

INFORMATION SHEET

Division and Distribution of Pension Entitlement on Relationship Breakdown

As of January 1, 2001, the Universities Academic Pension Plan (UAPP) became subject to the Employment Pension Plans Act and Regulations (EPPA). Under the EPPA, the right of any person to receive a benefit is subject to the rights of a non-member spouse or former spouse (hereinafter referred to as “spouse”) under a Family Property Order (FPO) or an agreement under the Family Property Act, providing for the division and distribution of a pension benefit.

The EPPA sets out the rules for division and distribution of a pension entitlement when a relationship between adult interdependent partners breaks down. The Family Property Act in Alberta gives property division rights to both married and common-law couples and the EPPA’s pension division rules apply to couples who reside in Alberta.

KEY FEATURES OF RELATIONSHIP BREAKDOWN LEGISLATION AFFECTING UAPP

1. The EPPA sets standards for the terms of a spouse’s share of a pension entitlement but does not require that the spouse’s share be satisfied by a transfer from the pension plan or a splitting of the pension. The spouse’s share may be satisfied by mutual agreement by trading other assets of equal value.
2. The spouse’s share that can be paid out of a pension plan is limited to 50% of the value of the benefits earned during the period of joint accrual as established by the FPO. The period of joint accrual is generally that part of the plan member’s pensionable service during which the member and spouse were married. The FPO may grant a larger share to a spouse, however, settlement of amounts in excess of 50% must be made from other assets.
3. An FPO, Agreement, or a similar order enforceable in Alberta that complies with the requirements of the EPPA must be filed with UAPP before division and distribution of pension benefits can occur. It is strongly recommended that a draft copy of any proposed FPO or Agreement be sent to UAPP at #1850, 10303 Jasper Avenue, Edmonton, AB, T5J 3N6 prior to finalization to ensure that the terms of the FPO or Agreement are clear and can be administered. Alternatively, request a sample court order from UAPP. Please see contact information below.

An FPO or Agreement that does not comply with the EPPA or is unclear will require amendment and may require clarification from the Court. Any costs associated with such amendment or clarification shall be the responsibility of the member and the spouse.

4. Benefits paid to a spouse pursuant to an FPO will result in an appropriate adjustment to the member’s entitlement.

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5. UAPP provisions for distribution of pension entitlements to a spouse pursuant to an FPO are as follows:

When a pension is not yet in payment

- a. If the member is under age 55 as of the date of division (date when the period of joint accrual ended), the spouse's share of the relevant commuted value will be transferred to the spouse's Locked-in Retirement Account (LIRA).
- b. If the member is age 55 or over as of the date of division, the spouse may choose to receive his or her share immediately or delay division and distribution until the date when the member ultimately commences a pension, terminates or dies. In both cases, the spouse's share of the relevant commuted value will be transferred to the spouse's LIRA.

When a pension is already in payment

If a member is already receiving a UAPP pension as of the date of division, the member's adjusted pension will be paid for the member's lifetime and will be calculated based on the member's age. Likewise, the pension to be paid to the spouse will be for the lifetime of the spouse and will be calculated based on the spouse's age. The FPO or Agreement should indicate who is to be paid the remaining pension benefit, if any, on the death of each party.

6. Two disclosure statements are required on relationship breakdown. The first is a statement of the value of the benefit and is to be used in determining the value of family property assets for the purpose of distribution. Once an FPO or Agreement has been filed with UAPP, a second statement, an option statement, is prepared to determine how the benefit will be paid.

Either the member or the spouse may contact UAPP directly to request a statement. To generate the statement, the member or spouse should complete the *UAPP Total Entitlement Estimate Request Form* with all required information. It is very important that complete and accurate information is provided to UAPP for the preparation of the relationship breakdown statements of benefits. Law firms representing either the member or the spouse must complete both the *UAPP Third Party Authorization Form* and *UAPP Total Entitlement Estimate Request Form* to communicate directly with UAPP.

Additional statements based on amended information will not be provided. In the event a member or spouse require additional calculations, a professional must be employed to complete any additional calculations. Additional calculations are not provided by nor funded by UAPP.

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7. The FPO or Agreement should clearly state the start and end dates of the joint accrual period and the percentage share due to the spouse. If the member is under age 55 at the date of relationship breakdown, the FPO should state that the spouse's share must be transferred to a LIRA. If the member is over age 55 at the date of relationship breakdown, the election to transfer or delay division must be indicated. If the member is already receiving a UAPP pension at the time of relationship breakdown, the FPO should specify what is to happen to any remaining benefits upon the death of each party.

FPOs FILED UNDER THE STATUTORY UAPP

Prior to the UAPP becoming a registered plan under the EPPA on January 1, 2001, several FPOs (then commonly known as Matrimonial Property Orders, or MPOs) were filed under the old statutory plan. Those FPOs in general provided only for payment of the spouse's share of pension to the spouse upon the member's retirement. Therefore, under these FPOs, the spouse's pension payment remains tied to the member's retirement date.

Given the current provisions under the EPPA, non-retired members and their spouses who have old FPOs but wish to convert the spouse's share into a lump sum payment may renegotiate those FPOs and file valid revised FPOs with UAPP. UAPP will apply the terms of an existing FPO unless a new one is filed prior to a member's retirement and, where the terms of an existing FPO are unclear, the parties to the FPO will be required to provide necessary clarifications.

DEFINITION OF SPOUSE

Persons are partners on any date on which one of the following applies:

- (i) married to each other and have not been living separate and apart from each other for a continuous period longer than 3 years
- (ii) if clause (i) does not apply, a person who has lived with that member or former member in a marriage-like relationship
 - (A) for a continuous period of at least 3 years preceding the date, or
 - (B) of some permanence, if there is a child of the relationship by birth or adoption.

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IMPORTANT NOTE TO THE READER:

This Information Sheet is designed as a quick summary of the subject. Should anything in this Information Sheet conflict with the UAPP Sponsorship and Trust Agreement, or any applicable provincial or federal legislation, the Agreement and/or the legislation shall apply.

NEED MORE INFORMATION?

Call UAPP at 1.888.339.1546 (toll-free within North America) or 1.780.612.4259 (collect, outside North America) if you have further questions. Information Sheets on other pension topics are available on the UAPP's website at www.uapp.ca (under Publications).