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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.

## Payment of A Survivor Pension Small Amount - Section 44(7) of the Pension Benefits Act

Effective July 1, 2012, section 44(7) is added to the Pension Benefits Act (PBA).

This new section provides that a pension plan may provide for payment of the commuted value of a joint and survivor pension to the surviving spouse of a retired member as a lump sum (instead of paying a survivor pension), if:

1. the annual benefit payable to the surviving spouse is not more than 4 percent of the Canada Pension Plan's Year's Maximum Pensionable Earnings (YMPE) for the year in which the retired member died; or
2. the commuted value of the benefit payable to the surviving spouse, calculated as of the date of the retired member's death, is less than 20 percent of the YMPE for the year in which the retired member died; and
3. the pension plan is amended to permit such a payment.

The lump sum would be paid on an unlocked basis, and in accordance with new sections 44(8) and 44(9) of the PBA, a surviving spouse may require that the pension plan pay the amount into a registered retirement savings plan (RRSP) or registered retirement income fund (RRIF). The process for requesting a payment into an RRSP or RRIF is explained further here: [Transfers to a Registered Retirement Savings Plan \(RRSP\) or to a Registered Retirement Income Fund \(RRIF\)](#).

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Questions and answers regarding the payment of a survivor pension small amount:

### Q1. Do the plan terms have to be amended to provide for the lump sum payment of a survivor pension small amount?

**A1.** Yes. If the plan terms do not provide for the lump sum payment of a survivor pension small amount it cannot be made, and the retired member's surviving spouse must be paid a survivor pension. -06/2012

### Q3. Does the survivor benefit have to satisfy both criteria (a) and (b) of section 44(7) of the PBA in order to qualify as a small amount?

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**A3.** No, the survivor benefit has to satisfy only one of (a) or (b). -06/2012

**Q4. Can the plan terms require that a retired member’s surviving spouse receive his or her survivor benefit as a lump sum payment if the survivor benefit qualifies as a small amount under section 44(7) of the PBA?**

**A4.** If the first instalment of a retired member’s pension was due on or after July 1, 2012, the plan terms can require that a lump sum payment be made to a retired member’s surviving spouse if the survivor benefit qualifies as a small amount. However, in FSCO’s view, the small amount payment must be calculated at the date of death, and before survivor pension payments commence. In other words, the plan terms cannot require a lump sum payment to those who are already in receipt of a survivor pension from the plan.

In cases where the first instalment of a retired member’s pension was due before July 1, 2012, section 44(7.1) of the PBA provides that the retired member’s surviving spouse must consent in writing to the payment of the commuted value of the survivor benefit. -09/2017

**Q5. Is the payment of a survivor pension small amount subject to any of the transfer restrictions that apply under section 19 of Regulation 909, i.e., in cases where the pension plan making the payment has a funding deficiency at the time payment is made?**

**A5.** No. The payment of a survivor pension small amount is not subject to any of the transfer restrictions that apply under section 19 of Regulation 909. -06/2012

**Q6. If the plan terms provide for payment of a survivor pension small amount, what are the options available to a retired member’s surviving spouse who is entitled to this payment?**

**A6.** If the plan terms provide for payment of a survivor pension small amount, the surviving spouse must be given the option to:

- receive the amount in cash;
- transfer the amount to an RRSP; or
- transfer the amount to a RRIF. -09/2017

**Q7. What are the timelines for the transfer of a survivor pension small amount to an RRSP or RRIF?**

**A7.** If a retired member’s surviving spouse wishes to transfer the survivor pension small amount to an RRSP or RRIF, he or she must direct the plan administrator to do so within 90 days after the plan administrator notifies him or her of these transfer options. The plan administrator must transfer the amount to the RRSP or RRIF within 60 days after receiving the surviving spouse’s direction. -09/2017

