Index

ABUSE OF PROCESS	BUSINESS ASSETS/PURPOSES
Application for equalization as, § 8-S:13	—Cont'd
ADVANCEMENT, PRESUMPTION OF	Particular business assets—Cont'd insurance (life), § 6:82 , § 7:65
Generally, § 4:2	investments, § 6:82
ANTE-NUPTIAL AGREEMENTS	land, § 6:82
Generally, § 6:97	loans, § 6:82
3 7. 0	milk quota, § 7:57
ARBITRATION/MEDIATION	motor vehicles, § 6:82
Generally, § 6:38	proceeds of shares in business
Agreements, § 8-S:208, § 8-S:211	reinvested in business, § 7:64
Awards, § 8-S:213	rental properties, § 6:9, § 6:82
BANKRUPTCY	restaurant, shares in, § 7:59
Generally, § 2-S:24, § 2-S:78, § 3:36,	shares, § 6:82 , § 7:59
§ 4-S:43, § 4:43, § 7-S:14, § 7:14,	stock in trade, § 6:82
§ 8-S:106, 8-S:107, § 8-S:134,	travel points, § 6:82
§ 8:106, 8:107, § 9-S:34, § 11-S:37 Enforcement of order against bankrupt	unincorporated businesses, § 6:82
spouse, § 2-S:76	veterinary practice, § 7:58
Fraudulent preferences, and, § 1:142	Particular dispositions
-	business asset claims allowed, § 6:84
BENEFICIAL OWNERSHIP, PRESUMPTION OF	business asset claims disallowed,
	§ 6:84
Generally, § 5-S:16, § 5:17, § 11:5	Valuation
BUSINESS ASSETS/PURPOSES	generally, § 6:83, § 11-S:13, § 11:13
See also Commercial Assets vs	particular business asset valuations,
Family Assets; Jobs, Professional	§ 6:83
Degrees, Licences and Rights to Practise	COMMON LAW
Generally, § 6:81	Amendments to
Business assets defined, § 5:15, § 6:56	Family Law Act (Nfld. & Lab.)
Business debts, § 6:85	criminal conversation, § 6:116
Commercial asset defined, § 4:24	enticement and harbouring, § 6:117
Contribution to acquisition or operation of	married persons legal personality,
business, § 7-S:82, § 7:82	§ 6:110
Defined, § 6:56	minor's domicile, § 6:114
Excluded Property, § 3:9	parental liability for minor's
Particular business assets	conduct, § 6:115
businesses and professional practices, § 8:23	pledging credit for necessities, § 6:111
dental practice, § 7:53	restitution of conjugal rights, § 6:118
dwelling houses, § 6:82	right of action by parent or minor,
gold, § 6:82	§ 6:112
hair styling business, § 7:57 incorporated businesses, § 6:82	right to recover for pre-natal injuries § 6:113

COMMON LAW—Cont'd COMMON LAW-Cont'd Matrimonial property in Matrimonial property in—Cont'd unmarried couples, see also commonconstitutional problems, § 1:17 law partners-Cont'd development of resulting and construcunjust enrichment and its remedies tive trusts —Cont'd generally, § 1:33 Quebec, § 1:59 benefit/contribution, § 1:4, § 1:40 case law, § 1:39 COMMON-LAW PARTNERS constructive trust, § 1:38, § 1:44 Generally, § 2:72 to 2:74, § 4:5 corresponding deprivation, § 1:41 Assets acquired before marriage, and, illegal/wrongful intentions, § 1:37 § 4:17 nature of remedy, § 1:43 Cohabitation, agreements, § 6:98 no juridical right to retain benefit, Constructive and resulting trusts, § 2-§ 1:42 S:73, § 7-S:9, § 8-S:132 rebutting presumption of advance-Division of property on death, § 5-S:21 ment and resulting trust, § 1:3, Excessive gifts and dissipation, § 4-S:41 § 1:36 Homesteads Act (Man.), application of, resulting trust, § 1:35 § 4:59 trust classification, § 1:34 Joint family venture, § 2-S:74, § 7-S:19, fraudulent conveyances, § 1:29 § 8-S:130 history of matrimonial property Jurisdiction, § 8-S:131 common law, § 1:19 Legislative approaches to property rights, co-ownership, traditional rules § 1:7 to1:16 joint tenancy, § 1:22 Limitation of actions, and, § 4:45 tenancy by the entirety, § 1:21 Marital Property Act (Man.), application tenancy in common, § 1:23 of, § 4:8 equity, influence of conveyance to wife alone: Occupation rights in marital home, § 4:52 presumption of advancement, Property rights of, § 1:7 to1:16, § 4-S:62, § 1:24 § 4:53 to 4:57, § 4:63, § 5-S:32 title in name of husband alone, Tax issues § 1:25 to 1:27 child care deduction, APP B § B:55 order of proceedings, § 1:18 child tax benefits, APP B § B:54 recent legislation and relevance of definition, APP B § B:53 common law and equitable reme-Unjust enrichment and its remedies dies, § 1:6 generally, § 1:45 special property rules bank accounts, § 1:30 application to family relationships, § 1:48 to 1:58 gifts between spouses, § 1:1, § 1:32 gifts to spouses, § 1:31 constructive trust, § 1:47 unmarried couples, see also commonprinciple of unjust enrichment, § 1:46 law partners Quebec, § 1:59 legislative approaches to property Valuation date, § 4-S:27 rights, § 1:7 to1:16 COMPANION PROCEEDINGS unjust enrichment and its remedies generally, § 1:45 Generally, § 6:34 application to family relationships, Orders, § 6:35 § 1:48 to 1:58 **COMPENSATORY ALLOWANCE** constructive trust, § 1:47 (QUE.) principle of unjust enrichment, § 1:46 Generally, § 10:7, § 10:15

