

New rules effective January 1, 2012

If you are a HOOPP member or pensioner who has separated from your spouse, you may be affected by new laws that came into effect in Ontario on January 1, 2012. These new rules changed the way pension benefits are valued and divided for family law purposes.

If you are a member or pensioner and have separated from your spouse, you may be required to include the value of any pension benefits you accumulated in HOOPP during the period of your marriage or spousal relationship in your calculation of net family property. Although it is not mandatory to divide your pension, when you make arrangements to split your assets you may choose or need to pay a portion of your pension to your former spouse.

You must receive a valuation from HOOPP before you make a decision to divide your pension benefits. If you choose or are required to value your HOOPP benefits or pay a portion of your benefits to your former spouse, you must do so in accordance with the rules and guidelines set out under Ontario's *Pension Benefits Act*.

The Financial Services Commission of Ontario (FSCO) has created forms you and your former spouse must complete to apply for a family law valuation from HOOPP or to direct HOOPP to pay a portion of your benefits to your former spouse. These include forms specific to your status in HOOPP (i.e. active, deferred or retired) at the time your spousal relationship ended. You can find these forms and instructions on how to use them on [FSCO's website](#).

If you and your former spouse finalized a court order, domestic contract or arbitration award that includes specific provisions for the division of your HOOPP pension benefits prior to Jan. 1, 2012, your arrangements cannot be changed and you will not be subject to these new valuation and division rules.

Step-by-step guide

1. Seek Legal Advice

It is advisable to seek independent legal advice from a family law lawyer before making any arrangements to request a family law valuation or divide your pension benefits. HOOPP cannot provide you with legal or financial counsel.

2. Apply for a Family Law Valuation

In the event of a spousal relationship breakdown, Ontario's *Family Law Act* requires the couple to calculate the value of their assets, including their pensions, before dividing their family property.

To apply for a family law valuation, you will need to go to the Financial Services Commission of Ontario (FSCO) website, and download, then complete, a *Family Law Value Application*. [FSCO's website](#) has a full list of the family law forms, instructions on how to use them and details about all the supporting documents you will need to provide to HOOPP.

If you were legally married, you or your former spouse can sign this form. If you were cohabitating in a common-law relationship, only you can sign the application.

Once you have completed the form, please send it to HOOPP, along with all the required supporting documents. *Please do not send these forms to FSCO.*

Fact Sheet on Ontario's New Rules for Relationship Breakdown

3. Receive your *Statement of Family Law Value* from HOOPP

HOOPP will perform the necessary calculations and send you and your former spouse a *Statement of Family Law Value* within 60 days of receiving a completed *Family Law Value Application* and all the required supporting documents.

Your employer(s) report data to HOOPP on an annual basis, so it may be necessary to contact your employer(s) to request the information needed to prepare a *Statement of Family Law Value*.

4. Decide how or whether to divide your assets

Once you receive the family law valuation from HOOPP, you and your former spouse will need to decide how to divide your assets.

Option A: You and your former spouse may choose to settle your financial assets without dividing your pension. You should then complete and submit a [No Division of Family Law Value/Pension Assets](#) form to HOOPP, along with any required supporting documentation.

Option B: You and your former spouse may choose to divide your pension. Your former spouse must go to the FSCO website, download and then complete an [Application to Transfer the Family Law Value](#) or an [Application to Divide a Retired Member's Pension](#) form, to request that an immediate lump sum payment or a portion of your pension be paid to him or her. He or she must submit this form to HOOPP, along with any required supporting documentation.

In addition, you must submit a finalized court order, domestic contract (i.e. separation agreement), or arbitration award that clearly sets out the pension entitlement payable to your former spouse as either a percentage of the reported Family Law Value or an exact dollar figure. Under Ontario law, your former spouse cannot receive more than 50% of the benefit you earned during the relationship, as set out in the *Statement of Family Law Value* HOOPP sent you.

5. Your Former Spouse Will Receive Payment

Once HOOPP receives a completed application to divide your pension and the supporting documents as outlined above, your pension will be divided and a portion of your benefits will be transferred to your former spouse.

The type of payment your former spouse can receive depends on your status in HOOPP on the day you and your spouse separated (known as the Family Law Valuation Date).

If you have not retired and, therefore have not started receiving a pension from HOOPP on the Family Law Valuation Date, your former spouse will have the option of transferring his or her family law entitlement to one of the following retirement savings vehicles:

- a locked-in retirement account (LIRA)
- a life income fund (LIF)
- a registered pension plan (if the plan will accept the transfer)

Fact Sheet on Ontario's New Rules for Relationship Breakdown

If you have retired and begun receiving your HOOPP pension on or before the Family Law Valuation Date, your former spouse will receive his or her family law entitlement as a monthly pension payable for your lifetime.

6. Expect an Adjustment to Your HOOPP Pension

Once HOOPP begins issuing a payment or payments to your former spouse, HOOPP will reduce your benefits because your former spouse is receiving a portion of them. To comply with provincial legislation, the timing of this adjustment will depend on your status in HOOPP at the time the benefits are divided:

- If you have terminated your membership and are entitled to a deferred pension, your benefits will be adjusted immediately to reflect that a portion of your deferred pension has been paid out.
- If you are actively contributing to HOOPP or have not terminated your membership in the Plan, your record will not be adjusted until you terminate your membership and elect to retire, defer your pension or transfer the commuted value of your deferred pension to another retirement savings vehicle.

