Index

CHILDREN	COHABITATION AGREEMENTS
Generally, 1:65 to 1:76	—Cont'd
Access, 1:70	Clauses—Cont'd business, 3:59
Convenience of the children, 1:74	case law, 3:59
Cooperation, 1:72	careers and opportunities, 3:69
Custody, 1:69	care of children of former unions, 3:49
Decision making responsibility, 1:67	children of the union, 3:51
Family violence, 1:75 Mediation, 1:73	commencement, 3:7, 3:25, 3:43
Mobility, 1:71	compromise, 3:72
Parental responsibilities, 1:68	consideration, 3:9 , 3:27 , 3:45
Parenting time, 1:66	debts, 3:14, 3:32, 3:64
Vacation time, 1:76	case law, 3:64
	disclosure, 3:21 , 3:80
CLAUSES, USE OF	case law, 3:80
Generally, 1:97	division of property
COHABITATION AGREEMENTS	generally, 3:10 , 3:28 , 3:47
See also Same Sex Cohabitation Agree-	case law, 3:47
ments	classes of property to remain sepa-
Agreement for persons ceasing to cohabit	rate, 3:10, 3:28, 3:47
generally, 3:92 to 3:101	dispute, 3:47
attestation, 3:101	division of property on separation or
case law, 3:101	dissolution, 3:10, 3:28, 3:47
case law, 3:92	exclusion of interest as a result of
commencement, 3:93	operation of law, 3:10 , 3:28 ,
consideration, 3:95	3:47
disclosure, 3:99	gifts from third parties, 3:47
executors, 3:100	gifts or transfers between the parties,
heirs, 3:100	3:10, 3:28, 3:47
legal advice, 3:99 parties, 3:93	management of property, 3:47
preamble to recitals, 3:93	statement of assets and liabilities,
property rights, 3:96	tracing and compensation of benefits,
recitals, 3:94	3:10, 3:28, 3:47
responsibilities for debt, 3:97	valuation, 3:47
support, 3:98	case law, 3:47
Clauses	value of existing assets and
generally, 3:7 to 3:23, 3:25 to 3:84	liabilities, 3:47
adoption, 3:68	documents, 3:16, 3:34, 3:75
amendments, 3:22 , 3:41 , 3:81	enforcement, 3:74
case law, 3:81	entire agreements, 3:17, 3:35, 3:76
applicable law, 3:19 , 3:37 , 3:78	estates, 3:15, 3:33, 3:66
attestation, 3:23 , 3:42 , 3:84	case law, 3:66
case law, 3:84	executors, 3:20, 3:36, 3:79

COHABITATION AGREEMENTS	COHABITATION AGREEMENTS
—Cont'd	—Cont'd
Clauses—Cont'd	Clauses—Cont'd
fair agreement, 3:21, 3:80	ownership of property—Cont'd
case law, 3:80	value of existing assets and
heirs, 3:20 , 3:36 , 3:79	liabilities, 3:47
home, 3:13, 3:56	parents, 3:53
case law, 3:56	parties, 3:7 , 3:25 , 3:43
home furnishings, 3:57	pensions, 3:61
case law, 3:57	case law, 3:61
household chores, responsibility for,	preamble to recitals, 3:7, 3:25, 3:43
3:71	recitals, 3:8, 3:26, 3:44
household expenses, 3:12, 3:30, 3:55	cohabitation, 3:44
case law, 3:55	case law, 3:44
income of the parties, 3:54	purpose of agreement, 3:44
income tax, 3:60	religion, 3:70
intention to achieve certainty, 3:40	residence, 3:29
jurisdiction, 3:78	severability, 3:18 , 3:38 , 3:77
legal advice, 3:21 , 3:39 , 3:80	statement of assets and liabilities, 3:63
case law, 3:80	statistics, 3:46
legal expenses, 3:73	support, 3:11 , 3:31 , 3:52
life insurance, 3:62	case law, 3:52
marriage of the parties, 3:83	support obligations relating to former
case law, 3:83	unions, 3:50
names, 3:67	case law, 3:50
negotiation, 3:72	term of agreement, 3:82
other property regimes, 3:48	transfer of property between parties,
other residences, 3:58	3:65
case law, 3:58	Continuation of after period of separation
ownership of property	generally, 3:102 to 3:109
generally, 3:10 , 3:28 , 3:47	attestation, 3:109
case law, 3:47	case law, 3:102
	commencement, 3:103
classes of property to remain sepa-	consideration, 3:105
rate, 3:10 , 3:28 , 3:47 dispute, 3:47	continuation of cohabitation agreement
	3:108
division of property on separation or dissolution, 3:10 , 3:28 , 3:47	disclosure, 3:106
	legal advice, 3:106
exclusion of interest as a result of operation of law, 3:10 , 3:28 ,	parties, 3:103
3:47	preamble to recitals, 3:103
gifts from third parties, 3:47	property right, 3:96
gifts or transfers between the parties,	recitals, 3:104
3:10, 3:28, 3:47	return of property, 3:107
management of property, 3:47	review of agreements, 3:106
racing and compensation of benefits,	Interview checklist
3:10, 3:28, 3:47	generally, 3:1 to 3:5
statement of assets and liabilities,	assets, 3:4
3:47	income, 3:4
valuation, 3:47	instructions, 3:5
case law, 3:47	liabilities, 3:4
Case 1avv, 3.4 /	naomics, J.T