CONFIDENTIAL, KEEPING INFORMATION

Generally, § 5:20, § 6:71

CONFLICT OF LAWS

Generally, § 1:122, § 1:123, § 1:138 Case law, § 1:137 Choice of law, § 3:32 no statutory choice of law rule, § 1:134 statutory choice of law rule, § 1:133

Facts into a legal issue, § 1:125 Jurisdiction

irisaiction

in personam jurisdiction

forum conveniens, lis alibi pendens, **§ 1:130**

service, § 1:129

submission, § 1:128

over the cause of action, § 1:131

Marriage contracts or settlements, effect of, § 1:135

Particular statutes

Family Law Act (Nfld. & Lab.), § 6:89 Family Law Act (Ont.), § 8:127 Marital Property Act (Man.), § 4:10

Marital Property Act (N.B.), § 5-S:3, § 5:3

Matrimonial Property Act (N.S.), § 7:83

Process, § 1:124

Succession, § 1:136

CONSTITUTIONAL PROBLEMS WITH MATRIMONIAL PROPERTY LAW

Generally, § 1:17

CONSTRUCTIVE TRUST

Generally, § 1:27, § 1:38, § 6:79, § 7-S:20, § 8-S:124, § 8-S:132, § 8:39, § 8:124

Breach of fiduciary duty, § 5:18
Unjust enrichment and, § 4-S:3, § 4:3, § 5:18, § 7-S:87

When court should impose, § 1:44

CONTRACTING OUT OF MATRIMONIAL LEGISLATION

Family Law Act (Nfld. & Lab.) effect, s. 33, § 6:90 enforcement on death, s. 34, § 6:91 Matrimonial Property Act (Alta.), ss. 37, 38, § 2-S:75, § 2:75

COSTS

Generally, § 2-S:23, § 2:23, § 3:39, § 6:22, § 7-S:85, § 7:85, § 8-S:214 to 8-S:217, § 8:215 to 8:218, § 9-S:49, § 11-S:28, § 11:28

Security, § 8-S:217

COURT, POWERS OF

Generally, § 2-S:62, § 2:62, § 8:108, § 9:35

COVERTURE, DOCTRINE OF

Generally, § 4:1 to 4:4, § 8:2

CRIMINAL CONVERSATION

Generally, § 6:116

DAMAGE AWARDS, PERSONAL INJURY

Generally, § 4:19, § 5-S:11, § 5:12, § 6:60, § 9:19

DEATH

See Property Rights on Death

DEBTS AND LIABILITIES

Generally, § 7-S:7, § 7:7

Failure to disclose debts or liabilities existing on date of marriage, § 8-S:89, § 8:89, § 9:25

Incurred recklessly or in bad faith, § 8-S:90, § 8:90, § 9:26

Marital debts defined, § 5-S:20, § 5:21 Marital debts not defined, § 7:7

One spouse incurring disproportionate amount for family purposes, § 8-S:94, § 8:94, § 9:30

Sharing of, § 4-S:40, § 4:40

DISABILITY BENEFITS

Generally, § 5-S:11, § 5:12

DISPOSAL COSTS

Generally, § 7:15, § 8-S:84, § 8:84

DISPOSITION OF FAMILY ASSETS

Disposal costs, § 7:15, § 8-S:84, § 8:64, § 8:84

Matrimonial home

generally, § 6:1, § 6:40, § 6:45

court powers, § 6:48

mortgage sale, § 6:47

setting aside, § 6:46

Sale of encumbered assets, § 6:53, 6:54

DISPUTE RESOLUTION

Generally, § 6:38
Arbitration awards, § 8-S:213
Mediation/arbitration agreements, § 8-S:211

DISSIPATION

Generally, § 4-S:41, § 4:41, § 8-S:92, § 8-S:125, § 8-S:140, § 8:92, § 11-S:26, § 11:26

DIVISION OF PROPERTY

See also Disposition of Family Assets; Family Assets vs

Commercial Assets; Property

Agreements respecting property division, § 3:16

Date of division, § 7-S:70, § 7:70 see also valuation date

Exclusion of property from division, § 3:20, § 5-S:22, § 5:23

Giving effect to property division, § 3:21 Implementation orders

generally, § 6:77

ancillary orders, § 6:78

Interim orders, § 11-S:32, § 11-S:36

Judicial discretion, § 4-S:44, § 4:44, § 5-S:22 to 5-S:24, § 5:23 to 5:25

Maintenance determination, division of property to precede, § 7:71

Non-marital property, § 5:24

Orders for interim distribution of property, § 3:13

Orders respecting family division, § 3:12, § 3:18

Property not subject to marital property legislation

business assets, § 5-S:14, § 5:15 damage awards, personal injury, § 4:20

gifts, § 4-S:19, § 4:19, § 5-S:15, § 5:16 inheritance, § 4:19, § 5-S:15, § 5:16

joint property, § 4-S:21, § 4:21

making excluded asset shareable, § 4:23

property acquired in exchange for gift or inheritance, § 5-S:15, § 5:16

property excluded by agreement, § 4-S:22, § 4:22

security in matrimonial home, § 6:32 trust benefits, § 4:19

Time limits for application for division of property, § 4:45, § 5-S:5, § 6:66

DIVISION OF PROPERTY—Cont'd

Unequal division of property governing factors, § 6:67 judicial discretion, § 4-S:44, § 4:44, § 5-S:23, § 5:24 particular divisions, § 6:68 unequal division by order, § 3:19 Who may apply, § 8-S:7, § 8:7

