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.

Carrigan v. Carrigan Estate – Supreme Court of Canada Denies Leave

On March 28, 2013, the Supreme Court of Canada denied leave to appeal the Ontario Court of Appeal's decision in Carrigan.

The Court of Appeal's decision in **Carrigan v. Carrigan Estate** considered the rights of spouses to pre-retirement death benefit under **section 48** of the PBA. In denying the benefit to a common law spouse (a person who is not legally married to a plan member but qualifies as a spouse under the definition in **section 1** of the PBA) who was living with the member at the date of death, the Court gave an interpretation that was unexpected and inconsistent with how section 48 had been previously administered.

The Court of Appeal's interpretation of the pre-retirement death benefit provision under section 48 of the PBA is now law. The decision directly affects members or former members of a pension plan who:

- have not started receiving a pension;
- are legally married to a person who they are living separate and apart from; and
- are living with a person who qualifies as a common law spouse under the PBA.

The effect of this decision is that in cases where a member is living with a common law spouse but is still legally married to (and living separate and apart from) another person, the member is free to designate whomever he or she chooses to be the recipient of the pre-retirement death benefit, including his or her common law spouse.

Members or former members who are affected by the decision and who want their common law spouse to be the beneficiary of the pre-retirement death benefits may file a current beneficiary designation with the plan administrator naming the common law spouse as beneficiary. All members and former members should consider obtaining legal advice for estate planning matters.

Pension plan administrators may also wish to seek legal advice on the implications of the Carrigan decision.

As the decision is now final FSCO will be reviewing the implications of the Carrigan decision for both plan beneficiaries and plan administrators.

Scheduled Online Service Disruption Notice

Please consult our **outage schedule** for more details.

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