COHABITATION AGREEMENTS	COURT INTERVENTION—Cont'd
—Cont'd	Under statute—Cont'd
Interview checklist—Cont'd	British Columbia Family Law Act
present cohabitation, 3:2	—Cont'd
prior marriages, 3:3	effect of court orders upon agree-
statistics, 3:1	ments, 1:83
Introduction, 3:6 , 3:24	guardianship agreements, 1:83
Pitfalls, 3:124	parenting arrangement agreements,
Termination of	1:83
generally, 3:117 to 3:123	penalties for non-disclosure, 1:83
attestation, 3:123	pension division agreements, 1:83 priority between child and spousal
cancellation, 3:121	support, 1:83
case law, 3:117	property division agreements, 1:83
commencement, 3:118	spousal support agreements, 1:83
consideration, 3:120	support arrears, child and spousal,
legal advice, 3:122	1:83
parties, 3:118	British Columbia Family Relations Act,
preamble to recitals, 3:118	1:84
recitals, 3:119	Divorce Act, 1:85
termination, 3:121	Ontario Family Law Act, 1:82
Variation of	Wills, Estates and Succession Act, 1:86
generally, 3:85 to 3:91	
amendment, 3:88	DRAFTING
attestation, 3:91	Generally, 1:1 to 1:17
commencement, 3:85	Avoid agreements, 1:8
consideration, 3:87	Clarity, 1:2
continuation of agreement, 3:89	Commitment to terms outside client's
disclosure, 3:90	control, 1:14
legal advice, 3:90	Correctness, 1:14
parties, 3:85	Descriptions
preamble to recitals, 3:85 recitals, 3:86	complete, 1:7
recitais, 5:00	proper, 1:6 Formal requirements, 1:9.50
CORPORATE	
Generally, 1:41 to 1:43	Future events, 1:5
Operation of business, 1:43	Legalese, 1:4
Sale of shares between spouses, 1:42	Legal knowledge, 1:12, 1:13.50
COURT INTERVENTION	Loose ends, 1:5
Generally, 1:80 to 1:96	Practicality, 1:13
At common law, 1:81	Precedents, 1:15
Formalities, 1:88	Recitals, 1:11
Interpretation of Domestic contracts, 1:93	Repetition, 1:3
Religious contracts, 1:94	Schedules, 1:10
Specific provision in the contract, 1:91	INCOME TAX
Under statute	Generally, 1:56 to 1:63
generally, 1:82 to 1:87	Checklist
British Columbia Family Law Act	alimony, 1:64
generally, 1:83	common law spouses, 1:64
child support agreements, 1:83	joint and several liability, 1:64
contact agreements, 1:83	maintenance, 1:64
contact agreements, 1.03	i manitenance, 1.07

INCOME TAX—Cont'd	MARRIAGE AGREEMENTS—Cont'd
Checklist—Cont'd	Clauses—Cont'd
non-resident parties, 1:64	business—Cont'd
property transfers between parties, 1:64	ownership of, 2:94
RRSPs, 1:64	careers and opportunities, 2:106
Common law spouses, 1:63	care of children of former unions, 2:84
Joint and several liability, 1:59	case law, 2:84
Non-resident parties, 1:62	children of former marriages, 2:29,
Property transfer between parties, 1:58	2:54
RRSPs, 1:61	children of the marriage, 2:56, 2:86
Support payments, 1:57	case law, 2:86
Tax planning, 1:60	commencement, 2:8, 2:26, 2:51, 2:77
LEGAL ADVICE FORMS	compromise, 2:109
Affidavit, 7:3	consideration, 2:10, 2:28, 2:53, 2:79
Solicitor's certificate of independent legal	contracting in name of other party, prohibition against, 2:40 , 2:65
advice, 7:2	credit cards, 2:66
case law, 7:2	debt between the spouses, 2:67
clause group, 7:2	debts, 2:14, 2:101
MARRIAGE AGREEMENTS	case law, 2:101
Agreement for change of jurisdiction	disclosure, 2:22, 2:46, 2:73, 2:118
generally, 2:155 to 2:161	case law, 2:118
amendment, 2:160	division of property
attestation, 2:161	generally, 2:11, 2:31, 2:55, 2:82
commencement, 2:155	assets to be shared, 2:82
consideration, 2:157	case law, 2:82
continuation of agreement, 2:158	cash payment, 2:82
interpretation, 2:159	case law, 2:82
legal advice, 2:158	classes of property to remain sepa-
parties, 2:155	rate, 2:11, 2:31, 2:55, 2:82
preamble, 2:155	dispute, 2:82
recitals, 2:156	case law, 2:82
Clauses	exclusion of interest by spouse as a
generally, 2:8 to 2:24, 2:26 to 2:49,	result of operation, 2:11, 2:31,
2:51 to 2:123	2:55, 2:82
adoption, 2:105	gifts from third parties, 2:82
adoption of recitals, 2:80	case law, 2:82
alternative clause for providing further information and documents, 2:69	gifts or transfers between the parties,
	2:11, 2:31, 2:55, 2:82
amendments, 2:23 , 2:48 , 2:75 , 2:120 case law, 2:120	case law, 2:82
applicable law, 2:20 , 2:45 , 2:72 , 2:116	management of property, 2:82
case law. 2:116	on separation, dissolution, or death,
	2:11, 2:31, 2:55, 2:82
attestation, 2:24, 2:49, 2:76, 2:123	case law, 2:82
case law, 2:123 business	reference to arbitrator, 2:31, 2:82
	case law, 2:82
generally, 2:94	statement of assets and liabilities,
case law, 2:94	2:31, 2:82
farming operation, 2:94	tracing and compensation for