DOMESTIC

AGREEMENTS/CONTRACTS

Generally, § 6:94, § 7-S:75, § 7:75, § 8-S:187, § 8:188, § 11-S:25, § 11:25

Absent — missing provision, § 7:78 Arbitration agreements, § 8-S:208

Children, terms affecting, § 7-S:77, § 7:77

Conflict of laws, and, § 1:135

Deceased spouse status, § 6:108

Deemed additional particles, § 6:104

Defined, § 5-S:33, § 5:34, § 6:27, § 6:95

Drafting, § 6:96

Drafts and settlement proposals, § 8-S:206

Dum casta clauses, § 5:34

Enforcement, § 6:102, § 8-S:204

Extra-provincial domestic contracts, § 6:105

Failure to meet objectives of Divorce Act, § 8-S:205

Foreign contracts, § 8-S:203, § 8:204

Formalities, § 6:100

Independent legal advice, § 8:190 to 8:201

Interpretation, § 8-S:201, § 8:202, § 9-S:48

Judicial discretion to disregard provision, § 5:34

Jurisdiction, § 8-S:188

Legal requirements, § 7-S:76, § 7:76

Parties' conduct inconsistent with intention to separate, § 8-S:210

Paternity, § 6:106

Persons under disability, § 6:101

Pre-Family Law Act (Ont.), **§ 8-S:203**, **§ 8:204**

Pre-July 1, 1980 agreements (Nfld. & Lab.), **§ 6:107**

Property excluded from net family property, § 8-S:74 to 8-S:78, § 8:74 to 8:78, § 9:22

DOMESTIC

AGREEMENTS/CONTRACTS —Cont'd

Reconciliation, effect of, § 8-S:202, § 8:203

Restrictions on effect and validity, § 6:103

Setting aside, § 5-S:33, § 7-S:79, § 7:79, § 11:25

Settlements by counsel, § 8-S:207

Treatment under Family Law Act (Nfld. & Lab.), § 6:37

Types, § 6:97 to 6:108

Unconscionable, § 11:25

Validity, § 8-S:189 to 8-S:200, § 8:190 to 8:201, § 9-S:47

Variation, § 8-S:209

DUM CASTA CLAUSES

Generally, § 5:34

EMPLOYEE STOCK OPTIONS

Generally, § 5-S:11, § 5:11

ENFORCEMENT OF ORDER AGAINST BANKRUPT SPOUSE

Generally, § 2-S:76

ENFORCING AND PROTECTING PROPERTY INTERESTS

Donor of gift is party to agreement, § 3:26

Enforceability of interest in agreement, § 3:27

Filing in land title office, § 3:23

Filing in personal property registry, § 3:24

Orders for postponement, cancellation or discharge, § 3:25

EQUAL BENEFICIAL OWNERSHIP, PRESUMPTION OF

Generally, § 5-S:16, § 5:17

EQUAL DIVISION, PRESUMPTION OF

Generally, § 6:64

EQUALITY

Beneficial ownership, presumption of, § 5-S:16, § 5:17, § 11:5

Division, presumption of, § 6:64

Joint ownership, presumption of, § 8-S:127, § 8:127, § 11-S:1 to 11-S:6

Judicial discretion to vary equal sharing, § 4:44

EQUALITY—Cont'd

Presumption of, § 5-S:4, § 5:4

EQUALIZATION ENTITLEMENT

Generally, § 8-S:108, § 9:35

Application as abuse of process, § 3:5, § 8-S:13

Deferred/instalment payments

generally, § 8-S:111

conditions, § 8-S:113

Enforcement, § 8-S:117, § 11-S:34

Interest on judgment, § 8-S:118

Interim orders, § 8-S:120

Money judgment, § 8-S:109

No equalization order or waiver, § 8-S:122

Property orders — if-and-when division, § 8-S:114

Reapportioning the difference, § 8-S:87, § 8:87

Relation to support, § 8-S:15

Sale of property, § 8-S:115

Security, § 8-S:110

Transfer of property, § 8-S:121

Transfer or vesting of property in other spouse, **§ 8-S:116**

EQUITABLE REMEDIES

Generally, § 2-S:71, § 2:71

EQUITY, INFLUENCE OF

Generally, § 1:24 to 1:28

EVIDENTIARY PRESUMPTIONS

Generally, § 2-S:70, § 2:70

EXCLUSIVE POSSESSION OF MATRIMONIAL HOME

Generally, § 5-S:29, § 5:30, § 6:40, § 6:122, § 8-S:159, § 8:160, § 9:43, § 11-S:18, § 11:18

Criteria, § 8-S:162 to 8-S:168, § 8:163 to 8:169, § 9:44

FAMILY ASSETS

See also Business Assets/Purposes; Disposition of Family Assets; Family Assets vs

Commercial Assets; Property Not Subject to Marital Property Legislation; Reapportioning Assets

