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SECTION: Spousal Rights

INDEX NO.: S500-305

TITLE: Entitlement to Spousal Joint and Survivor Benefit  
- PBA, 1990, s. 44

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EFFECTIVE DATE: Summer 1994 (As amended June 13, 2005)  
[No longer applicable - replaced by S500-306 - July 2015]

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*Taken from the "Your Questions Answered" column published in the PCO Bulletin. Please see the disclaimer at the beginning of the directory.*

*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: Bill 171, the Spousal Relationships Statute Law Amendment Act, 2005 (S.O. 2005, c. 5) and Ontario Regulation 324/05 amended the definition of "spouse" in section 1 of the PBA and removed reference to "same-sex partner" from the PBA and the Regulation as of June 13, 2005. This policy has been updated solely for purposes of deleting the note referring to same-sex partners. For further details see policy S500-101. No other changes to this policy have been made since the effective date.*

**Does the legislated spousal entitlement to a 60 per cent joint and survivor benefit under section 44 of the PBA, 1990, only apply to benefits accrued on and after January 1, 1987?**

The time period over which a pension benefit has accrued is not a consideration for the purposes of section 44. The deciding factor is the date that retirement benefits (pre-reform and/or post-reform accruals) commence to be paid to a retiree. Section 44 has no application if the first instalment payment of a pension was due to be paid at any time up to and including December 31, 1987. Any pension that was not in pay by December 31, 1987 is subject to section 44.