

Edgar Filing: FORDING INC - Form SC 13D/A

FORDING INC  
Form SC 13D/A  
January 08, 2003

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
SCHEDULE 13D/A

Under the Securities Exchange Act of 1934  
(Amendment No. 3)\*

Fording Inc.  
(Name of Issuer)

Common Shares, no par value  
(Title of Class of Securities)

345426100  
(CUSIP Number)

Roger Barton  
5650 Yonge Street, 5th Floor  
Toronto, Ontario M2M 4H5  
(416) 730-5321

Daniel S. Sternberg  
Cleary, Gottlieb, Steen & Hamilton  
One Liberty Plaza  
New York, New York 10006  
(212) 225-2000  
(Name, Address and Telephone Number of Persons  
Authorized to Receive Notices and Communications)

January 6, 2003  
(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of ss.ss.240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box.

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See ss.240.13d-7(b) for other parties to whom copies are to be sent.

\*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

This Amendment No. 3 amends and supplements the Statement on Schedule 13D, as previously amended (the "Statement"), originally filed by Ontario Teachers' Pension Plan Board ("Teachers") with the Securities and Exchange Commission on October 21, 2002, relating to the common shares, no par value (the

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"Common Shares"), of Fording Inc., a Canadian corporation (the "Company"). Capitalized terms used but not otherwise defined in this Amendment No. 3 have the meanings ascribed to such terms in the Statement.

### Item 2. Identity and Background.

Item 2 is hereby amended and restated in its entirety as follows:

(a) This Statement is being filed by Teachers.

(b) - (c) Teachers is an Ontario, Canada corporation, the principal business of which is the administration of a pension plan and management of a pension fund for Ontario teachers. The principal office and business address of Teachers is 5650 Yonge Street, 5th Floor, Toronto, Ontario M2M 4H5.

The name, residence or business address, and present principal occupation or employment of each director, executive officer and controlling person of Teachers is set forth in Schedule A hereto and is incorporated herein by reference.

(d) Neither Teachers nor, to the best of Teachers' knowledge, any of the entities or persons identified in this Item 2 and Schedule A hereto has, during the last five years, been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors).

(e) Neither Teachers nor, to the best of Teachers' knowledge, any of the entities or persons identified in this Item 2 and Schedule A hereto has, during the last five years, been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

(f) Each of the directors and the executive officers of Teachers listed on Schedule A hereto is a citizen of Canada.

### Item 4. Purpose of the Transaction.

Item 4 is hereby amended and supplemented by adding thereto the following additional text:

On January 6, 2003, the Bidder amended the terms of its pending offer under Canadian law to purchase all of the outstanding Common Shares and filed a Notice of Variation and Extension, dated January 6, 2003 (the "Variation") and related documents, with the Ontario Securities Commission. The offer is being varied by, among other things: (i) increasing the aggregate maximum amount of cash available to shareholders from Cdn. \$850 million to Cdn. \$965 million, (ii) decreasing the aggregate maximum number of exchange rights available to shareholders from approximately 42.4 million exchange rights to approximately 38.6 million exchange rights, (iii) increasing the amount of the subordination by Sheritt Coal Partnership II in 2003 to Cdn. \$1.14 per unit per quarter from Cdn. \$1.05 per unit per quarter and extending the subordination period to the end of 2004 at a new subordination amount targeted at Cdn. \$1.30 per unit per quarter in 2004, subject to adjustment and a maximum subordination amount as further described in the Variation, (iv) extending the time of the expiry of the bid to 8:00pm EST on January 23, 2003, and (v) to amend certain other terms of the offer.

Simultaneously with such filing, pursuant to Rule 14d-1(b) under the Securities Exchange Act of 1934, the Bidder filed with the Securities and

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Exchange Commission an amendment ("Amendment No. 2") to its Tender Offer Statement on Schedule 14D-1F (as amended by Amendment No. 2 thereto, the "Schedule 14D-1F/A"), including the Variation and the other disclosure documents required to be delivered to holders of the Common Shares by the Bidder pursuant to applicable law and the exhibits required to be filed as a part thereof.

The Schedule 14D-1F/A, including the Variation and the other disclosure documents required to be delivered to holders of the Common Shares by the Bidder pursuant to applicable law, and the exhibits required to be filed as a part thereof, are hereby incorporated by reference herein to the extent that they describe any plans or proposals that relate to or that would result in the occurrence of any of the actions or transactions described in paragraphs (a) through (j) of Item 4 of the instructions to Schedule 13D.

