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SECTION: Spousal Rights

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TITLE: Options to Spouse on Marriage Breakdown  
- PBA, 1987 ss. 52(5)

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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.*

**In subsection 51(5) of the PBA, on marriage breakdown a spouse is given the same entitlement to any option available to the member. Does this mean that the spouse is given the same option that the member chose?**

No. The effect of this subsection is to give a spouse the same options as the member on marriage breakdown. For example, if the member is age 40 and is terminating, there would be four options (deferred annuity under the plan, transfer to locked-in RRSP, member purchases own deferred annuity, leave money in plan for deferred pension). The member could choose a deferred annuity, the spouse could choose a locked-in RRSP.