Application for Family Law Value (FSCO Family Law Form 1)** accompanied by all required documents and the fee (if any).

The Plan Administrator may insert relevant information (e.g. bar codes, plan name or registration number, etc.) in the "For Plan Administrator Use" box.

**Note: This form must not be altered in any manner. However, the Plan Administrator or its authorized agent or representative may pre-populate the form with plan-specific information, e.g. name and registration number of the pension plan, etc. and may post these pre-populated forms on their own website. It is the responsibility of the Plan Administrator, however, to ensure that the current version of this form (i.e. the version that is posted on FSCO's website) is always provided to applicants. It is essential that Plan Administrators check FSCO's website from time to time to ensure that the current form is used.**

## Part A Family Law Value

**Refer to section 24 of Regulation 287/11.**

Complete the information about the Retired Member and his/her spouse/former spouse, and identify who the applicant is.

If an applicant has completed **Appendix A** of the **Application for Family Law Value (FSCO Family Law Form 1)** because there are two proposed Family Law Valuation Dates, you must prepare two **Statements of Family Law Value (FSCO Family Law Form 4E)**. The applicant and his/her spouse/former spouse are entitled to receive both Statements, each showing a different Family Law Value based on one of the two proposed Family Law Valuation Dates.

Complete the information related to the starting date of the spousal relationship using the information provided by the applicant under **Part E** of the **Application for Family Law Value (FSCO Family Law Form 1)**.

Complete the Family Law Valuation Date using the information provided by the applicant under **Part F** of the **Application for Family Law Value (FSCO Family Law Form 1)**.

### **Family Law Value Summary:**

Information about the Family Law Value of the Retired Member's pension and the Family Law Value of the spouse's/former spouse's survivor benefit (if any) as of the Family Law Valuation Date should be completed at the very end. **Appendix E** (Worksheet for Family Law Value Calculations) of this Statement must be completed first.

### **Pension Summary:**

Information about the Retired Member's lifetime pension, bridging/supplemental benefit (if any) and any maximum of these amounts that may be paid to the former spouse of the Retired Member should be completed at the very end. **Appendix E** (Worksheet for Family Law Value Calculation) of this Statement must be completed first. Indicate whether the amount(s) you are reporting is (are) a monthly or annual amount by checking the applicable box.

The amount of each pension instalment to be paid to the former spouse of the Retired Member must be expressed as both a specified amount and as a percentage of each instalment of the Retired Member's pension. The same principle applies to the reporting of any bridging/supplemental benefit.

Note that the maximum payable to a former spouse of a Retired Member cannot exceed 50 per cent of the Retired Member's pension payment accrued during the period of the spousal relationship, consistent with section 67.4(5) of the PBA. The following is an example of how the maximum lifetime pension that

may be paid to the former spouse is to be calculated in cases where the Retired Member and his/her former spouse were not in a spousal relationship throughout the entire period of plan membership. :

A retired member's monthly pension on the Family Law Valuation Date is = \$1,000

The retired member and his/her spouse were married 6 out of the 10 years of plan membership.

The pension that is subject to splitting is  $\$1,000 \times 6/10 = \$600$ . The maximum that can be paid to the former spouse is 50% of \$600 = \$300. Therefore, the maximum percentage of each pension instalment that is payable to the former spouse is  $\$300/\$1,000 \times 100\% = 30\%$ .

In this example, both the \$300 and 30% must be reported under the Pension Summary.

In accordance with section 39 of Regulation 287/11, any arrears must be incorporated into the share of the pension payable to the former spouse. This means that if there are arrears owing to the former spouse, he/she may be entitled to an amount that exceeds \$300 or 30% of each pension instalment.

### **Summary of Other Provisions that Apply to the Pension:**

#### **Indexation:**

Check the "Yes" box if the pension plan provides automatic post-retirement indexation. Otherwise, check the "No" box. (Note: Do not check the "Yes" box if the pension plan provides only ad hoc increases.)

#### **Post Retirement Death Benefit:**

Complete either the "**Survivor benefit payable to the spouse/former spouse**" or "**No survivor benefit payable to the spouse/former spouse**", whichever is applicable.