Generally, § 3:8, § 5-S:13, § 5:14, § 6:55, § 6:58, § 6:59

FAMILY ASSETS—Cont'd	FAMILY ASSETS—Cont'd
Accounts receivable, § 6:60	Income streams, trusts, § 8:29, § 8:39
Aircraft, § 7:24	Income tax refunds, § 6:60, § 7-S:29,
Animals, § 6:60	§ 7:29
Assets acquired before marriage, § 4:17	Inheritance, § 7-S:47, § 7:47
Assets outside province, § 4:15	Interim distribution, § 11-S:36
Bank accounts, § 6:60, § 6:78, § 7:25	Interim orders, § 11-S:36
Bankruptcy, § 3:36	Investments, § 6:60, § 6:78
Boats, boat trailers, boat engines, § 6:60,	Jewellery, § 6:60
§ 7:33	Labrador Inuit Land Claims Agreement,
Bonds, § 6:60	§ 6:33
Building lot, § 7:38	Land, § 6:60, § 7:44
Business and professional practices,	Land on Indian reserve, § 4:16
§ 8:23	Life insurance policy proceeds, § 5-S:12,
Business — part family venture, § 7-	§ 5:13, § 6:60, § 6:78, § 7:28
S:49, § 7:50, 7:51	Medical coverage, § 6:4
Canada Savings Bonds, § 7:26	Motor vehicles, § 6:60, § 6:78, § 7:46
Children's property, § 6:60	Office building, § 7:21
Coins, § 6:60, § 6:78	Outbuildings, § 6:60 , § 6:78
Costs, § 3:39	Pay equity settlements, § 5-S:11, § 5:12,
Cottage, § 7-S:48, § 7:48	§ 7:34 to 7:37
Damage awards, § 8:25	Pensions, § 5-S:11, § 5:11, § 6:4, § 6:61,
Definitions, § 3:7, § 3:29	§ 6:78, § 7-S:22, § 7:22, § 8:32, § 9-
assets, § 4:13 to 4:18	S:13
family assets, § 5-S:13, § 5:14	Personal effects, § 6:60 , § 6:78
family property, § 11-S:15, § 11:15	Property insurance proceeds, § 6:60,
marital property, § 5:9	§ 6:78
matrimonial assets, § 6:56, § 6:57,	Public service awards, § 7:34 to 7:37
§ 7-S:9, § 7:9	Retirement allowances, § 5-S:11, § 5:11
net family property, § 9:12	Rights of action, § 8:35
property, § 8:39, § 9:11	Rights of third party creditors, § 11-S:27,
Director's accounts, § 6:60, § 6:78	§ 11:27
Disability benefits, § 5-S:11, § 5:12	RRIFs, § 7:30
Dwelling contents, § 6:60, § 6:78	RRSPs, § 6:60, § 6:78, § 7-S:32, § 7:32,
Dwelling houses, § 6:60 , § 6:78	§ 8:34
Employee savings accounts, § 8:27.30	Salary, § 6:60
Employee stock options, § 5-S:11, § 5:11	Sales commissions, contingent deferred, § 7:31
Equipment — tractors, farm implements,	
bulldozers, § 7:41, § 7:42	Savings (other than bank accounts), § 6:60
Exclusions, see Property Not Subject to	Separation benefit, § 7:34 to 7:37
Marital Property Legislation	Service award, § 7:45
Expenses, § 6:60	
Family patrimony (Que.), § 10:6, § 10:12,	Severance pay, § 6:60, § 6:78, § 7-S:34 to 7-S:37, § 7:34 to 7:37
§ 10:13	
Farm operation, § 7:43	Shares, § 6:60, § 6:78
Future and contingent rights, § 4:14	Sick leave, § 8:27.50
Future services, § 6:60	Travel points, § 6:60, § 7:23
GICs, § 7:27	UIC payments, contingent deferred,
	§ 7:31
Guns, § 6:60 Heirlooms, § 6:60	Vacation pay, § 6:60, § 7-S:34 to 7-S:37, 8 7:34 to 7:37
metricoms on the	0 /134 10 /13 /

FAMILY ASSETS—Cont'd FUTURE AND CONTINGENT RIGHTS Workers compensation payment, § 7:40 Marital Property Act (Man.), § 4:14 FAMILY ASSETS, SHARING OF **GIFTS** Bankruptcy, effect of, § 4-S:43, § 4:43 Generally, § 4-S:19, § 4:19, § 5-S:15, Debts and liabilities, § 3:10, § 4-S:40, § 5:16, § 6:60, § 9-S:18, § 9:18 § 4:40 GOODWILL AND PROFESSIONAL Excessive gifts and dissipation, § 4-S:41, **PRACTICES** § 4:41, § 11-S:26, § 11:26 Generally, § 4:27 Exclusion of certain types of marital property, § 5-S:22, § 5:23 HOMESTEAD LEGISLATION Interim suit money, § 5-S:26, § 5:27 Generally, § 1:63 Judicial discretion to vary equal sharing, Compensation, actions for § 4:44, § 5-S:23, § 5:24 owner spouses Non-marital property, § 5-S:24, § 5:25 conditions for accrual of right to Possible orders on application for dividamages, § 1:107 sion, § 5-S:27, § 5:28 election of remedies, § 1:108 Procedure, § 4:45 limitation period, § 1:112 Use of assets, § 4-S:42, § 4:42 parties to the action, § 1:109 Valuation of assets, § 4-S:27, § 4:27, § 5quantum, § 1:110 S:25, § 5:26 satisfaction of judgment for damages, § 1:113 FAMILY ASSETS VS. COMMERCIAL survival of the action, § 1:111 ASSETS provincial compensation, § 1:114 Generally, § 4:24 Courts of competent jurisdiction, § 1:78 Business assets, § 5-S:14, § 5:15 Dispositions Commercial asset defined, § 4:24 generally, § 1:84 to 1:99 Marital home, § 4:25 compliance: consent **FAMILY HOME** consent by estoppel, § 1:99 See Matrimonial Home consent to prospective transactions, § 1:98 FAMILY PATRIMONY (OUE.) imperfect compliance, § 1:97 Generally, § 10:6, § 10:12, § 10:13 spouses as partial interest holders, FAMILY PROPERTY § 1:95 See also Family Assets standard consent requirements, Defined, § 11-S:15, § 11:15 § 1:96 defined, § 1:82 FEES AND FORMS where consent not required Generally, § 6:129 court order, § 1:88 FIRST NATIONS RESERVE, LAND ON legislated exemptions, § 1:87 Generally, § 4:16, § 8-S:11, § 8-S:148, legislation inapplicable, § 1:86 § 8:11, § 8:152 release of rights, § 1:89 wrongful dispositions FRAUDULENT TRANSFERS by owner spouse Disposition by owner spouse, § 1:103 bona fide purchase for value Disposition or encumbrance of matrimowithout notice, § 1:102 nial home, § 8-S:170 to 8-S:179, § 8-S:180 knowledge, fraud, volunteers, Fraudulent conveyances, § 1:29, § 8-§ 1:103 S:186 registration by non-owner spouse,

