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Marriage breakdown and your pension

What's in this fact sheet?

This fact sheet explains how your pension may be affected if your marriage or common-law relationship ends, the things you need to know, and the steps to take if your separation agreement assigns a part of your pension benefit to your ex-spouse. For more information, contact the Human Resources Service, Pension Sector:

Telephone: (613) 562-5800
ext.1206 (for employees), ext. 1747 (for retirees)

E-mail: pension@uOttawa.ca

In person: Tabaret Hall, Room 019

Important note

Recently, new legislation was proclaimed that will change the way pension benefits are divided on marriage breakdown. This new legislation includes numerous amendments to the *Pension Benefits Act* and the *Family Law Act*. The new legislation has not yet been made effective.

The new legislation will change the way a payment to an ex-spouse can be made. If you are separated and have assigned or will assign a portion of your pension benefit to your ex-spouse, you should consult your family lawyer for information on the new law and to determine if the new provisions will impact you.

This fact sheet provides information on the current rules in place and will be amended when the new law takes effect.

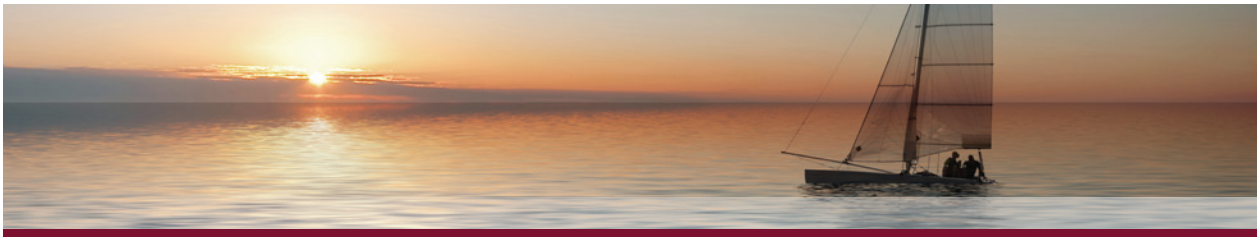
How does a marriage breakdown affect my pension?

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

What happens will depend on your personal situation. In most cases, when all assets accumulated during your marriage are taken into account, each partner receives an equal share of the total assets but not necessarily an equal share of each asset. This means that you may keep your pension whole if you provide something of equal value to your ex-spouse.

In some cases, pension benefit splitting on marriage breakdown may be necessary. 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 reach 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.

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, domestic contract (separation agreement or marriage contract) or cohabitation agreement.



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How it works

A 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 is 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 agreement, or
- the maximum allowed by law.

You should ensure that the separation agreement addresses 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.

Steps to take if your marriage ends

1.	If your marriage ends, both you and your ex-spouse should seek independent legal and financial advice before agreeing to any pension benefit splitting arrangement.
2.	If you are an active employee, fill in the <i>Request for statement of benefits accumulated during the conjugal relationship</i> and forward it to the Human Resources Service, Pension Sector. Pension Officers will provide you with an estimate of the amount of pension you accumulated during your relationship. The statement will also provide you with summary information on the University’s pension plan. You must provide written consent if you want the University to provide information to a third party, such as a lawyer or actuary.
3.	For the purpose of determining your family assets, hire an actuary to calculate the present value of your pension accumulated during the relationship. You can find a local actuary in good standing by going to the Canadian Institute of Actuaries website at www.actuaries.ca .
4.	Prepare your separation agreement. If you are assigning a portion of your pension benefit, your lawyer should make sure the agreement complies 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.
5.	If your agreement provides for a split of your pension benefit, forward a copy of the signed document to the Human Resources Service, Pension Sector. <ul style="list-style-type: none"> • If you are legally married, you must provide a court order or domestic contract (separation agreement or marriage contract). 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.
6.	Complete and forward the <i>Change to marital status package</i> to the Human Resources Service.



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Other things you need to know

If you are an active employee when your marriage ends, 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 copy of your 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.

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 year, but in a relationship of some permanence, if your common-law partner is the natural or adoptive parent of your child.

Advise the Human Resources Service if your marital status changes

It's important to advise the Human Resource Service 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 the Human Resources Service.

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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