



# Marriage breakdown and your pension

For agreements signed before January 1, 2012

## What's in this fact sheet?

This fact sheet explains how your pension may be affected if your marriage or common-law relationship ended and the things you need to know if your separation agreement has assigned a part of your pension benefit to your ex-spouse.

In January 2012, new legislation came into effect that changes the way pension benefits are divided on marriage breakdown. The new legislation applies to employees in Ontario and affects all spouses whose relationship has broken down, **unless** the court order, family arbitration award, or domestic contract that provided for the division of pension assets was made **before January 1, 2012**.

**This fact sheet provides information on the rules for agreements established before January 1, 2012.**

Refer to the [\*Marriage breakdown and your pension – For agreements signed on or after January 1, 2012\*](#) fact sheet for information on the new rules.

For more information, contact Human Resources, Pension Sector:

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Telephone: (613) 562-5800  
ext. 1206 (for employees and former employees who have deferred their pension),  
ext. 1747 (for retirees)

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E-mail: [pension@uOttawa.ca](mailto:pension@uOttawa.ca)

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In person: Tabaret Hall, Room 019

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For the sake of simplicity, throughout this fact sheet, we use “marriage” to cover both common-law relationships and legal marriages, and use “separation agreement” to cover a court order, family arbitration award, domestic contract (separation agreement or marriage contract) or cohabitation agreement.

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## How does my marriage breakdown affect my pension?

Under the Ontario *Family Law Act*, your pension from the University of Ottawa Retirement Pension Plan is considered family property. This means that when your marriage ended, you may have had to assign a portion of the pension you accumulated during your marriage to your ex-spouse.

Since you are employed in Ontario (regardless of your province of residence), the Ontario *Pension Benefits Act* regulates your benefits under the University's pension plan. As a result, any agreement you reached with your ex-spouse about splitting your pension benefits has to comply with the Ontario *Pension Benefits Act* and the Ontario *Family Law Act*. If you are a Quebec resident, this is important to note, since the rules in Quebec for pension benefit splitting on marriage breakdown are very different.

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## How it works

Your separation agreement must set out the amount to be assigned to your ex-spouse as:

- a lump-sum dollar amount,
- a formula for determining the dollar amount of the annual pension,
- a dollar amount of the annual pension, or
- a percentage of your accumulated pension.

You can assign a maximum of 50% of the pension benefits earned during your relationship, calculated as if you had ended your employment with the University on the date your divorce was granted or the date your conjugal relationship ended. If your separation agreement provides your ex-spouse with more or less than 50% of your pension benefit accumulated during your relationship, the University will pay the lesser of:

- the amount stipulated in the separation agreement, or
- the maximum allowed by law.

The separation agreement must address all issues, including what happens when you or your ex-spouse dies before all payments from the plan have been made.

The pension benefit payable to your ex-spouse is locked in, which means that it must be used to provide retirement income – it cannot be taken in cash. Your ex-spouse can – unless the separation agreement stipulates otherwise – receive an annual pension payable from the University’s pension plan or transfer the lump-sum value of the pension benefit (also called the “actuarial value”) to a prescribed locked-in vehicle.

## Terms you need to know

### **Spouse – for the purposes of pension splitting on marriage breakdown**

A spouse is the person to whom you are legally married or your common-law partner. Your common-law partner must have lived with you in a conjugal relationship:

- for at least three continuous years, or
- for less than three continuous years, but in a relationship of some permanence, if your common-law partner is the natural or adoptive parent of your child.

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## Things you need to know

- If your agreement provides for a split of your pension benefit and was signed before January 1, 2012, forward a copy of the signed document to Human Resources, Pension Sector (if you haven't already).
  - If you are legally married, you must provide a certified copy of a court order, domestic contract (separation agreement or marriage contract) or family arbitration award. If you were previously common-law partners and then married, your cohabitation agreement, if applicable, is considered to be a marriage contract.
  - If you are common-law partners, you must provide a certified copy of a cohabitation or separation agreement or family arbitration award.

Be sure to complete and forward the [Change to marital status](#) package to Human Resources.

- If you are an active employee, your ex-spouse may only receive his or her portion of your pension benefit when you:
  - end your employment with the University,
  - start your pension,
  - die, or
  - reach age 65,whichever event occurs first.

Once one of the above events occurs, if the separation agreement provides for a pension benefit split, the University will send your ex-spouse a benefit statement advising him or her of the available options.

- If you have an eligible spouse on your retirement date, that spouse acquires the right to your survivor pension on that date and retains that right, even if you separate, divorce and/or re-marry after retirement, unless the separation agreement is clear that these benefits are forfeited.

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## Advise Human Resources if your marital status changes

It's important to advise Human Resources if:

- you get married or enter into a common-law relationship,
- you separate, divorce or end your common-law relationship, or
- your spouse dies.

Your pension and group benefits may be impacted by a change. And, keeping your file up to date will ensure any benefits or pension payable on your death can be promptly paid. Complete and forward the [Change to marital status package](#) to Human Resources.

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This fact sheet is for general information purposes only and is not intended to provide you with any personalized financial, insurance, legal, accounting, tax or other professional advice. While the University of Ottawa has made every effort to ensure the accuracy of the information, complete details are contained in policies, documents, contracts, pension plan text, and applicable legislation. These official documents govern the operation of the pension plan and take precedence over the information in this fact sheet in the case of inconsistency or error.



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