MARRIAGE AGREEMENTS—Cont'd	MARRIAGE AGREEMENTS—Cont'd
Clauses—Cont'd	Clauses—Cont'd
division of property—Cont'd	life insurance—Cont'd
value of assets and liabilities, 2:31, 2:82	statement regarding designation of beneficiaries, 2:97
documents, 2:17, 2:42, 2:113	living expenses, sharing of, 2:35
effective date of agreement, 2:121	marriage and statistics
case law, 2:121	generally, 2:81
enforcement, 2:112	children, 2:81
case law, 2:112	former unions, 2:81
entire agreement, 2:18, 2:43, 2:70,	marriage, 2:81
2:114	matrimonial home
case law, 2:114	generally, 2:12, 2:91
estates	case law, 2:91
generally, 2:16, 2:103	designation of (Ontario), 2:91
case law, 2:103	encumbering of (British Columbia),
claim on estate, 2:103	2:91
interest in joint property on death,	existing home, 2:91
2:103	future purchases, 2:91
maintaining a valid will, 2:103	gift from parents, 2:91 loan from parents, 2:91
fair agreement, 2:22, 2:46, 2:73, 2:118	option relating to purchase on death
case law, 2:118	2:91
heirs, 2:21, 2:47, 2:74, 2:117	option to purchase, 2:91
home furnishings, 2:62, 2:92	ownership of existing or
home owned by trust, 2:38	contemplated, 2:91
household chores, responsibility for, 2:108	possession on separation (British Columbia), 2:91
household expenses	case law, 2:91
generally, 2:13 , 2:59 , 2:90	purchase of, 2:91
case law, 2:90	renovations, 2:91
sharing of living expenses, 2:59 income of the parties, 2:89	renovations for handicapped child, 2:91
income tax, 2:95	right to reside in after death of
indemnity for stepparent, 2:33	spouse, 2:91
jurisdiction, 2:116	sale of, 2:91
case law, 2:116	substituted, 2:91
legal advice, 2:22, 2:46, 2:73, 2:118	transfer to one spouse on separation 2:91
case law, 2:118	upkeep of, 2:91
legal expenses, 2:111	matrimonial home, description of
life insurance	ownership and reimbursement for
generally, 2:97	contribution, 2:36
case law, 2:97	matrimonial home, designation of
delivery of policy, 2:97	(Ontario), 2:61
no obligation to maintain, 2:97	matrimonial home, purchase of, 2:60
proof of coverage, 2:97	matrimonial home, upkeep of, 2:37
provision of insurance for children,	mediation, 2:119
2:97	case law, 2:119
purchase of insurance for benefit of	names, 2:104
spouse, 2:97	negotiation, 2:109

MARRIAGE AGREEMENTS—Cont'd	MARRIAGE AGREEMENTS—Cont'd
Clauses—Cont'd	Clauses—Cont'd
no claim on estate, 2:41	purchase for benefit of spouse, 2:64
no express or implied agreement for	recitals, 2:9, 2:27, 2:52, 2:78
support, 2:34	religion, 2:107
other personal property, 2:99	sale, 2:39
case law, 2:99	separation agreement with former
other property regimes, 2:83	spouse, 2:30
other residences	severability, 2:19 , 2:44 , 2:71 , 2:115
generally, 2:93	case law, 2:115
home owned by trust, 2:93	spouse not to be parent, 2:32
summer residences, 2:93	spouse to have life interest, 2:68
ownership of property	statement of assets and liability, 2:100
generally, 2:11, 2:31, 2:55, 2:82	case law, 2:100
assets to be shared, 2:82	support
case law, 2:82	generally, 2:15 , 2:87
cash payment, 2:82	during marriage, 2:87
case law, 2:82	case law, 2:87
classes of property to remain sepa-	on separation - children, 2:87
rate, 2:11, 2:31, 2:55, 2:82	case law, 2:87
dispute, 2:82 case law, 2:82	on separation - spouse, 2:87
exclusion of interest by spouse as a	case law, 2:87
result of operation, 2:11, 2:31,	other payments, 2:87
2:55, 2:82	case law, 2:87
gifts from third parties, 2:82	variation of maintenance by the
case law, 2:82	court, 2:87
gifts or transfers between the parties,	variation of maintenance - cost of living, 2:87
2:11, 2:31, 2:55, 2:82	support for wife if assumes childrearing
case law, 2:82	responsibilities, 2:57
management of property, 2:82	support obligations relating to former
on separation, dissolution, or death,	unions, 2:85
2:11, 2:31, 2:55, 2:82	case law, 2:85
case law, 2:82	term of agreement, 2:122
reference to arbitrator, 2:31, 2:82	case law, 2:122
case law, 2:82	transfer of property between parties,
statement of assets and liabilities,	2:102
2:31, 2:82	transfers between parties, 2:39
tracing and compensation for	trusts, 2:98
benefits, 2:11, 2:31, 2:55, 2:82	case law, 2:97
value of assets and liabilities, 2:31, 2:82	valuation on failure to agree on price,
parents, 2:58, 2:88	2:39
case law, 2:88	Continuation of marriage agreement after
parties, 2:8, 2:26, 2:51, 2:77	period of separation
pensions, 2:63 , 2:96	generally, 2:148 to 2:154
case law, 2:96	attestation, 2:154
personal representatives, 2:21, 2:47,	commencement, 2:148
2:74, 2:117	consideration, 2:150
preamble to recitals, 2:8 , 2:26 , 2:51 ,	continuation of agreement, 2:153
2:77	disclosure, 2:151

