

Appendix 4

Common Law Living and the Law

Although common-law couples live together without the legal sanction of the law, the law does recognize common law relationships. Under BC law, common law partners do have rights and responsibilities. The following is a brief summary of how the law views common law relationships. The summary is taken from the booklet *"Living Common-Law - Your Rights and Responsibilities"* produced by the Legal Services Society of British Columbia. ⁽¹⁾ It should be noted that under some laws common-law couples have different rights than legally married couples.

What is a Common-Law relationship.

- If you're living as a couple but you're not married, you're in a common-law relationship. You can be a same-sex couple or an opposite-sex couple. If you're dating but don't live together, you're not in a common-law relationship.
- When you stop living together, the common-law relationship is over. You don't have to do anything else to end a common-law relationship.

Am I a spouse or a common-law partner?

- **Federal laws** distinguish between "*spouses*" and "*common-law partners*". They say only married people are spouses. Under federal laws, you become a common-law partner after you've lived with your same-sex or opposite-sex partner for **one year or more**.
- **BC provincial laws** refer to common-law couples as "spouses." Under most of these laws, you become a spouse after you've lived with your same-sex or opposite-sex partner for **two years or more**.
- In practical terms, the difference in terminology does not matter.
- For the purposes of income (welfare) assistance, the Ministry of Human Resources (MHR) considers you to be a common-law couple from the moment you start living together. If you get income assistance, it will be at the rate for a couple (plus any children), not as two single people. The moment you stop living common-law, MHR treats you as single again.

You never "become" married.

- To be legally married, you must have a legal marriage ceremony (religious or civil). After that, you stay married until one partner dies or until the marriage is legally ended by a divorce. So if you live in a common-law relationship and someone tells you: "*If you stay together X number of years, you're legally married,*" it isn't true. If you didn't have a legal marriage ceremony, you're not in a legal marriage.
- Note: There is nothing illegal about living in a common-law relationship while you're still legally married to another person.

The booklet then describes how the law applies to:

- Child Support, Custody, Access and Adoption.
- Rights and responsibilities such as Support for Partners, Property, Debts, Income Tax, RRSPs, etc.
- Benefits such as Income Assistance, Employment Insurance, Federal Pension Programs and Medical and Dental Plan Benefits.
- The legal options of the partners should the relationship end.
- The options a partner has in case of the death of the other partner.

⁽¹⁾ The full booklet is available (in PDF format) on the Legal Services Society's website at: www.familylaw.lss.bc.ca/subjectareas/commonlaw.asp.