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Exemptions and Cohabiting – Issues Under the New Family Property Act

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INTRODUCTION

We were all familiar with the rules for establishing exemptions under the *Matrimonial Property Act*. Pre-marriage assets were valued at the date of marriage no matter what. This was, in fact, one of the only precise terms in the MPA that we could rely upon as a given.

That has now changed with pending legislation which adds common law partners, which adds the following under s. 7(2):

(c) property acquired by a spouse before the marriage, in the case of spouses who were not in a relationship of interdependence with each other immediately before the marriage,

(c.1) property acquired by a spouse before the relationship of interdependence began, in the case of spouses who were in a relationship of interdependence with each other immediately before the marriage,

(c.2) property acquired by an adult interdependent partner before the relationship of interdependence began.

The valuation of exemptions is specified as follows:

(2.2) The market value that is exempt under subsection (2) is the market value of the property on the following date, as applicable:

(a) in the case of spouses who were not in a relationship of interdependence with each other immediately before the marriage,

(i) on the date of the marriage, or

(ii) on the date the property was acquired by the spouse,

whichever is later;

(b) in the case of spouses who were in a relationship of interdependence with each other immediately before the marriage,

(i) on the date the relationship of interdependence began, or

(ii) on the date the property was acquired by the spouse,

whichever is later;

(c) in the case of adult interdependent partners,

(i) on the date the relationship of interdependence began, or

(ii) on the date the property was acquired by the adult interdependent partner,

whichever is later.