MARRIAGE AGREEMENTS—Cont'd	MARRIAGE AGREEMENTS—Cont'd
Continuation of marriage agreement after	Interview checklist—Cont'd
period of separation—Cont'd	income—Cont'd
legal advice, 2:151	mortgages, 2:5
parties, 2:148	nature and value of, 2:5
preamble, 2:148	pension plans, 2:5
recitals, 2:149	planes, 2:5
return of property, 2:152	real estate, 2:5
review of agreements, 2:151	sources of, 2:5
Interview checklist	stocks, 2:5
generally, 2:1 to 2:6	testamentary trusts, interest in, 2:5
assets	instructions
generally, 2:5	generally, 2:6
boats, 2:5	business, 2:6
bonds, 2:5	children of the marriage, 2:6
business, 2:5	debts, 2:6
cars, 2:5	estates, 2:6
cash in bank, 2:5	furnishings, 2:6
debts, 2:5	household expenses, 2:6
foreign assets, nature and value of,	income of parties, 2:6
2:5	insurance, 2:6
furnishings, 2:5	matrimonial home, 2:6
income, nature and value of, 2:5	miscellaneous, 2:6
income, sources of, 2:5	obligations relating to children of
inter vivos trusts, interest in, 2:5	prior marriages, 2:6
liabilities, nature and value of, 2:5	parents, 2:6
life insurance, 2:5	pensions, 2:6
miscellaneous assets, 2:5 mortgages, 2:5	property, ownership and division of, 2:6
pension plans, 2:5	support obligations, 2:6
planes, 2:5	liabilities
real estate, 2:5	generally, 2:5
stocks, 2:5	boats, 2:5
testamentary trusts, interest in, 2:5	bonds, 2:5
date, 2:1	business, 2:5
income	cash in bank, 2:5
generally, 2:5	debts, 2:5
boats, 2:5	foreign assets, nature and value of,
bonds, 2:5	2:5
business, 2:5	furnishings, 2:5
cars, 2:5	income, nature and value of, 2:5
cash in bank, 2:5	income, sources of, 2:5
debts, 2:5	inter vivos trusts, interest in, 2:5
foreign assets, nature and value of,	life insurance, 2:5
2:5	miscellaneous assets, 2:5
furnishings, 2:5	mortgages, 2:5
inter vivos trusts, interest in, 2:5	nature and value of, 2:5
liabilities, nature and value of, 2:5	pension plans, 2:5
life insurance, 2:5	planes, 2:5
	_ · ·
miscellaneous assets, 2:5	real estate, 2:5

MARRIAGE AGREEMENTS—Cont'd	NEGOTIATION
Interview checklist—Cont'd	Generally, 1:18 to 1:34
liabilities—Cont'd	Access, 1:30
stocks, 2:5	Analyze case, 1:22
testamentary trusts, interest in, 2:5	Children, 1:30
present marriage, 2:3	Children's maintenance, 1:31
prior marriages, 2:4	Confirmation of ownership and value,
statistics, 2:2	1:20
Introduction, 2:7, 2:25, 2:50	Form of the agreement, 1:28
Pitfalls, 2:169	Information regarding assets and
Review of (British Columbia)	liabilities, 1:19
generally, 2:132 to 2:138 attestation, 2:138	Insurance
*	life, 1:32
commencement, 2:132	medical, 1:33
consideration, 2:134	Interim separation agreements, 1:26
continuation of agreement, 2:136 legal advice, 2:137	Obtain information relating to child and support issues, 1:21
parties, 2:132	Offers of correspondence/settlement
preamble, 2:132	negotiations, 1:27
recitals, 2:133	Pensions, 1:34
review of agreement, 2:135	Prepare game plan, 1:22
Termination of	Relationship
generally, 2:162 to 2:168	with client, 1:23
attestation, 2:168	with counsel, 1:24
cancellation, 2:166	Spousal maintenance, 1:29
commencement, 2:163	PARENTING AGREEMENTS
consideration, 2:165	Clauses
legal advice, 2:167	generally, 6:2 to 6:16
parties, 2:163	agreement to survive, 6:10
preamble, 2:163	amendments, 6:14
recitals, 2:164	child support, 6:7
termination, 2:166	commencement, 6:2
Variation of	consideration, 6:4
generally, 2:124 to 2:131	custody, 6:5
amendment, 2:128	documents, 6:9
attestation, 2:131	financial disclosure, 6:6
case law, 2:124	guardianship, 6:5
commencement, 2:125	heirs, 6:15
consideration, 2:127	jurisdiction, 6:13
continuation of agreement, 2:129	legal advice, 6:16
legal advice, 2:130	mediation of dispute, 6:8
parties, 2:125	other agreements, 6:11
preamble, 2:125	parties, 6:2
recitals, 2:126	personal representatives, 6:15
MERGER	preamble to recitals, 6:2
Generally, 1:77 to 1:79	recitals, 6:3
Property settlements, 1:79	severability, 6:12
Support settlements, 1:78	Parenting agreements, 6:1