If the "**Survivor benefit payable to the spouse/former spouse**" section applies, complete the information about the Retired Member's bridging/supplemental benefit and any guaranteed payments, by checking either the "Yes" or "No" box. If there is no bridging/supplemental benefit, nor any guaranteed payment period attached to the Retired Member's pension, enter "0" and complete only the percentage of the joint and survivor form [e.g. 60%, the statutory minimum].

If the "**No survivor benefit payable to the spouse/former spouse**" section applies, complete the information about the Retired Member's bridging/supplemental benefit and any guaranteed payments, by checking either the "Yes" or "No" box and indicate the guarantee period(s) below. If there is no bridging/supplemental benefit, nor any guaranteed payment period attached to the Retired Member's pension, enter "0".

## **Part B Pension Plan Information**

**Refer to section 24(2)1 of Regulation 287/11.**

Complete the pension plan information. Section 8 of the PBA sets out who can be the Plan Administrator.

**Part C**  
**Retired Member Information**

**Refer to section 24(2)2 of Regulation 287/11.**

Complete the information about the Retired Member using the information provided by the applicant under **Part C** of the **Application for Family Law Value (FSCO Family Law Form 1)**.

Complete the information about the Contact Person for the Retired Member if you have received a **Contact Person Authorization (FSCO Family Law Form 3)**, a certified copy of a power of attorney for property or a certified copy of the court order that appointed this person.

The Plan Administrator must be able to provide a copy of the **Statement of Family Law Value (FSCO Family Law Form 4E)** to both the applicant and his/her spouse/former spouse or to their contact person(s) (if any), or the Statement cannot be issued.

**Part D**  
**Spouse/Former Spouse of Retired Member Information**

**Refer to section 24(2)2 of Regulation 287/11.**

Complete the information about the spouse/former spouse of the Retired Member using the information provided by the applicant under **Part D** of the **Application for Family Law Value (FSCO Family Law Form 1)**.

Complete the information about the Contact Person for the spouse/former spouse of the Retired Member if you have received a **Contact Person Authorization (FSCO Family Law Form 3)**, a certified copy of a power of attorney for property or a certified copy of the court order that appointed this person.

The Plan Administrator must be able to provide a copy of the **Statement of Family Law Value (FSCO Family Law Form 4E)** to both the applicant and his/her spouse/former spouse or to their contact person(s) (if any), or the Statement cannot be issued.

**Part E**  
**Options for the Former Spouse of the Retired Member to Divide the Pension**

**Refer to section 24(6) of Regulation 287/11.**

Check the division option(s) that is/are available to the former spouse of the Retired Member.

If the Retired Member has made an application to the Plan Administrator in circumstances of shortened life expectancy, determine if sections 12 or 13 of Regulation 287/11 apply. If the conditions under sections 12 or 13 have been satisfied, the Retired Member's pension must be paid to both the Retired Member and the Retired Member's former spouse on an unlocked basis.

The Plan Administrator cannot divide the Retired Member's pension if the pension was paid out in full between the time this Statement is issued and the time the Retired Member's former spouse gives the completed **Application to Divide a Retired Member's Pension (FSCO Family Law Form 6)** to the Plan Administrator.

If the pension plan provides the former spouse with a combination option, provide information about the maximum amount of the Family Law Value of the Retired Member's pension that may be used to calculate the former spouse's combination option pension. [Note: The former spouse is entitled to no more than 50 per cent of the Family Law Value, in accordance with section 67.4(5) of the PBA.] Once this maximum amount is determined it must be converted to an estimated pension amount, which will be payable for the lifetime of the former spouse. Check whether the reported estimated pension is a monthly or annual amount.

## **Part F**

### **Certification by the Plan Administrator or Plan Administrator's Agent or Representative**

**Refer to section 24(8) of Regulation 287/11.**

Complete the date when the completed **Application for Family Law Value (FSCO Family Law Form 1)** was received from the applicant. The Plan Administrator must provide this Statement to both the applicant and his/her spouse/former spouse within **60 days** of receiving a completed application.

