What You Need to Know About Pensions & Marriage Breakdown

Ending a spousal relationship can be life-changing and you will need to know how ending your marriage will impact your IBEW Local 353 Pension Plan. Normally upon marriage breakdown assets that were gained during the marriage are split evenly. If you and your spouse are in the process of a separation or divorce, you should be aware your pension is considered a family asset. As a family asset, the value of the pension earned during your marriage is subject to inclusion in the equalization of family assets for the period of your marriage.

What if I am in a common-law relationship?

The Ontario Family Law Act doesn't require common-law spouses to equalize their Net Family Property. They may choose to do so under a domestic contract or a family arbitration award. Common-law spouses who are considering dividing their pension assets should seek legal advice. To learn more about common-law, visit FSRA's website here: https://www.fsrao.ca/consumers/pensions/pensions-and-marriage-breakdown-guide-members-and-their-spouses.

The Process

Ontario family property rules will apply where the Ontario Family Law Act applies to your marriage breakdown and if the last place you and your spouse resided together before separation was in Ontario.

To begin the process of determining the value of the pension earned during your spousal relationship, you will need to have agreed to the Family Law Valuation Date. This is often, but not always, the date you separated from your spouse. Alternatively, it may be the date a court grants your divorce or declares your marriage a nullity.

Once the Family Law Valuation Date has been determined, you will be required to obtain a valuation of your pension benefits, known as a Family Law Valuation. Ontario's Family Law Act and the Pension Benefits Act set out the rules and procedures that you and your former spouse must follow to get the value of your pension calculated by the pension administrator. Ontario's pension regulator, the Financial Services Regulatory Authority of Ontario (FSRA) regulates this process.

It's also important to understand that just because you have to value your pension for the period of your marriage, you don't automatically pay half of your pension value. After going through the equalization process you and your ex-spouse may not owe each other anything. If you do owe your spouse, you don't have to use your pension assets to pay if you have other assets that can be used. If you do owe your spouse, you need not always use your pension towards payment.

Decisions regarding the valuation and division of your pension can be complicated. TEIBAS strongly recommends that you and your former spouse seek independent legal advice before you apply for a Family Law Valuation or decide to divide your pension so that you both understand your legal rights and obligations before making any decisions.

Who is defined as a spouse under the IBEW Local 353 Pension Plan?

Under Ontario pension law, your "spouse" is a person who is:

- Married to you; or
- Not married to you, but has been living with you in a conjugal relationship continuously for at least three years; or
- Not married to you, but living with you in a conjugal relationship of some permanence if you are the parents of a child as set out in section 4 of the *Children's Law Reform Act*.
- You will be asked to provide proof that your "spouse" meets this definition.

Division of your pension

If you filed for the division of your pension before January 1, 2012, your former spouse can't begin receiving their share of your pension until you either leave the plan, retire, turn age 65 or pass away - whichever comes first.

Remember to send a copy of your separation agreement, court order, or other related documentation to TEIBAS for our records.

If you file for the division of your pension after January 1, 2012, your former spouse may receive an immediate payment - but not before the value of your pension is calculated. Here's what you need to do:

1. First, we strongly recommend that you consult a family lawyer for information about the separation/divorce process and how it relates to your pension benefits. If you need help finding a family lawyer, your Member Assistance Program (MAP) Telus Health can assist you in connecting with one. Your MAP is available 24/7/365. Call the Telus Health Care Access Centre toll-free at 1-866-289-6749 and indicate that you are a member of the IBEW Local 353. Or visit one.telushealth.com | Username: canadalife | Password: telus1

2. Visit FSRA's website to obtain an Application for Family Law Value Family Law Form FL-1 at https://www.fsrao.ca/family-law-form-fl-1-application-family-law-value.

If you are retired, you can complete the same Family Law FL-1 form. If you are or were legally married to your spouse, you or your spouse may complete the Family Law FL-1 form. If you are or were in a common-law relationship and have agreed to divide your pension, only you can complete this form.

FSRA provides a guide that gives pension plan members and their spouses an overview of valuing and dividing a plan member's pension upon marriage breakdown. You can read their guide here: https://www.fsrao.ca/consumers/pensions/pensions-and-marriage-breakdown-guide-members-and-their-spouses.

3. You must submit the application to TEIBAS with all required documentation (see the form for instructions) and payment which you can pay with a cheque for $678 ($600 + HST) made payable to IBEW Local 353 Pension Trust Fund or by paying through your financial institution's online bill payment option. See page 4 for more details. DO NOT send your application to FSRA.

TEIBAS will send you and/or your former spouse a statement within 60 days of receiving the completed application (including all required documentation), showing the value of your pension that could be divided.

Please note that the IBEW Local 353 Pension Plan is a target benefit pension plan. Future pension payments are subject to be changed (either increased or decreased) depending on the funded status of the pension plan. If a member has not started their pension as of the Family Law Valuation Date and the Plan is in a deficit as of that date – their Family Law Value will be reduced based on the going concern funded ratio of the Plan on the Family Law Valuation Date. The going concern funded ratio reflects the funded status of the plan at a specific date and is used to determine how much is eligible to be transferred out of the Plan.

