

Human Resources Legislative Update

New Definition of “Spouse” in Ontario to Affect Plan Administration, Insurance & Succession Rules

Date: December 16, 2016

Editor’s Note: [This amendment came into effect on January 1, 2017.](#)

Pending legislative changes to the definition of “spouse” in Ontario are set to impact pension plan administration and insurance claims in Ontario, further to amendments recently enacted by [Bill 28, All Families Are Equal Act \(Parentage and Related Registrations Statute Law Amendment\)](#), 2016.

Bill 28, which received Royal Assent on December 5, 2016, amends the *Children’s Law Reform Act* to establish new rules of parentage in Ontario and corresponding amendments to various statutes, including the *Pension Benefits Act* and *Insurance Act*. These reforms will come into force on a date yet to be proclaimed.

Of particular note for pension plan and benefits administrators and sponsors, the new definition of “spouse” in subsection [1\(1\) of the Pension Benefits Act](#) will remove current language relating to the “natural or adoptive parents of a child” as defined in the *Family Law Act*, to provide as follows:

“spouse” means, except where otherwise indicated in this Act, 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*~~

(ii) in a relationship of some permanence, **if they are the parents of a child as set out in section 4 of the *Children’s Law Reform Act***

Similarly, once Bill 28 is proclaimed in effect, reference to “the natural or adoptive parents” will be replaced with “the parents” in the definition of “spouse” under both:

- the *Insurance Act* (s. 224(1)(c)(ii))
- the *Pooled Registered Pension Plans Act, 2015* (s. 2(b)(ii))

Amendments to the *Succession Law Reform Act* will, once proclaimed, provide that if certain conditions are met:

- a child conceived after the death of one of his or her parents is still a “child” and “issue” for the purposes of the Act under new posthumous conception rules
- a posthumously-conceived child inherits as if he or she had been born during the lifetime of the deceased and had survived him or her, if the new posthumous conception rules are met.