Confirm the nature of the Retired Member's entitlement under the pension plan and that the required appendices have been completed by checking the applicable boxes.

Certify the information shown on the Statement by signing and dating it. If the Plan Administrator's authorized agent or representative has completed and signed this Statement, contact information about the Plan Administrator's authorized agent or representative must also be provided.

## **Next Steps**

**Refer to section 35 of Regulation 287/11.**

In this Part, list the additional information or documents that must be provided before the Retired Member's pension can be divided and paid to his/her former spouse.

## **Appendix A – Plan Membership, Employment, Additional Voluntary Contribution and Excess Member Contribution Information as of the Family Law Valuation Date**

**Refer to sections 24(2)3 and 24(5)1 to 3 of Regulation 287/11.**

### **Plan Membership and Employment Information as of the Family Law Valuation Date:**

Complete the information about the Retired Member's employment/membership in the pension plan, and when the first installment of his/her pension was due.

Complete the information about the Retired Member's credited service. When calculating the period of credited service, use the method set out in the pension plan. If the pension plan does not set out a specific formula, indicate the period of credited service in years and months.

### **Additional Voluntary Contributions (AVCs) Information as of the Family Law Valuation Date:**

AVCs are reported for disclosure purposes only. AVCs must not be including in the Preliminary Value in accordance with section 3(3) of Regulation 287/11. As provided in section 67.4(5) of the PBA, AVCs are

not subject to the 50 per cent maximum division rule. The payment of AVCs is subject to terms of the pension plan.

#### **Excess Member Contributions as of the Family Law Valuation Date:**

Excess member contributions that remain in the pension plan on the Family Law Valuation Date are reported for disclosure purposes only. Excess member contributions must not be included in the Preliminary Value in accordance with section 3(4) of Regulation 287/11. As provided in section 67.4(5) of the PBA, excess member contributions are not subject to the 50 per cent maximum division rule.

### **Appendix B – Explanation of Pension Plan Provisions that Apply to the Retired Member as of the Family Law Valuation Date**

#### **Refer to section 24(7)1 of Regulation 287/11.**

Provide information about the pension plan provisions that apply to the Retired Member or attach them to the Statement. In the latter case, check the box to indicate that you are attaching the information.

### **Appendix C – Actuarial Assumptions Used in the Calculation of the Family Law Value as of the Family Law Valuation Date**

#### **Refer to section 24(3) of Regulation 287/11.**

The actuarial methods and assumptions used to determine the Family Law Value must be provided in this Appendix or attached to the Statement. In the latter case, check the box to indicate that you are attaching the information.

Section 3(2) of [Regulation 287/11](#) requires that section 3500 of the [Canadian Institute of Actuaries' Standards of Practice](#) (2010 version) be applied when calculating the Preliminary Value, regardless of the Family Law Valuation Date. This means that the methods and actuarial assumptions in section 3800 of the Canadian Institute of Actuaries' Standards of Practice or in any older version of the standards of practice should not be used, even if the Family Law Valuation Date is a date before January 1, 2012.

If the Retired Member has filed a shortened life expectancy application and the conditions set out in sections 12 or 13 of Regulation 287/11 have been satisfied, the Preliminary Value is the same as the commuted value as determined under section 49 of the PBA, based on the shortened life expectancy of the Retired Member.

### **Appendix D – Full or Partial Plan Wind up/Surplus/Plan Amendments**

#### **Refer to sections 24(7)3 to 24(7)6 of Regulation 287/11.**

#### **Information about the full or partial wind up of the pension plan:**

Check the "Yes" box if the pension plan has been wound up in full or in part, the Retired Member is included in the wind up group, and the effective date of the wind up is **on or before the date when this Statement is issued**. Otherwise, check the "N/A" box and do not complete this section.

If the pension plan has been wound up in full or in part, the Retired Member is included in the wind up group, and the effective date of the wind up is **on or before the Family Law Valuation Date**, the

Preliminary Value of the pension is the same as the wind up value (i.e. the commuted value) of the pension, accumulated with interest from the effective date of the wind up to the Family Law Valuation Date, in accordance with section 14 of Regulation 287/11.

