

## Legal Matters: Is common-law really the same as marriage?

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**Q:** We are happy living together. Why should we get married?

**A:** Most people assume that common-law is equivalent to married. When it comes to the law – and particularly, spousal rights in a marriage – the "rubber hits the road" and the results are quite different. Particularly, benefits extend to married couples in three important areas: workplace pensions, the matrimonial home, and joint family property. Married spouses are entitled to half of the spouse's workplace pensions accumulated during the marriage. Common-law spouses are not. Married spouses are protected by the "overreaching" doctrine, which does not permit one spouse to sell the matrimonial home without the consent of the other spouse. This can happen in a common-law relationship if both spouses are not on title to the home. Assets and debts – when you are married, all the "good stuff" – the RRSPs, stocks, vehicles, furniture etc., as well as the "bad stuff" – the debts, the mortgage, loans, lines of credit, credit cards etc., are divided 50-50 regardless of whose name is on it. Common-law couples generally take out what they put in – if your name is on the RRSP or the credit card debt, they are all yours. If your name isn't on the RRSP, or you can't prove you bought that bedroom set, it could be lost to you. In summary, marriage offers commitment and financial protection under the law that is not available to common-law spouses.

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