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SECTION:	Spousal Rights
INDEX NO.:	S500-101
TITLE:	Amended Definition of “Spouse” Under the <i>Pension Benefits Act</i> - PBA s. 1 “spouse”
APPROVED BY:	Superintendent of Financial Services
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*Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.*

*Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at [www.fSCO.gov.on.ca](http://www.fSCO.gov.on.ca). All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

Effective June 13, 2005, Bill 171, the *Spousal Relationships Statute Law Amendment Act, 2005* (S.O. 2005, c. 5) amended the definition of “spouse” in section 1 of the PBA to include same-sex spouses in addition to opposite-sex spouses. The amended definition in the PBA now reads:

- “spouse” means either of two persons who,
- (a) are married to each other, or
  - (b) are not married to each other and are living together in a conjugal relationship,
    - (i) continuously for a period of not less than three years, or
    - (ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child, both as defined in the *Family Law Act*;

Effective June 13, 2005, Bill 171 and Ontario Regulation 324/05 also removed all references to “same-sex partner” that were found in the PBA and Regulation.

The effect of these legislative changes is to extend the status of “spouse” under the PBA to same-sex couples who marry and to include under the definition of “spouse” those non-married same-sex couples who would have qualified as “same-sex partners” before the legislative changes were made.

Where the provisions of a pension plan are inconsistent with the amended definition of “spouse” under the PBA, the plan should be amended to conform with the PBA. In all cases, however, the requirements of the PBA will apply whether or not the plan is so amended.

As a result of these legislative changes, any reference to “same-sex partner” in any pension policy published by the Financial Services Commission of Ontario should now be read as a reference to “spouse” as defined under the PBA.