If the effective date of the wind up or partial wind up is after the Family Law Valuation Date, the Preliminary Value is determined without reference to the wind up or partial wind up.

**Surplus Application Made On or Before the Family Law Valuation Date:**

Check the “Yes” box if the Retired Member is entitled to receive a share of surplus from the pension plan. Otherwise, check the “N/A” box and do not complete this section.

If the surplus amount is not known at the time when this Statement is being prepared, provide the relevant details of the surplus application (e.g. information about the surplus sharing agreement, etc.).

If the Retired Member’s surplus entitlement is known at the time when this Statement is being prepared, the surplus amount must be added to the Preliminary Value of the pension in accordance with section 15 of Regulation 287/11.

**Pension Plan Amendments Before the Family Law Valuation Date:**

Check the “Yes” box if the Retired Member belongs to a class of employees that received (or will be receiving) payment(s) resulting from amendment(s) to the pension plan related to cost of living adjustments during the last three fiscal years of the pension plan before the Family Law Valuation Date. Otherwise, check the “N/A” box and do not complete this section.

If applicable, provide an explanation of the amendment(s). If there is more than one, start with the amendment made in the most recent fiscal year.

**Appendix E – Worksheet for Family Law Value Calculations**

Note: A completed Statement, including the information that must be provided in this Appendix, must be sufficient for an independent verification of the Preliminary Value and Family Law Value calculations.

**Part 1 – Retired Member Information**

**Step 1 – Calculation of Preliminary Value as of the Family Law Valuation Date (Retired Member)**

**Refer to section 24(3) of Regulation 287/11.**

The Preliminary Value is the total value of the pension accrued by the Retired Member during the period of his/her membership in the pension plan as of the Family Law Valuation Date.

**Calculation 1:**

**Information about the Retired Member’s Accrued Pension as of the Family Law Valuation Date for Calculation 1**

Check “N/A” if this calculation does not apply to the Retired Member and do not complete this section.

Complete the information under this section. Do not complete this section if the pension plan was wound up in full or in part, the Retired Member is included in the wind up group and the effective date of the wind up is on or before the Family Law Valuation Date.

The Retired Member's age must be expressed using the method set out in the pension plan. If the pension plan does not set out a specific method, calculate the age in years and months.

### **Information about the Retired Member's Preliminary Value as of the Family Law Valuation Date**

**Refer to sections 9 and 15 of Regulation 287/11.**

The total Preliminary Value of the Retired Member's pension is the sum of: the commuted value of the lifetime pension; the commuted value of any ancillary benefits (i.e. bridging/supplemental benefit) that the Retired Member was receiving as of the Family Law Valuation Date; and, any surplus payable (i.e. if the surplus amount is known at the time when this Statement is being prepared). The value of any survivor benefit payable to the spouse/former spouse is not included here but under **Step 1 of Part 2 of Appendix E** (i.e., on the last page of this form).

If the pension-in-pay to the Retired Member is a joint and survivor pension, and there is a guarantee attached to the pension, the value of the guarantee should be included in the former spouse's Preliminary Value, and not in the Retired Member's Preliminary Value.

However, if the pension-in-pay to the Retired Member is not a joint and survivor pension (i.e. there is no survivor benefit) and there is a guarantee attached to the pension, the value of the guarantee should be included in the Retired Member's Preliminary Value regardless of whether or not the former spouse is the beneficiary of that guarantee.

### **Calculation 2:**

### **Information about the Retired Member's Accrued Pension as of the Full or Partial Wind Up Date for Calculation 2**

Check "N/A" if this calculation does not apply to the Retired Member and do not complete this section.

Complete the information under these sections if the pension plan was wound up in full or in part, the Retired Member is included in the wind up group, and the effective date of the wind up is on or before the Family Law Valuation Date. Indicate if the pension plan was wound up in full or in part by checking the applicable box.