Matrimonial Property Act (Alta.), s. 10,

§ 2-S:63, § 2:63

§ 1:104

subsequent dispositions, § 1:105

Generally, § 4:16, § 8-S:11, § 8-S:148,

INDIAN RESERVE, LAND ON

§ 8:11, § 8:152 Homesteads Act (Man.) common-law spouses, application to, **INHERITANCE** § 4:59 Generally, § 4-S:19, § 4:19, § 5-S:15, consent to disposition of homestead, § 5:16, § 9-S:18, § 9:18 § 4:61 INTEREST homestead, defined, § 4:60 Generally, § 6:23 Homesteads Act (Sask.) Judgment, on, § 8-S:118 application, § 11-S:35 Post-judgment, § 8-S:216, § 8:217, § 11-Life estates S:31 homestead Pre-judgment, § 4:45, § 8-S:216, § 8:217, loss of life estate, § 1:120 § 11-S:31 multiple homesteads: election. § 1:119 INTERIM DISBURSEMENTS subordination of interests under will Generally, § 8-S:215, § 8:216 or intestacy, § 1:118 JOBS, PROFESSIONAL DEGREES, vesting of life estate, § 1:117 LICENCES AND RIGHTS TO personal property, § 1:121 **PRACTISE** Offences, § 1:115 See also Business Assets/Purposes Persons entitled to homestead rights, Generally, § 1:145, § 1:156 § 1:80 Case law, § 1:152 Registration and homestead rights protec-Characterization of related assets tion, § 1:82 pensions and related job benefits, Relationship to other statutes, § 1:77 § 1:147 Western provinces practices and partnerships, § 1:149 generally, § 1:64 right to an income stream, § 1:148 history and purposes Compensatory support: relief against unjust enrichment, § 1:154 English dower inheritance, § 1:66 Property evolution of homestead legislation authors' opinions on whether "propexemptions, § 1:69 erty," § 1:151 statutes, § 1:73 to 1:76 defined, § 1:146 repeal of English dower, effects of, Suggested analysis, § 1:150 § 1:67 Valuation, § 1:155 see also Valuation of Assets HOUSEHOLD GOODS Defined, § 5-S:28, § 5:29, § 11-S:15, JOINT FAMILY VENTURE § 11:15 Generally, § 2-S:74, § 7-S:19, § 8-S:130 Protection against unilateral disposition, JOINT OWNERSHIP, PRESUMPTION § 2:64 to 2:66, § 5-S:30, § 5:31 Right to possession, § 5-S:29, § 5:30 Generally, § 8-S:127, § 8:127 IMPLIED AND RESULTING TRUSTS JOINT PROPERTY Generally, § 1:26, § 1:27 Not subject to Marital Property Act (Man.), § 4-S:21, § 4:21 INDEPENDENT LEGAL ADVICE JOINT TENANCY Domestic contracts, and, § 5:34, § 7-S:79, § 7:76, § 7:79, § 8-S:189 to 8-S:200, Generally, § 1:22 § 8:190 to 8:201, § 11-S:25 Severance, § 8-S:133, § 8-S:181, § 8-Not defined, § 5:34 S:184

HOMESTEAD LEGISLATION—Cont'd

Homestead defined, § 1:81

JUDICIAL DISCRETION

Factors, § 2-S:61, § 2:61 Philosophy, § 2-S:60, § 2:60

Generally, § 2:8, § 8-S:11

JURISDICTION

After death rights of deceased spouse's estate, § 2:11 rights of surviving spouse, § 2-S:10, § 2:10

Conditions precedent, § 2:6 Conflict of laws

in personam jurisdiction

forum conveniens, lis alibi pendens, § 1:130

service, § 1:129

submission, § 1:128

over the cause of action, § 1:131

Corollary relief, § 8-S:11

Court, § 2-S:2, § 2:2

Date of separation, § 2-S:9

Domestic contracts, § 8-S:188

Foreign property, § 8-S:11, § 8:11

Forum conveniens, § 8-S:11, § 8:11

Land on First Nations reserve, § 8-S:11, § 8-S:148

Limitation periods, § 2-S:7, § 2:7

Marriage impediments, § 2:3

Residency requirements, § 2:5, § 8-S:11, § 8:11

Who may apply, § 2:4, § 2:10, 2:11

LABRADOR INUIT LAND CLAIMS AGREEMENT

Generally, § 6:33

LAND ON FIRST NATIONS RESERVE

Generally, § 4:16, § 8-S:11, § 8-S:148, § 8:11, § 8:152

LICENCES

See Jobs, Professional Degrees, Licences and Rights to Practise; Property; Property Not Subject to Marital **Property Legislation**