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

DATED: January 8, 2003

ONTARIO TEACHERS' PENSION PLAN BOARD, an Ontario, Canada corporation

By: /s/ Roger Barton

-----  
Name: Roger Barton  
Title: Vice President, General Counsel  
and Secretary

SCHEDULE A

Executive Officers, Controlling Persons and Directors of Teachers, each of whom is a citizen of Canada.

| Name                            | Residence or Business Address  | Principal Occupation or Employment                                 |
|---------------------------------|--|--|
| ----                            | -----  | -----  |
| Claude Lamoureux                | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5  | President and Chief Executive Officer of Teachers                  |
| Robin Korthals<br>(Chairperson) | Royal Trust Tower<br>Toronto Dominion Centre<br>77 King Street West<br>Suite 4545<br>Toronto, Ontario<br>M5K 1K2 | Chair  |
| Ann Finlayson<br>(Director)     | 440 Markham Street<br>Toronto, Ontario<br>M6G 2L2  | Self-employed journalist, speaker, freelance editor and consultant |

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|                                    |   |   |
|------------------------------------|---|---|
| Lucy Greene<br>(Director)          | 1736 Caughey Lane<br>Penetang, Ontario<br>L9M 1X4   | Retired Human Resources Executive<br>for Sun Life Assurance Company<br>of Canada  |
| Gary Porter<br>(Director)          | 820-439 University Ave<br>Toronto, Ontario<br>M5G 1Y8   | Self-employed Chartered Accountant  |
| Ralph Lean, Q.C.<br>(Director)     | Cassels Brock & Blackwell<br>40 King Street West<br>Suite 2200<br>Toronto, Ontario<br>M5H 3C2 | Corporate & Commercial Lawyer   |
| John S. Lane, C.F.A.<br>(Director) | 77 Dawlish Avenue<br>Toronto, Ontario<br>M4N 1H2  | Retired Senior Vice President,<br>Investments Sun Life Assurance<br>Company of Canada                                   |
| Guy Matte<br>(Director)            | 7083 Notre-Dame<br>Ottawa, Ontario<br>K1C 1J1   | Former Executive Director of the Asso<br>des enseignant <sup>s</sup> et des enseignant <sup>s</sup><br>franco-ontariens |
| J. Douglas Grant<br>(Director)     | 257 Rosedale Heights Drive<br>Toronto, Ontario<br>M4T 1C7                                     | Chairman, Sceptre Investment Counsel  |
| Thomas O'Neill<br>(Director)       | 33 Geraldine Court<br>Toronto, Ontario<br>M3A 1N2   | Former Chairman, PwC Consulting   |
| Robert Bertram                     | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5                                 | Executive Vice President,<br>Investments of Teachers  |
| Allan Reesor                       | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5                                 | Executive Vice President, Member<br>Services and Chief Information<br>Officer of Teachers                               |
| John Brennan                       | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5                                 | Vice President, Human Resources<br>and Public Affairs of Teachers   |
| Andrew Jones                       | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5                                 | Vice President, Finance of Teachers   |
| Peter Maher                        | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5                                 | Vice President, Audit Services of Tea   |
| Roger Barton                       | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5                                 | Vice President, General Counsel<br>and Secretary of Teachers  |
| Rosemarie McClean                  | 5650 Yonge Street   | Vice President, Client Services   |

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|                |   |  |
|----------------|---|--|
|                | 5th Floor<br>Toronto, Ontario<br>M2M 4H5                      | of Teachers  |
| Morgan McCague | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Senior Vice President,<br>Quantitative Investments of<br>Teachers                              |
| Marcus Dancer  | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, Quantitative<br>Investments of Teachers  |
| Neil Petroff   | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Senior Vice President,<br>Fixed Income, International Equities<br>Foreign Exchange of Teachers |
| Brian Gibson   | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Senior Vice President, Active Equities<br>of Teachers  |
| Dean Metcalf   | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, Merchant Banking<br>of Teachers  |
| Leo de Bever   | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Senior Vice President, Research<br>& Economics of Teachers                                     |
| Russ Bruch     | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, Research &<br>Economics of Teachers  |
| Phil Nichols   | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, MIS Member<br>Services of Teachers   |
| Sean Rogister  | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, Fixed Income of Teach  |
| Barbara Zvan   | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, Asset Mix & Risk Mana<br>Research & Economics of Teachers                      |
| Wayne Kozun    | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, TAA & Real Return,<br>Research & Economics of Teachers                         |
| Bruce Ford     | 5650 Yonge Street<br>5th Floor                                | Vice President, International<br>Equity Indices & Foreign Exchange                             |

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|                   | Toronto, Ontario<br>M2M 4H5                                   |  |
| Jim Leech         | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Senior Vice President, Merchant Banki<br>Teachers    |
| Mark MacDonald    | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, Merchant Banking of T                |
| Ron Mock          | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, Alternative Investmen<br>of Teachers |
| Lee Sienna        | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, Merchant Banking of T                |
| Zev Frishman      | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, International Equitie<br>Teachers    |
| Rosemary Zigrossi | 5650 Yonge Street<br>5th Floor<br>Toronto, Ontario<br>M2M 4H5 | Vice President, Venture Capital of Te                |