



Questions and Answers Application to Transfer the Family Law Value FSCO Family Law Form 5

Q1. What is this Application Form used for?

A1. A former spouse of a pension plan member (Plan Member) must use this Application Form to tell a pension plan administrator (Plan Administrator) to transfer his or her share of the Family Law Value from the Plan Member's pension plan, as set out in a court order, family arbitration award or domestic contract.

The Plan Administrator cannot transfer the former spouse's share of the Family Law Value without receiving this completed Application Form along with all required documents, including a certified copy of a court order, family arbitration award or domestic contract that provides for the division and transfer of the Family Law Value.

You may want to get legal and/or financial advice before completing this Application Form.
– 12/2011

Q2. Who can use this Application Form?

A2. You can only use this Application Form if you are/were the spouse of a Plan Member **and you have:**

- a **Statement of Family Law Value (FSCO Family Law Form 4A, 4B, 4C or 4D)** that identifies you as the spouse/former spouse of the Plan Member in **Part D** of that Statement; and
- a certified copy of a court order, family arbitration award or domestic contract that provides for the division and transfer of the Family Law Value from the Plan Member's pension plan to you and confirms your Family Law Valuation Date.

Once you have met these requirements, you are considered to be a "former spouse".

If you received a **Statement of Family Law Value (FSCO Family Law Form 4E)** from the Plan Administrator, you should be completing the **Application to Divide a Retired Member's Pension (FSCO Family Law Form 6)** instead. – 12/2011

Q3. What is a domestic contract?

A3. A domestic contract is a written agreement between you and your former spouse that sets out the rights and obligations of you and your 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 former spouse enter into a domestic contract with each other. – 12/2011

Q4. What is a “certified copy”?

A4. A “certified copy” is a copy of the original document that has been certified as being a true copy of the original document. Typically, people who provide certification include lawyers, notaries and Human Resource personnel. Contact the Plan Administrator identified in **Part B** of your **Statement of Family Law Value (FSCO Family Law Form 4A, 4B, 4C or 4D)** to find out if it will accept certified copies from other people. – 12/2011

Q5. My spouse/former spouse and I completed Appendix A of the Application for Family Law Value (FSCO Family Law Form 1) and have provided two proposed separation dates (Family Law Valuation Dates). We have now agreed on our separation date, which is a different date than the dates that were provided in Appendix A of that Application Form. Can I report our new separation date on this Application Form?

A5. No. The change in your separation date will require a new Family Law Value calculation. A new **Application for Family Law Value (FSCO Family Law Form 1)**, accompanied by all required documents and the fee (if any) must be given to the Plan Administrator. – 12/2011

Q6. Who do I send this Application Form to?

A6. You send this Application Form to the Plan Administrator (or the Office of the Plan Administrator). See **Part B** of the **Statement of Family Law Value (FSCO Family Law Form 4A, 4B, 4C or 4D)** for the Plan Administrator’s contact information. **Do not send this Application Form to the Financial Services Commission of Ontario (FSCO).** – 12/2011

Q7. Can I send this Application Form electronically to the Plan Administrator?

A7. Ask the Plan Administrator if it will accept this Application Form and any of the required documents in electronic format. Note that electronic delivery may not be secure. – 12/2011

Q8. Is there a charge for this Application Form?

A8. No. The Plan Administrator is not permitted to charge a fee for transferring your share of the Family Law Value. – 12/2011

Q9. When will I receive my share of the Family Law Value?

A9. The Plan Administrator has 60 days after receiving a **complete** application, including all required documents, to transfer your share of the Family Law Value in accordance with your chosen transfer option, subject to certain exceptions. – 12/2011

Q10. What are the exceptions that could delay or reduce payment of my share of the Family Law Value?

A10. In some circumstances, the Plan Administrator may be limited in the amount that it can transfer to you under the Ontario *Pension Benefits Act*. These circumstances include wind up of the pension plan or if the transfer ratio of the pension plan is less than 1. If these limited circumstances apply to you, the Plan Administrator will let you know. – 12/2011

Q11: When is my application considered to be complete?

A11: Your application will be considered complete when the Plan Administrator receives the following:

- a correctly completed **Application to Transfer the Family Law Value (FSCO Family Law Form 5)**;
- a certified copy of a court order, family arbitration award or domestic contract that provides for the division and transfer of Family Law Value from the Plan Member's pension plan to you;
- if applicable, a locking-in agreement from a Financial Institution (see **Part F** of the User Guide for the Application Form);
- if applicable, a written confirmation from the Plan Administrator of the receiving pension plan that the transferred money will be administered in accordance with the requirements of the *Ontario Pension Benefits Act* (see **Part G** of the User Guide for the Application Form); and
- any other document(s) as specified by the Plan Administrator under "Next Steps" of the **Statement of Family Law Value (FSCO Family Law Form 4A, 4B, 4C or 4D)**. – 12/2012

Q12. Do I get interest while I am waiting for my share of the Family Law Value to be transferred?

A12. In accordance with the decision of the [Ontario Superior Court of Justice in *Heringer v. Heringer, 2014 ONSC7291*](#), the answer depends on whether your share of the Family Law Value is expressed as a proportion (i.e. percentage) of the Family Law Value, or as a specified amount.

If your share of the Family Law Value is expressed as a proportion of the Family Law Value in your settlement instrument (court order, family arbitration award or domestic contract), interest will be credited on your lump sum payment from the Family Law Valuation Date to the beginning of the month in which the transfer is made.

If your share of the Family Law Value is expressed as a specified amount in your settlement instrument, your lump sum payment will only be credited with interest from the Family Law Valuation Date to the beginning of the month in which the transfer is made if your settlement instrument explicitly requires that interest be credited. -03/2015

Q13. If I am entitled to receive interest on my lump sum payment, what interest will I get?

A13. The rate of interest will vary, depending on the type of benefit that the Plan Member is entitled to under his or her pension plan. It may be based on the fund rate of return (for a defined contribution benefit), which may be either positive or negative, or the same rate of interest that was used to calculate the Family Law Value (for a defined benefit). – 03/2015

Q14. What is the time limit for making an application using this Application Form?

A14. There is no time limit for making your application to request the transfer of your share of the Family Law Value using this Application Form. However, if between the time the **Statement of Family Law Value (FSCO Family Law Form 4A, 4B, 4C or 4D)** was issued and the time you give this Application Form to the Plan Administrator the Plan Member's pension entitlement is no longer in the pension plan, the Plan Administrator will not be able to process your Application Form. This may happen in cases where the Plan Member's pension entitlement was paid out because the pension plan was wound up, the Plan Member received a lump sum payment because the Plan Administrator approved his or her shortened life expectancy application or the Plan Member terminated employment or plan membership before the Plan Administrator received your Application Form. – 12/2011

Q15. Who can I contact to help me fill out this Application Form?

A15. You should contact the Plan Administrator (or the Office of the Plan Administrator) if you have specific questions about the pension plan. The Plan Administrator cannot provide you with legal and/or financial advice. You may want to speak to a financial advisor if you need help in deciding which transfer option you should choose for your share of the Family Law Value.

You need to fill out this Application Form completely and correctly, and provide all required documents, or the Plan Administrator won't be able to divide and transfer your share of the Family Law Value in accordance with your chosen option. – 12/2011