



FSRA is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines and FAQs.

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.

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Heringer v. Heringer – Ontario Superior Court of Justice decision on the payment of interest on a specified amount representing the former spouse’s share of the Family Law Value

On December 17, 2014, the Ontario Superior Court of Justice (the “Court”) released its decision in [Heringer v. Heringer, 2014 ONSC 7291](#) (Heringer). This case considered the right of a former spouse of a member to the payment of interest on his or her share of the Family Law Value (i.e. the “imputed value”) when transferred out of the pension plan as a lump sum in accordance with section 67.3 of the Pension Benefits Act (PBA).

The Court concluded that where a court order, family arbitration award or domestic contract (settlement instrument) provides for the transfer of a lump sum to the member’s former spouse that is expressed as a specified amount, plan administrators have no authority to add interest to that specified amount unless the settlement instrument expressly requires that it be added. However, the Court also concluded that where the transfer of a lump sum is expressed as a proportion of the Family Law Value, interest is required to be added to the amount to be transferred in accordance with section 30(4) of Ontario Regulation 287/11.

A Notice of Appeal was filed in Heringer but the case has now settled and the appeal has been abandoned. The decision of the Court is therefore law as of December 17, 2014.

The decision affects parties:

- who are subject to the family law rules that came into effect under the PBA on January 1, 2012 (i.e., their settlement instrument was made on or after January 1, 2012); and
- whose settlement instrument provides for the transfer of a lump sum from the pension plan to the member’s former spouse expressed as a specified amount.

Members, former members, their spouses/former spouses and plan administrators may wish to seek legal advice on the implications of this decision.

A copy of the PBA and Regulation 287/11 is available on [ServiceOntario’s](#) website .

Important Reminder to Plan Administrators

Division of Pension Assets

▶ **FAQs related to family law matters**

▶ **Family Law Forms**

▶ **Heringer**

Asset Transfers



Financial Hardship



Legislation: Act & Regulations



Locked-In Accounts (LIFs and LIRAs)



Enforcement Actions



Other Pension Information



Pension Policies



Plan Administrators



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FSCO is responsible for the administration and enforcement of the PBA and regulations made under the PBA.

As noted in FSCO policy (**Court Proceedings – Involvement of FSCO/Superintendent of Financial Services**), FSCO should be informed of any proceeding before a court that involves an interpretation or application of the PBA or Regulation, the Companies' Creditors Arrangement Act, or the Bankruptcy and Insolvency Act. A court's decision on a specific case may have a broad impact on the administration and enforcement of the PBA and regulations. Therefore, the Superintendent of Financial Services (Superintendent) should be given an opportunity to become involved in the proceeding.

The Superintendent is to be notified of the proceeding no later than the date the proceeding is commenced or as soon as practicable after that date. Notice, including a paper-based copy, should be delivered to the Pensions Plan Branch staff member assigned to the plan in question.

 **Scheduled Online Service**

Disruption Notice

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