LIFE ESTATES UNDER HOMESTEAD **LEGISLATION**

Homestead

loss of life estate, § 1:120 multiple homesteads: election, § 1:119

LIFE ESTATES UNDER HOMESTEAD LEGISLATION—Cont'd

Homestead—Cont'd subordination of interests under will or intestacy, § 1:118 vesting of life estate, § 1:117 Personal property, § 1:121

LIFE INSURANCE POLICY **PROCEEDS**

Generally, § 5-S:12, § 5:13

LIMITATION OF ACTIONS

Generally, § 2-S:7, § 2:7, § 4:45 Extending, § 6:126, § 8-S:10, § 8:10, § 9:6

MARITAL ASSETS/PROPERTY

See also Family Assets Defined, § 5:9 to 5:14, § 7-S:9, § 7:9 Exclusions, § 5:15, 5:16

MARRIAGE

AGREEMENTS/CONTRACTS

Agreements respecting property division, § 3:16

Quebec, § 10:3

Settling aside agreements respecting property division, § 3:17

MARRIED WOMEN'S PROPERTY ACTS

Generally, § 1:25, § 4:3, § 6:11, § 6:12, § 8:2, § 11:1 to 11:6

MATRIMONIAL ASSETS

See also Family Assets; Matrimonial Home

Defined, § 6:56, § 6:57, § 7:9

MATRIMONIAL HOME

Generally, § 8:148, § 10:5

Agreements, effect of

effect, § 6:53

enforcement on death, § 6:54

Contents, possession, § 8-S:158

Court's powers re, § 7-S:16, § 7:16

Defined, § 5-S:28, § 5:29, § 6:40, § 6:42, § 7-S:10, § 7:10, § 8-S:149 to 8-S:156, § 8:150 to 8:157, § 9:38 to

9:41, § 11-S:17, § 11:17 Designation, § 6:44, § 8-S:156, § 8:157,

§ 11:19

MATRIMONIAL HOME—Cont'd	MATRIMONIAL HOME—Cont'd
Disposition	Right to redemption and notice, § 8:183
generally, § 6:40, § 6:45, § 8:171 to 8:180, § 11-S:19, § 11:19	Spousal rights vs rights of third parties, § 8-S:180
court powers, § 6:48	Time of residence user, § 8-S:153,
mortgage sale, § 6:47	§ 8:154
setting aside, § 6:46	MATRIMONIAL PROPERTY LAW,
Encumbrance, § 8:171 to 8:180	GENERALLY
Exclusive possession	Alberta
generally, § 5-S:29, § 5:30, § 6:40,	background, § 2:1
§ 6:122, § 8-S:159, § 8:160,	Matrimonial Property Act, § 2:1
§ 9:43, § 11-S:18, § 11:18	British Columbia
criteria, § 8-S:162 to 8-S:168, § 8:163	Family Law Act
to 8:169, § 9:44 Fraudulent conveyances under Fraudulent	application, § 3:4
Conveyances Act, § 8-S:186	determining family property and
Interest, in which a spouse has an, § 8-	family debt
S:151, § 8:152, § 9:39	excluded property, § 3:9
Joint tenancy, severing, § 8-S:181, § 8-	family debt, § 3:10
S:184	family property, § 3:8
Jurisdiction to make order, § 8-S:148	interpretation, § 3:7
Misconduct, § 6:8, § 6:52, § 6:69	valuing family property, § 3:11
More than one, § 8-S:154, § 8:155	equal entitlement and responsibility,
Multiple user, § 8-S:155, § 8:156	§ 3:5
Non-owning spouse's rights, § 7:12	rights and remedies of third parties, § 3:6
Occupation rent, § 7-S:13, § 7:13, § 8-	Family Relations Act, § 3:2
S:160, § 8:161, § 9:45, § 11-S:20	Pre-The Family Relations Act, § 3:1
Occupation rights, § 4-S:52, § 4:52, § 7-S:11, § 7-S:17, § 7:11, § 7:17	Conveyancing consequences, generally, § 1:139
Orders	Manitoba
ancillary possession orders, § 8-S:161, § 8:162	history —- move toward marital property legislation, § 4:5
interim — preservation and "freez-	Marital Property Act
ing," § 6:50	conflict of laws, § 4:10
registration, § 6:51	residence requirement, § 4:9
variation of possession orders, § 8- S:169, § 8:170	retroactivity, § 4:11
Ordinarily occupied as family residence,	void and voidable marriages, § 4:12
§ 8-S:152, § 8:153, § 9:41	New Brunswick
Ownership, § 6:43	Marital Property Act, § 5:1, § 5:37
Ownership of shares, § 8:151, § 9:40	conflict of laws, § 5-S:3 , § 5:3
Possession, § 2-S:67, § 2:67, § 5-S:29,	equality, presumption of, § 5-S:4,
§ 5:30, § 6:3, § 6:49, § 8-S:157,	§ 5:4
§ 8:158, § 9:42	related legislation, § 5-S:8
Protection against unilateral disposition,	retroactivity, § 5:2
§ 5-S:30, § 5:31	Newfoundland & Labrador
Reimbursement of other spouse, § 8-	Family Law Act
S:185	generally, § 6:40
Rights of third party creditors, § 8-S:183	application, § 6:30, § 6:31
Right to equal share in proceeds of sale,	background, § 6:11
§ 5-S:31, § 5:32	definitions, § 6:26, 6:27