RULES PRIOR TO JANUARY 1, 2012

If you and your former spouse finalized a court order, domestic contract or arbitration award prior to January 1, 2012 that contains specific provisions for the division of your HOOPP pension benefits these arrangements cannot be changed and you will not be subject to the new valuation and division rules outlined above.

FAQs on Relationship Breakdown

Q: Why do I need to use the Financial Services Commission of Ontario (FSCO) Family Law Forms?

A: As set out by *Pension Benefits Act*, these are the rules and process we must follow. Pension plans, members and former spouses are required to use the forms that FSCO has prepared.

Q: Who needs to use the Financial Services Commission of Ontario (FSCO) Family Law Forms?

A: You and your former spouse must use these forms. You can find them, along with instructions and supporting documentation on [FSCO's website](#).

Q: What is the purpose of these forms?

A: These forms must be used to request a family law valuation from HOOPP and to direct HOOPP to pay a portion of your benefits to your former spouse.

Q: I have completed the FSCO forms. Where do I send them?

A: Once you have completed these forms, you should make sure to send them to HOOPP, *not to FSCO*.

Q: Do I need to send HOOPP all the documents identified on the FSCO forms?

A: Yes. HOOPP cannot accept your application unless you include all the supporting documents identified in the FSCO forms along with your application. You can find these forms, along with instructions on how to use them and supporting documentation, on [FSCO's website](#).

Q: Do I need to get a family law valuation?

A: Not necessarily. Please seek independent legal advice before requesting a valuation or making any arrangements to divide your pension assets.

Q: Do I need to get a valuation before dividing my pension?

A: Yes. HOOPP cannot pay a portion of your pension benefits to your former spouse unless HOOPP has provided you with a family law valuation first.

Q: Do I have to pay for a valuation?

A: No. HOOPP prepares and provides these valuations free of charge.

Q: Do I have to divide my pension?

A: No. That will be up to you and your former spouse. It's a good idea to seek legal advice. HOOPP cannot provide legal or financial advice.

Q: What are the time limits, if any, to request a valuation or division?

A: There is no deadline to apply for a pension valuation or division. But your personal circumstances could change. It is a good idea for you and your former spouse to make decisions such as these as soon as possible,

Q: Can I use HOOPP's Letter of Authorization to identify a contact person HOOPP can deal with on my behalf?

A: No. If you or your former spouse wishes to authorize HOOPP to deal with a third party, you must complete and submit a *FSCO Form 3 – Contact Person Authorization* to HOOPP.

Q: Will I be notified if there is a problem with my application for a valuation or a division?

A: Yes. HOOPP will notify you by mail and request any missing information or supporting documentation required to value or divide your benefits.

Fact Sheet on Ontario's New Rules for Relationship Breakdown

Q: Can I request a pension estimate from HOOPP? I'd like to get a general idea of the impact on my pension if I were to divide it before filling in FSCO forms.

A: HOOPP cannot supply you with an estimate. You can seek independent financial and/or legal advice about the possible impact of a pension division. The Family Law Valuation HOOPP provides you should provide you with the specific answers you need.

Q: What happens after my pension is divided? And when will I learn about the impact on my remaining benefit?

A: After your pension is divided, HOOPP will immediately reduce your remaining benefits by an amount equal to the amount paid to your former spouse if you have already terminated your membership in HOOPP and are entitled to a deferred pension or if you are retired and receiving a pension. If you are still contributing to HOOPP, your benefits will not be adjusted until you terminate your membership in the Plan.

Q: Can HOOPP pay my former spouse my entire pension?

A: No. We are only legally allowed to pay your former spouse a maximum of 50% of the benefits you accumulated during your spousal relationship. This rule is set out in the *Pension Benefit Act*.

Q: Can I buy back amounts I pay to my former spouse?

A: This is not permitted under the *Income Tax Act*.

Q: Who can I contact to answer any other questions?

A: You can speak with a Customer Service Representative in HOOPP's Client Services, visit hoopp.com or visit the FSCO website (at <http://www.fSCO.gov.on.ca/en/pensions/Family-Law/Pages/familylawforms.aspx>).

Q: I have already made arrangements to pay a portion of my benefits to my former spouse. Do I need to change them to comply with the new rules?

A: If you and your former spouse finalized a court order, domestic contract or arbitration award that contains specific provisions for the division of your HOOPP pension benefits, **before** Jan. 1, 2012, these arrangements cannot be changed and you will not be subject to the new valuation and division rules.

The new rules only apply if you and your former spouse finalize a court order, domestic contract or arbitration award that contains specific provisions for the division of your HOOPP pension benefits after January 1, 2012.

Q: If my former spouse belongs to a pension plan, can I transfer my family law entitlement from his or her pension plan to HOOPP?

A: HOOPP cannot accept these funds. However, you can use any funds transferred to your LIRA to buy back any eligible periods of past service in HOOPP.