Index-8

PARENTING AGREEMENTS—Cont'd	SAME SEX COHABITATION
Variation of	AGREEMENTS—Cont'd
generally, 6:17 to 6:22	Agreement for persons of same sex ceas-
amendment, 6:17	ing to cohabit—Cont'd
commencement, 6:17	support, 4:80
consideration, 6:19	Clauses
continuation of agreement, 6:21	generally, 4:7 to 4:67
legal advice, 6:22	amendments, 4:25 , 4:65
parties, 6:17	applicable law, 4:22 , 4:62
preamble to recitals, 6:17	attestation, 4:26, 4:67
recitals, 6:18	case law, 4:67
Variation of child support provisions of	business, 4:15 , 4:44
generally, 6:23 to 6:30	careers and opportunities, 4:53
amendment, 6:27	care of children of former unions, 4:34
commencement, 6:23	children of the union
consideration, 6:25	generally, 4:11 , 4:36
continuation of agreement, 6:28	adoption of one or more children,
financial disclosure, 6:26	4:36
legal advice, 6:29	case law, 4:36
parties, 6:23	conception by one party, 4:36
preamble to recitals, 6:23	commencement, 4:7 , 4:28
recitals, 6:24	compromise, 4:56
REAL ESTATE	consideration, 4:9 , 4:30
Generally, 1:35 to 1:40	debts, 4:16 , 4:49
Jointly held property, 1:40	case law, 4:49
Occupancy by one or both spouses, 1:37	disclosure, 4:24 , 4:64
Options to purchase, 1:38	case law, 4:64
Sale to third party, 1:39	division of property
Transfer between spouses, 1:36	generally, 4:10 , 4:32
1	classes of property to remain separate, 4:10 , 4:32
SAME SEX COHABITATION	dispute, 4:32
AGREEMENTS	division of property, 4:10, 4:32
See also Cohabitation Agreements	exclusion of interest as a result of
Agreement for persons of same sex ceas-	operation of law (British
ing to cohabit	Columbia and Ontario), 4:10 ,
generally, 4:75 to 4:83 attestation, 4:83	4:32
commencement, 4:76	gifts from third parties, 4:32
consideration, 4:78	gifts or transfers between the parties,
	4:10, 4:32
disclosure, 4:81 case law, 4:81	management of property, 4:32
executors, 4:82	statement of assets and liabilities,
heirs, 4:82	4:32
legal advice, 4:81	tracing and compensation for
case law, 4:81	benefits, 4:10 , 4:32
parties, 4:76	valuation, 4:32
±	value of existing assets and
preamble to recitals, 4:76	liabilities, 4:32
property right, 4:79	documents, 4:19 , 4:59
case law, 4:79	enforcement, 4:58
recitals, 4:77	entire agreement, 4:20 , 4:60

SAME SEX COHABITATION	SAME SEX COHABITATION
AGREEMENTS—Cont'd	AGREEMENTS—Cont'd
Clauses—Cont'd	Clauses—Cont'd
estates, 4:17, 4:51	pensions, 4:46
executors, 4:23 , 4:63	case law, 4:46
fair agreement, 4:24 , 4:64	preamble to recitals, 4:7, 4:28
case law, 4:64	recitals, 4:8 , 4:29
heirs, 4:23 , 4:63	religion, 4:54
home, 4:14, 4:41	severability, 4:21, 4:61
case law, 4:41	statement of assets and liabilities, 4:48
home furnishings, 4:42	statistics
household chores, responsibility for,	generally, 4:31
4:18, 4:55	responsibilities relating to former
household expenses, 4:13, 4:40	union, 4:31
income of the parties, 4:39	statement regarding children born
income tax, 4:45	prior to the relationship - both
jurisdiction, 4:22 , 4:62	parties, 4:31
legal advice, 4:24 , 4:64	statement regarding children born prior to the relationship - one
case law, 4:64	party, 4:31
legal expenses, 4:57	support, 4:12 , 4:37
life insurance, 4:47	case law, 4:37
marriage, 4:52	support obligations relating to former
case law, 4:52	unions, 4:35
negotiation, 4:56	term of agreement, 4:66
other property regimes, 4:33	transfer of property between parties,
other residences, 4:43	4:50
ownership of property	case law, 4:50
generally, 4:10 , 4:32	Interview checklist
case law, 4:32	generally, 4:1 to 4:5
classes of property to remain sepa-	assets, 4:4
rate, 4:10 , 4:32	income, 4:4
dispute, 4:32	instructions, 4:5
division of property, 4:10 , 4:32	liabilities, 4:4
exclusion of interest as a result of	present cohabitation, 4:2
operation of law (British	prior relationships, 4:3
Columbia and Ontario), 4:10,	statistics, 4:1
4:32	Introduction, 4:6
gifts from third parties, 4:32	Pitfalls, 4:84
gifts or transfers between the parties,	Recitals, 4:69
4:10, 4:32	Variation of
management of property, 4:32	
statement of assets and liabilities,	generally, 4:68 to 4:74
4:32	amendment, 4:71
tracing and compensation for	attestation, 4:74
benefits, 4:10 , 4:32	commencement, 4:68
valuation, 4:32	consideration, 4:70
value of existing assets and	continuation of agreement, 4:72
liabilities, 4:32	disclosure, 4:73
parents, 4:38	legal advice, 4:73
parties, 4:7, 4:28	parties, 4:68