MATRIMONIAL PROPERTY LAW, GENERALLY—Cont'd	MATRIMONIAL PROPERTY LAW, GENERALLY—Cont'd
Newfoundland & Labrador—Cont'd	Quebec Cont d
Family Law Act—Cont'd	Civil Code
dispute resolution alternatives,	during marriage
§ 6:38	partnership of acquests, § 10:10,
interpretation, § 6:26, 6:27, § 6:28, 6:29	§ 10:19 separation of property, § 10:9
Labrador Inuit Land Claims Agree-	end of marriage
ment, § 6:33	compensatory allowance, § 10:15
legislative history, § 6:12, § 6:13	deductions, § 10:14
purpose of Act, § 6:39	family patrimony, § 10:12,
Nova Scotia	§ 10:13
Matrimonial Property Act	unequal division, § 10:16
background, § 7:1	gifts, § 10:18
basic scheme, § 7-S:2, § 7:2	history, § 10:1
interpretation, § 7:3	insurance, § 10:17
scope, § 7:4	prior to marriage
Ontario	compensatory allowance, § 10:7
application for equalization as abuse of	family patrimony, § 10:6
process, § 8-S:13	family residence, § 10:5
Family Law Act, 1986	rights and duties of spouses,
generally, § 8-S:4, § 8:1, § 8:4	§ 10:4 Saskatchewan
capacity of spouse to carry out litiga-	historical overview
tion, § 8-S:12	amendments of 1975, § 11:4
nature of claim, § 8:14	historical development to 1975,
Part I, application	§ 11:1 to 11:3
jurisdiction, § 8-S:11 , § 8:11	The Family Property Act, § 11-S:6,
limitation period, extending, § 8-	§ 11:6
S:10, § 8:10	The Matrimonial Property Act, 1997
spouse, § 8-S:8 , § 8:8	§ 11:5
transition provisions, § 8:147	The Family Property Act
triggering events, § 8-S:9, § 8:9	generally, § 11-S:6
who may apply, § 8-S:7, § 8:7	application for distribution
Part I, operation, § 8:5	summary application, § 11:10
pre-Family Law Act law	when a spouse may apply, § 11-
generally, § 8:1	S:8, § 11:8
common law, § 8:2	where to apply, § 11-S:9, § 11:9
Family Law Reform Acts, 1975 and 1978, § 8:3	The Matrimonial Property Act, 1997 generally, § 11:5, § 11:38
Prince Edward Island	summary application, § 11:10
Family Law Act	when a spouse may apply, § 11:8
generally, § 9:1	Third party rights, and
Part I, application	generally, § 1:140
limitation period, extending, § 9:6	fraudulent preferences and bankruptcy.
spouse, § 9:4	§ 1:142
transitional provisions, § 9:7	nature of rights and when they arise, § 1:141
triggering events, § 9:5	rights independent of legislation,
who may apply, § 9:3	§ 1:143

MATRIMONIAL PROPERTY LAW, GENERALLY—Cont'd

Third party rights, and—Cont'd special provisions relating to the home, § 1:144

MEDIATION/ARBITRATION

Generally, § 6:38 Agreements, § 8-S:211

NET FAMILY PROPERTY

See also Family Assets; Property; Property Not Subject to Marital Property Legislation

Bankruptcy, effect of, § 9-S:34

Calculation of difference in spousal net family properties, § 8-S:86, § 8:86, § 9:23

Deductions in calculating

generally, § 9-S:9, § 9:9

debts and liabilities, § 3:10, § 8-S:83, § 8:83, § 9-S:16, § 9:16

net value on date of marriage of property brought into marriage, § 8-S:85, § 8:85, § 9-S:11 to 9-S:13, § 9:17

notional tax and disposition costs, § 8-S:84, § 8:84

onus of proof, § 8-S:82, § 8:82, § 9:15 property acquired after marriage and owned on valuation date

damages for personal injury or settlement, § 9:19

gifts and inheritances from third persons, § 9:18

proceeds of life, accident or sickness insurance, § 9:20

property excluded by domestic contract, § 9:22

traced property, § 9:21

what may be deducted, § 9:14

Defined, § 9:12

Equalization obligation, reapportioning the difference, § 8-S:87, § 8:87

Exclusions

classes of property, § 8-S:74 to 8-S:80, § 8:74 to 8:80

onus of proof, § 8-S:72

Property excluded by contract, § 9-S:10, § 9:10

Unequal division

generally, § 8-S:88, § 8:88, § 9-S:24, § 9:24

NET FAMILY PROPERTY—Cont'd

Unequal division—Cont'd debts or liabilities

failure to disclose debts or liabilities existing on date of marriage, § 8-S:89, § 8:89, § 9:25

incurred recklessly or in bad faith, § 8-S:90, § 8:90, § 9:26

one spouse incurring disproportionate amount for family purposes, § 8-S:94, § 8:94, § 9:30

equalization disproportionately large given short duration of marriage, § 8-S:93, § 8:93, § 9:29

gifts made by other spouse, § 8-S:91, § 8:91, § 9:27

intentional or reckless depletion, § 8-S:92, § 8:92, § 9:28

other circumstances relating to acquisition, disposition, preservation of property, § 8-S:96 to 8-S:100, § 8:96 to 8:100, § 9:32

written agreement that is not domestic contract, § 8-S:95, § 8:95, § 9:31

OCCUPATION RENT

Generally, § 2-S:67, § 3:34, § 4:62, § 5-S:29, § 6:3, § 6:75, § 7-S:13, § 7:13, § 8-S:160, § 8:161, § 9:45, § 11-S:20

