

Publisher's Note

2018 — Release 10

Previous release was 2018-9

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Holland, Stalbecker-Pountney

Cohabitation: The Law in Canada

This unique looseleaf is specifically focused on legislation and case law regulating domestic relations between unmarried spouses, including same-sex couples. Prepared by experts in the law of cohabitation and aided by contributions from experts from across Canada, each chapter deals with a particular topic and analyzes both the legislation and case law pertinent to that topic in the common law provinces and Quebec.

What's New in this Update

This release features updates to the caselaw and commentary Chapters 1 (Introduction), 2 (Property Rights), 3 (Support Obligations), 5 (Cohabitation Agreements) and 6 (Children).

Highlights

Cases discussed in this release include the following:

- **Introduction — General Overview** — The validity of a marriage by a man who sustained a catastrophic brain injury in an accident was

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considered as well as its effect on the terms of a property settlement agreement signed before the accident: *Hunt v. Worrod*, 2018 ONSC 2133, 2018 CarswellOnt 6265 (Ont. S.C.J.).

- **Property Rights — Civil Practice and Procedure; Limitation of Actions — Parties** — Regarding the application by the mother who had provided funds in respect of the purchase of a home owned jointly by herself and her son and estranged wife, it was held that the matter was not suitable for summary judgment: *Hutchinson v. Hutchinson*, 2018 BCSC 954, 2018 CarswellBC 1487 (B.C. S.C.).
- **Drafting Cohabitation Agreements — Interpretation** — It was found that an oral agreement was unenforceable on its own where the parties agreed any amendments to a written separation agreement would be unenforceable unless made in writing and signed by both parties before a witness. Further, under section 55(1) of the *Family Law Act* (Ont.), agreements to amend domestic contracts are unenforceable unless they are in writing and signed by both parties before a witness: *Ridley v. DeRose*, 2017 ONCJ 877, 2017 CarswellOnt 20870 (Ont. C.J.), additional reasons at 2018 ONCJ 62, 2018 CarswellOnt 1179 (Ont. C.J.).