

DATE: April 24, 2012

FOR: IPEBLA / CAA CONFERENCE - MONTEGO BAY, JAMAICA 04-2012

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RE: WORKSHOP 20 - PENSION SPLITTING ON MARITAL BREAKDOWN

Many jurisdictions provide financial rights to pensions for conjugal partners of pension plan members when their relationship ends. While many of the principles that are the basis for partitioning benefits may be the same the execution is not.

As many of the IPEBLA members know, Canada is made up of 14 different jurisdictions – 10 provincial, three territorial and one federal. In most of these jurisdictions there is applicable pension benefits standards legislation governing the rights of plan members and beneficiaries under a registered pension plan. There is also different legislation governing family and patrimonial rights and obligations. What counts is who has authority over what:

WHAT?	WHO?
Pension benefits and the rights of plan members and beneficiaries	Pension benefits' standard legislation of the jurisdiction where the plan member reports to work or is deemed to report to work – federal, if the employee is in excluded employment (businesses declared to be in the interest of the whole country, e.g. banks, interprovincial transportation, aviation, radio-telecommunication)
Successions, family patrimony, family rights and obligations	Civil or common-law rules of the provincial or territorial jurisdiction where the plan member and spouse reside (may be impacted by the laws of the jurisdiction where they married)

In the chart we have excluded the federal jurisdiction from “family and patrimonial authority” as our constitution gives sole authority over such matters to provinces and territories, but this jurisdiction has an impact on marital breakdown situations. This is reflected this in its Pension benefits’ standard legislation but often leads to confusion.

All in all, plan administrators must administer marital breakdown situations using both sets of rules.

During the workshop we will give some background information about the similarities and differences in approach to partition of benefits – examining how the various legislators have decided to approach the issue. We will encourage participants to discuss the approaches in their jurisdiction / country, talking about what works and what doesn't, the effect that the varying approaches have on plan members and spouses as well as plan administrators. We will talk about the plan administrators’ role in the compliance area as well as its fiduciary duty to provide complete, accurate and understandable information.

We will also provide some basics about the new marriage breakdown rules in Ontario and examine the reasoning behind some of the choices made: prescribed forms, averaged computations, variations per type of plan /member/special situation.