SAME SEX COHABITATION	SEPARATION AGREEMENTS—Cont'd
AGREEMENTS—Cont'd	Clauses—Cont'd
Variation of—Cont'd	custody—Cont'd
preamble to recitals, 4:68	case law
SAMPLE AGREEMENTS, USE OF	generally, 5:169
Generally, 1:97	access concerns, 5:169
SEPARATION AGREEMENTS	alienation of children/family relationship torts, 5:169
Clauses	best interests of the child, 5:169
generally, 5:26 to 5:106, 5:163 to	cultural heritage, 5:169
5:206	income tax, 5:169
access, 5:33, 5:68	joint custody, 5:169
adoption of recitals, 5:166	meaning of custody and access,
agreement conclusive, 5:50, 5:96	5:169
agreement to survive, 5:52, 5:98	mobility, 5:169v
alternate care of and time with children	children to choose custodial parent,
(British Columbia), 5:33	5:169
amendments, 5:59, 5:105, 5:205	consultation, 5:169
case law, 5:205	contact (British Columbia), 5:169
amount of support not based on child	cultural heritage, 5:169
support guidelines, 5:77	encouraging contact, 5:169
arbitration, 5:204 case law, 5:204	family violence (British Columbia),
attestation, 5:60, 5:106, 5:206	5:169
case law, 5:206	joint custody/guardianship, 5:169
barrier to remarriage, 5:203	joint guardianship and alternating
basis of child support, 5:39	custody, 5:169
business	mediation, 5:169
generally, 5:182	medical authorization, 5:169
case law, 5:182	notice, 5:169
income derived from business, 5:182	notice of school events, illness, and
ownership, 5:182	providing records, 5:169
protection from liabilities arising	other access matters, 5:169
from business interests, 5:182	other dispute resolution, 5:169
sale of shares to third party, 5:182	parental responsibilities (British Columbia), 5:169
transfer of ownership between par-	· · · · · · · · · · · · · · · · · · ·
ties, 5:182	parenting guidelines, 5:169
children's articles, 5:176	parties have considered best interest of children (British Columbia),
commencement, 5:27 , 5:62 , 5:163	5:169
compensation for career-related loss or	percentage of time spent with each
assumption of child-rearing	party, 5:169
responsibilities, 5:171	residential moves, 5:169
consideration, 5:29 , 5:64 , 5:165	review of custody by child psychia-
consultation between parties, 5:70	trist, 5:169
custody	sole custody/joint and sole guardian-
generally, 5:32 , 5:67 , 5:169	ship, 5:169
access, 5:169	split arrangements, 5:169
access conditions, 5:169	supervised access, 5:169
care of children when parties both	surname, 5:169
working, 5:169	travel, 5:169

SEPARATION AGREEMENTS—Cont'd	SEPARATION AGREEMENTS—Cont'd
Clauses—Cont'd	Clauses—Cont'd
debts, responsibility for, 5:82, 5:173	guardianship—Cont'd
credit cards, 5:173	case law—Cont'd
case law, 5:173	access concerns, 5:169
income tax liabilities, 5:173	alienation of children/family rela-
case law, 5:173	tionship torts, 5:169
payment of current debts, 5:173	best interests of the child, 5:169
case law, 5:173	cultural heritage, 5:169
payment of debts between the par-	income tax, 5:169
ties, 5:173	joint custody, 5:169
case law, 5:173	meaning of custody and access,
payment of future expenses, 5:173	5:169
pledging credit, 5:173	mobility, 5:169v
dental insurance, 5:78	children to choose custodial parent,
disclaimer of interest in trust, 5:190	5:169
case law, 5:190	consultation, 5:169
disclosure	contact (British Columbia), 5:169
generally, 5:51, 5:97, 5:104, 5:194,	cultural heritage, 5:169
5:202	encouraging contact, 5:169
case law	family violence (British Columbia),
generally, 5:194, 5:202	5:169
common law defects, 5:202	joint custody/guardianship, 5:169
fair agreement, 5:202	joint guardianship and alternating
legal advice, 5:202	custody, 5:169
understanding rights, 5:202	mediation, 5:169
valuation, 5:202	medical authorization, 5:169
documents, 5:53, 5:99, 5:197	notice, 5:169
case law, 5:197	notice of school events, illness, and providing records, 5:169
encumbrances, 5:87	other access matters, 5:169
estates, 5:49 , 5:189	other dispute resolution, 5:169
case law, 5:189	parental responsibilities (British
fair agreement	Columbia), 5:169
generally, 5:58, 5:104, 5:202	parenting guidelines, 5:169
case law	parties have considered best interest
generally, 5:202	of children (British Columbia),
common law defects, 5:202	5:169
disclosure, 5:202	percentage of time spent with each
legal advice, 5:202	party, 5:169
understanding rights, 5:202	residential moves, 5:169
valuation, 5:202	review of custody by child psychia-
geographical limitation, 5:72	trist, 5:169
guardianship	sole custody/joint and sole guardian-
generally, 5:32 , 5:67 , 5:169	ship, 5:169
access, 5:169	split arrangements, 5:169
access conditions, 5:169	supervised access, 5:169
care of children when parties both	surname, 5:169
working, 5:169	travel, 5:169
case law	heirs, 5:57 , 5:103 , 5:201
generally, 5:169	case law. 5:201

