

Are you married and don't know it?



Canadians may be surprised to know that you don't need a marriage ceremony or licence to be considered "married" in Canada. Most provinces have rules that give rights and create obligations for a person in a "marriage-like" relationship, generally known as a "common law" relationship – this applies to both heterosexual and same-sex couples.

"Many consider a common law relationship to be the same as being married," says Ray Leclair, vice president of public affairs at LAWPRO®. "However, the change in status is often not intentional or considered by the couple."

In some provinces, a person could be a common law spouse if:

- cohabiting with someone for 2 or 3 years; or
- cohabiting in a relationship of permanence for at least one year where there is a child of the relationship.

However, there has even been the odd case where a couple that was dating has been considered to be in a common law relationship. Courts look at many factors to determine your status. How would you respond to questions such as: do you and your partner (1) live together; (2) have an exclusive relationship with each other; (3) help each other the way a traditional family would; (4) portray yourselves as a couple; (5) interact as parents with each other's children; (6) support the other financially, or are your finances combined; (7) have a relationship your family and friends view as a marriage?

Common law relationships can be complicated from a legal perspective, particularly regarding issues such as spousal support (alimony), property rights, unjust enrichment, constructive trust, the family home, child support and custody, and estate planning or health care issues. For example, once you are in a common law relationship, your assets can become subject to a claim, meaning an asset you may have purchased on your own may be shared with both people in the relationship should you ever separate. It is important to remember that one can be considered in a common law relationship for one purpose (i.e. spousal support) but not for others (i.e. inheritance rights).

Also being recognized in a common law relationship does not mean you have the same rights and obligations as a married couple.

Speaking with a lawyer about your relationship status, actual or proposed living arrangements and other factors can help you determine if you are in a common law relationship, so that you can make more informed decisions about many areas of your life.