### **Information about the Retired Member's Preliminary Value as of the Family Law Valuation Date**

**Refer to sections 14 and 15 of Regulation 287/11.**

The total Preliminary Value of the Retired Member's pension is the same as the commuted value of the Retired Member's pension as of the effective date of the wind up, accumulated with interest from the effective date of the wind up to the Family Law Value Date. The commuted value of this pension is the sum of: the wind up value of the lifetime pension; the wind up value of any ancillary benefits (i.e. bridging/supplemental benefit) that the Retired Member was receiving as of the Family Law Valuation Date; and, any surplus payable (i.e. if the surplus amount is known at the time when this Statement is being prepared). The value of any survivor benefit payable to the spouse/former spouse is not included here but under **Step 1 of Part 2 of Appendix E** (i.e., on the last page of this form)

## **Step 2 – Calculation of Family Law Value as of the Family Law Valuation Date (Retired Member)**

**Refer to section 24(4) of Regulation 287/11.**

The Family Law Value is the portion of the Preliminary Value that relates to the period of the spousal relationship (married or common-law) as of the Family Law Valuation Date. The Family Law Value is the “imputed value” in the PBA.

**Refer to section 18 of Regulation 287/11.**

**Formula for the Family Law Value**

**= Preliminary Value [G(lifetime pension) + G(bridging/supplemental benefit) + G(surplus)] x H/J**

**H** = total credited service accrued by the Retired Member during the period beginning on the starting date of the spousal relationship and ending on the Family Law Valuation Date

**J** = total credited service accrued by the Retired Member during the entire period of employment/plan membership as of the Family Law Valuation Date

Note that the ratio **H/J** cannot exceed 1. Use the credited service information that is reported under Appendix A of this Statement.

**Step 3 – Maximum Amount that May Be Paid to the Former Spouse of the Retired Member as of the Family Law Valuation Date**

**Refer to section 67.4(5) of the PBA.**

**Family Law Value Summary for the Combination Option:**

If the pension plan does not provide the combination option, check N/A and do not complete this section. Otherwise, indicate the maximum amount of the Family Law Value of the Retired Member’s lifetime pension, bridging/supplemental benefit and surplus that may be paid to his/her former spouse.

The former spouse cannot be entitled to more than 50 per cent of the total Family Law Value.

**Pension Summary:**

Complete the information about the maximum amount of the Retired Member’s lifetime pension and the bridging/supplemental benefit that may be paid to the former spouse of the Retired Member. Information must be expressed as both a specified amount of each lifetime pension and bridging installment (check monthly or annual, whichever applies) and also as a percentage of the each installment of the lifetime pension and bridging/supplemental benefit.

The former spouse cannot be entitled to more than 50 per cent of the pension or bridging/supplemental benefit earned during the period of the spousal relationship.

**Part 2 – Spouse/Former Spouse of Retired Member Information**

**Step 1 – Preliminary Value as of the Family Law Valuation Date (Spouse/Former Spouse of the Retired Member)**

**Refer to section 10 of Regulation 287/11.**

The Preliminary Value of the spouse's/former spouse's survivor benefit is the commuted value of the spouse's/former spouse's survivor benefit as of the Family Law Valuation Date which is based upon the Retired Member's lifetime pension and bridging/supplemental benefit (if any) reported in **Step 1 of Part 1** of **Appendix E**.

If the pension-in-pay to the Retired Member is a joint and survivor pension, and there is a guarantee attached to the pension, the value of that guarantee should be included in the former spouse's Preliminary Value.

However, if the pension-in-pay to the Retired Member is not a joint and survivor pension (i.e. there is no survivor benefit) but there is a guarantee attached to the pension, the value of that guarantee should not be included in the spouse's/former spouse's Preliminary Value, even if he/she is the beneficiary of the guarantee.

<p style="text-align: center;"><b>Step 2 – Family Law Value as of the Family Law Valuation Date (Spouse/Former Spouse of the Retired Member)</b></p>
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**Refer to section 20 of Regulation 287/11.**

The Family Law Value of the spouse's/former spouse's survivor benefit is the Preliminary Value of the spouse's/former spouse's survivor benefit calculated under **Step 1 of Part 2** above.

The survivor benefit is not subject to division between the Retired Member and his/her spouse/former spouse.