Once an agreement about your family assets - including your pension - has been reached, your former spouse may apply for their share of your pension benefits, if entitled. Your former spouse will need to provide a certified copy of the court order or domestic contract along with Family Law Form FL–5: Spouse's Application for Transfer of a Lump Sum to TEIBAS to receive a transfer to a locked-in account. The form can be obtained at the FSRA website at https://www.fsrao.ca/family-law-form-fl-5-spouses-application-transfer-lump-sum. Your former spouse will get a lump-sum payment - unless you are already retired. In that case they will receive a portion of your monthly pension and must provide TEIBAS with a Family Law Form FL–6: Spouse's Application to Divide a Retired Member's Pension. Either way, your pension will be adjusted to account for the payout to your former spouse.

Other impacts of divorce or separation

It's important to understand that if you and your spouse are living separate and apart at your date of retirement, they do not qualify as your spouse under Ontario pension law, even if you are still legally married. This means that they are not entitled to a death benefit from the Plan unless specifically named as your beneficiary. If you do not wish to name them as your beneficiary, no waiver is required. Simply complete a Pension Beneficiary form (found at https://teibas.com/change-update-of-beneficiary-for-pension-plan-final/ with the name of your new beneficiary(ies) and submit it to TEIBAS. If you wish to name your ex-spouse as your beneficiary, simply ensure that you name them as a beneficiary on this form. Once TEIBAS receives the Family Law Form your former spouse will be removed from the Benefit Plan.

How to apply for a marriage breakdown pension valuation

As mentioned earlier, your pension is considered a family asset for the period of your marriage. The actual amount that your former spouse receives from the Plan will depend on the terms of any marriage agreement, separation agreement, cohabitation agreement, paternity agreement, family arbitration agreement, or court order. You should send a certified copy of the agreement or order to TEIBAS who will check to make sure that it complies with the law and the terms of the Plan.

Keep in mind that it's not the pension contributions that are split, but the value of the pension earned on those contributions during the period of the spousal relationship, minus any Plan funding shortfall.
FSRA and the *Pension* and *Benefits Act of Ontario* outline the legal requirements in requesting a pension valuation concerning a marriage breakdown. Members of a target benefit pension plan who are seeking a valuation of their pension assets due to a marriage breakdown are required to use specific application forms, which are posted online. These forms must be completed and submitted along with the required documents and related fees directly to TEIBAS. The five-step process is outlined below:

Step 1

Review the FSRA Guide to Pension and Marriage Breakdown by visiting:
https://www.fsrao.ca/consumers/pensions/pensions-and-marriage-breakdown-guide-members-and-their-spouses.

Step 2

Complete the required forms to apply for a pension Family Law Valuation.

Download the FL-1 Form here:
https://www.fsrao.ca/industry/pension-sector/pensions-forms/pf-132.

You will need the following important information:

- **Plan Name:** IBEW Local 353 Pension Plan
- **Plan Registration #:** 0598235
- **Pension Plan Administrator:** TEIBAS Ltd.

You must also submit the following documents with your application forms:

- separation agreement or court order, and
- proof of age for both you and your former spouse (birth certificate, passport, or valid driver's license), and
- copy of the marriage certificate, or
- proof of common-law status.

Step 3

The completed forms and documents must be accompanied by the valuation fee of $678 made payable to the IBEW Local 353 Pension Trust Fund for each pension valuation requested. You can by cheque or by paying through your financial institution's online bill payment option:

Cheque Amount: $678
Payable to: IBEW Local 353 Pension Trust Fund

Or:

You can submit payment to TEIBAS using your financial institution's online "Bill Payment" option, by following the instructions below:

1. Log into your personal banking site.
2. Select Bill Payment
3. Search Add Payee
4. Search list of Payee either TEIBAS or IBEW Local 353
5. Select IBEW 353 Trust Funds - TEIBAS
6. Include the account number: This is the last 5 digits of your PIN #. (You can find your PIN # on your prescription drug card. If you need help identifying your PIN # contact TEIBAS.)
7. Payment amount $678.00 (per valuation)
8. Once you make payment please notify TEIBAS via email: members@teibas.com

Step 4

Mail, courier or drop off completed forms, documents and payment (if paying by cheque) to:
TEIBAS Ltd.
705-110 Sheppard Ave. East
Toronto, ON M2N 6Y8

If you're dropping off the forms, TEIBAS is open Monday to Friday from 7:30 a.m. to 4:30 p.m.

Once we receive the completed forms, required documents, and the valuation fee, the value of your pension during your marital period, adjusted for any plan funding shortfall (if any), will be provided to you and your former spouse within 60 days.

Step 5

Given the change in your spousal status, you may wish to review and update your life insurance (if applicable), pension and group RRSP beneficiaries:

Life Insurance Beneficiary Change Forms can be found here:

Active member life insurance beneficiary change form:
https://teibas.com/change-update-of-beneficiary-for-life-accident-insurance-form-final/

Retired member death benefit beneficiary change form can be found here:
https://teibas.com/change-update-form-for-retiree-death-benefit-accident-insurance-final/

For your Group RRSP, please contact Canada Life Group RRSP services at 1-800-724-3402 and reference Policy #GE11257.

This factsheet is only a summary of your pension plan information. For a full description, please see the Pension Plan booklet on teibas.com. In the event of any discrepancy or conflict between this summary, the Pension Plan Booklet, and the pension plan text, the terms of the pension plan text will prevail.