SEPARATION AGREEMENTS—Cont'd	SEPARATION AGREEMENTS—Cont'd
Clauses—Cont'd	Clauses—Cont'd
hospital insurance, 5:78	matrimonial home—Cont'd
household furnishings, 5:47 , 5:88 , 5:175	transfer of ownership between parties, 5:174
case law, 5:175	case law, 5:174
income tax, 5:191	under construction, 5:174
case law, 5:191	upkeep of, 5:174
indemnity with respect to acting as a director or officer of the company,	matrimonial home, description of, 5:45 , 5:83
5:91	matrimonial home, possession of, 5:84
indemnity with respect to liabilities of	matrimonial home, sale of, 5:46, 5:84
the company, 5:90	matrimonial home, upkeep of, 5:85
interest, release of, 5:95	mediation, 5:204
jurisdiction, 5:56, 5:102, 5:200	case law, 5:204
case law, 5:200	medical insurance, 5:78
legal advice	merger and enforcement, 5:196
generally, 5:58 , 5:104 , 5:202	case law, 5:196
case law	monies held in trust, 5:188
generally, 5:202	notice, 5:69
common law defects, 5:202	orthodontic expense, 5:79
disclosure, 5:202	other agreements, 5:54, 5:100, 5:198
fair agreement, 5:202	case law, 5:198
understanding rights, 5:202	other real property, 5:180
valuation, 5:202	case law, 5:180
legal expenses, 5:192	other valuable personal property, 5:179 case law, 5:179
life insurance, 5:48 , 5:94 , 5:186	ownership of property, 5:42, 5:80,
case law, 5:186	5:172
living separate and apart, 5:30, 5:65,	case law, 5:172
5:167	parties, 5:27 , 5:62 , 5:163
case law, 5:167	payment of current debts, 5:44
lump sum to husband, 5:73	pensions, 5:92 , 5:184
matrimonial home	case law, 5:184
generally, 5:174	personal representatives, 5:57, 5:103,
case law, 5:174	5:201
description of, 5:174	case law, 5:201
encumbering, 5:174	pets, 5:177
home sold and proceeds divided,	photographs, 5:178
5:174	pledging credit, 5:43 , 5:81
improvements, 5:174	preamble to recitals, 5:27 , 5:62 , 5:163
moving costs, 5:174	prior support payments for child, 5:36
case law, 5:174	prior support payments for wife, 5:35
option to purchase, 5:174	recitals
possession of, 5:174	generally, 5:28 , 5:63 , 5:164
case law, 5:174	ceasing cohabitation, 5:164
renovations, 5:174	children, 5:164
repairs, 5:174	interim agreement, 5:164
sale of, 5:174	marriage, 5:164
case law, 5:174	marriage and cohabitation, 5:164

SEPARATION AGREEMENTS—Cont'd	SEPARATION AGREEMENTS—Cont'd
Clauses—Cont'd	Clauses—Cont'd
recitals—Cont'd	support obligations—Cont'd
prior marriage agreement, 5:164	retroactive payments, 5:170
case law, 5:164	case law, 5:170
proceedings, 5:164	security for payment, 5:170
purpose of agreement, 5:164	case law, 5:170
releases	spouses, 5:170
generally, 5:193	case law, 5:170
case law, 5:193	variation of child support based on
general releases, 5:193	child support guidelines, 5:170
property releases, 5:193	case law, 5:170
renovations, 5:86	variation of child support based on
rental accommodation, 5:181	expenses, 5:170
resumption of cohabitation, 5:31, 5:66,	variation of spousal support based on
5:168	change in expenses or asset base, 5:170
case law, 5:168	variation of support based on cost of
return of documents, 5:195	living, 5:170
case law, 5:195	case law, 5:170
RRSPs, 5:93, 5:185	variation of support by the court,
case law, 5:185	5:170
settlement monies, 5:187	case law, 5:170
case law, 5:187	wife, 5:37
severability, 5:55 , 5:101 , 5:199	withholding tax for non-residents,
case law, 5:199	5:170
shares, transfer of, 5:89	undertakings, 5:195
special expenses, 5:40	case law, 5:195
support obligations	valuation, 5:51 , 5:97 , 5:194
children, 5:38, 5:74, 5:170	case law, 5:194
case law, 5:170	variation, 5:41, 5:76
children of former marriage, 5:170	variation of child support based on cost
death of payor spouse, 5:170	of living, 5:75
case law, 5:170	Interim separation agreement, 5:9 to 5:25
direct deposit, 5:170	alternate care of and time with children
disclosure, 5:170	(British Columbia), 5:14
case law, 5:170	attestation, 5:25
handicapped children, 5:170	automobile costs, 5:19
imputing income, 5:170	commencement, 5:9
case law, 5:170	consideration, 5:11
income tax costs, 5:170	custody, 5:13
case law, 5:170	dispute resolution, 5:22
no variation of maintenance, 5:170	financial disclosure, 5:20
case law, 5:170	future proceedings, 5:24
other payments for children or	living separate and apart, 5:12 matrimonial home, possession of, 5:17
spouse, 5:170	· · · · · · · · · · · · · · · · · · ·
case law, 5:170	non-entry to residence, 5:12
postdated cheques, 5:170	parties, 5:9 pledging credit, 5:21
remarriage, 5:170	preamble to recitals, 5:9
case law, 5:170	*
case law, 5:1/0	property (British Columbia), 5:18

