

Update on Payment of Pension Entitlement on Death Prior to Retirement

This is an update to a [prior posting](#) about the Ontario Court of Appeal decision in *Carrigan v. Carrigan Estate* (Carrigan Decision) and its implication for pension plan members who die prior to pension commencement leaving both a married spouse and a common law spouse. The Ontario legislature has amended the *Pension Benefits Act* to reverse the effect of the Carrigan Decision.

The prior posting advised that if a member who has a common law spouse¹, but also has a married spouse from whom the member is separated but not divorced, and the member wishes for the pre-retirement death benefit to be paid to the common law spouse, the member must designate the common law spouse as a beneficiary.

With the recent legislative amendments, the common law spouse once again has automatic priority to receive pre-retirement death benefits (unless this right is waived on the prescribed form). This means that it is no longer necessary for a member to name the common law spouse as the beneficiary, and another beneficiary could be named.

Members who named their common law spouse as beneficiary should consider whether they would like to change that designation, knowing that their common law spouse would receive the pre-retirement death benefit without being the named beneficiary.

Members can update their beneficiaries by completing the “Pension Beneficiary Designation Form for Active Employees” at <http://workingatmcmaster.ca/pensions/forms/index.php>, or contact the HR Service Centre at extension 22247 for more information.

¹ Under the Contributory Pension Plan for Hourly-Rated Employees of McMaster University Including McMaster Divinity College, the Contributory Pension Plan for Salaried Employees of McMaster University Including McMaster Divinity College 2000 and the Contributory Pension Plan for Salaried Employees of McMaster University Including McMaster Divinity College, the common law spouse is the person who is not legally married to the member but has cohabited with the member in a conjugal relationship (i) continuously throughout the immediately preceding one (1) year period; or (ii) in a relationship of some permanence, if the member and the spouse are the natural or adoptive parents of a child, both as defined in the Family Law Act, R.S.O. 1990.