SEPARATION AGREEMENTS—Cont'd	SEPARATION AGREEMENTS—Cont'd
Interim separation agreement, 5:9 to 5:25	Mediated separation agreement—Cont'd
—Cont'd	pledging credit, 5:119
recitals, 5:10	preamble to recitals, 5:107
support	recitals, 5:108
for children, 5:16	resumption of cohabitation, 5:111
for wife, 5:15	severability, 5:129
termination, 5:23	travel, 5:115
Interview checklist	waiver of support of both spouses,
generally, 5:1 to 5:8	5:112
assets, 5:5	Pitfalls, 5:225
date, 5:1	Termination of
decision-making, 5:7	generally, 5:220 to 5:224
income, 5:5	cancellation and termination (British Columbia and Ontario), 5:223
instructions, 5:8	
liabilities, 5:5	commencement, 5:220 consideration, 5:222
maintenance, 5:6	legal advice, 5:224
parenting time, 5:7 present marriage, 5:3	parties, 5:220
prior marriage, 5:4	preamble to recitals, 5:220
statistics, 5:2	recitals, 5:221
Introduction, 5:26, 5:61	Variation of, 5:213 to 5:219
Mediated separation agreement	generally, 5:207 to 5:212
generally, 5:107 to 5:134	amendment, 5:210, 5:217
agreement conclusive, 5:124	commencement, 5:207 , 5:213
agreement to survive, 5:126	consideration, 5:209 , 5:215
alternate care of and time with children	continuation of agreement, 5:211 ,
(British Columbia), 5:114	5:218
amendments, 5:133	financial disclosure, 5:216
attestation, 5:134	legal advice, 5:212 , 5:219
commencement, 5:107	parties, 5:207 , 5:213
consideration, 5:109	preamble to recitals, 5:207 , 5:213
custody, 5:113	recitals, 5:208 , 5:214
disclosure, 5:125	Where prior marriage agreement
documents, 5:127	generally, 5:135 to 5:162
estates, 5:123	access, 5:141
guardianship, 5:113	agreement conclusive, 5:152
heirs, 5:131	agreement to survive, 5:154 amendments, 5:161
household furnishings, 5:122	attestation, 5:162
jurisdiction, 5:130	commencement, 5:135
legal advice, 5:132 living separate and apart, 5:110	consideration, 5:137
matrimonial home, 5:121	custody, 5:140
mediation, 5:117	debts, responsibility for, 5:150
no child support, 5:116	disclosure, 5:153
other agreements, 5:128 ownership of property, 5:118	documents, 5:155 estates, 5:151
parties, 5:107	fair agreement, 5:160
payment of current debts, 5:120	guardianship, 5:140
personal representatives, 5:131	guardianship, 5:140 heirs, 5:159
personal representatives, 3.131	1 11CH 5, 5.157

SEPARATION AGREEMENTS—Cont'd

Where prior marriage agreement—Cont'd jurisdiction, 5:158 legal advice, 5:160 living separate and apart, 5:138 matrimonial home, 5:148 other agreements, 5:156 ownership of one party property, 5:146 ownership of property not constituting one party property, 5:147 parties, **5:135** personal representatives, 5:159 pledging credit, 5:149 preamble to recitals, 5:135 prior support payment, **5:143** recitals, **5:136** resumption of cohabitation, 5:139 severability, 5:157 support obligations children, **5:144** spouses, **5:142**

SEPARATION AGREEMENTS—Cont'd

Where prior marriage agreement—Cont'd valuation, 5:153 variation, 5:145

VALUATION

Generally, 1:44 to 1:55
Approaches to, 1:53
Company accountants, meeting with, 1:50
Future plans for assets, 1:52
Initial contact with expert, 1:45
Meeting with expert prior to final report, 1:54
Opposing part obtaining expert, 1:48
Providing documents to experts, 1:49
Retaining expert
jointly, 1:46
on client's behalf, 1:47
Sources
for obtaining valuators, 1:55
of information, 1:51