OCCUPATION RIGHTS

Generally, § 4-S:52, § 4:52, § 7-S:17, § 7:17, § 8:156, § 8:171 to 8:180 Conveyance to both spouses, § 1:61 Homestead legislation, § 1:63 Third party rights, § 1:61

ORDERS

Generally, § 6:21, § 11-S:23, § 11:23 Application to vary, § 11-S:29, § 11:29 Enforcement against bankrupt spouse, § 2-S:76

Exclusive possession of matrimonial home, § 5-S:29, § 5:30, § 6:40, § 6:122, § 8-S:159, § 8:160, § 9:43, § 11-S:18, § 11:18

Freezing, § 6:50, § 6:86, § 6:87 Interim orders, § 2-S:20, § 6:121, § 8-S:120, § 11-S:32

No distribution of property, § 11:23 Possession orders

ancillary, § 8-S:161, § 8:162

ORDERS—Cont'd

Possession orders—Cont'd criteria, § 8-S:162 to 8-S:168, § 8:163 to 8:169

variation, § 8-S:169, § 8:170

Preservation of property, § 4:45, § 6:50, § 6:86, § 6:87, § 8-S:125, § 8-S:140, § 8:125, § 8:141

Realization order, variation of, § 8-S:119, § 8:119

Registration, § 6:51, § 7:80 Restoration, § 6:87 Restraining orders, § 6:120 Use, § 6:87

OWNERSHIP OF PROPERTY

Generally, § 6:79

Presumptions

Application for determination, § 5:19, § 8-S:123, § 8:123, § 9:36

Bankruptcy, § 3:36, § 8-S:134

Common law relationships, § 8-S:130 to 8-S:131

Constructive trust claims, § 5:18, § 6:79, § 8-S:124, § 8:124

Joint tenancy, severance of, § 8-S:133 Ownership or right of possession, § 5-S:29, § 5:30, § 6:43

Piercing the corporate veil, § 8-S:129 Preservation orders, § 8-S:125, § 8:125

advancement, abolished, § 5:17, § 8:127

equal beneficial ownership, § 5-S:16, § 5:17

joint ownership, § 8-S:127, § 8:127 resulting trust, § 5:17, § 8-S:127, § 8:127

Variation of security, § 8:126

PARTITION AND SALE

Family Law Act (Ont.)
generally, § 8-S:135, § 8:136
appeals, § 8:146
no rights over asset, § 8-S:141, § 8:142
Partition Act (Ont.), § 8-S:144, § 8:145
possession, § 8-S:139, § 8:140
preservation order, § 8-S:140, § 8:141
pre-trial sale, § 8-S:136, § 8:137
defences, § 8-S:138, § 8:139
right to sale, § 8-S:137, § 8:138
sale upon final resolution of dispute,
§ 8-S:143, § 8:144

PARTITION AND SALE—Cont'd

Family Relations Act (B.C.), § 3:2 Law of Property Act, (Man.), § 4:62 Partition Act (Ont.), § 8-S:144, § 8:115, § 8:145

PARTNERSHIP OF ACQUESTS, (QUE.) Generally, § 10:3, § 10:10, § 10:19

PATRIMONY, FAMILY, (QUE.) Generally, § 10:6, § 10:12, § 10:13

PAY EQUITY SETTLEMENTS Generally, § 5-S:11, § 5:12

PENSIONS

Generally, § 4:27, § 5-S:11, § 5:11, § 6:61, § 7:22, § 8:32 Canada Pension Plan, § 4:27 Disability pensions or insurance, § 4:27 Division, § 6:78, § 9-S:13 Effect of division on support, § 4:27 Federally-regulated pensions, § 4:27 Old Age Pension, § 4:27 Provincially-regulated pensions, § 4:27 Valuation, § 9-S:13, § 11-S:14, § 11:14

PERSONAL INJURY DAMAGE AWARD

Generally, § 4:19, § 6:60, § 7:39

PERSONAL PROPERTY SECURITY ACT, (NFLD. & LAB.)

Generally, § 6:92

PRACTICE

Generally, § 3:38, § 11-S:33

Amendment of notice of application, § 5-S:34

Appeals, § 2-S:21, § 2:21, § 5-S:35, § 6:24, § 6:130, § 7-S:84, § 7:84 Application as abuse of process, § 8-S:13 Application to vary, § 11-S:29, § 11:29 Bankruptcy, effect of, § 2-S:24, § 3:36, § 9-S:34

Capacity of spouse to carry out litigation, § 8-S:12

Commencement of action, § 2-S:12, § 2:12, § 6:36, § 8-S:212, § 8:213 Companion proceedings, § 6:34, 6:35 Consolidation of actions, § 2-S:25 Costs, § 2-S:23, § 2:23, § 3:39, § 6:22, § 7-S:85, § 7:85, § 8-S:214 to

PRESUMPTIONS—Cont'd PRACTICE—Cont'd 8-S:217, § 8:215 to 8:218, § 9-S:49, Evidentiary presumptions, § 2-S:70, § 11-S:28, § 11:28 § 2:70 Courts, § 6:123, § 6:124 Joint ownership, § 8-S:127, § 8:127 Criminal Code provisions applicable, Resulting trust, § 5:17, § 6:10, § 6:88, § 6:125 § 8-S:127, § 8:127 Disbursements, interim, § 8-S:215, **PROPERTY** § 8:216 See also Business Assets/Purposes; Disclosure, § 2-S:18, § 2:18, § 4:45 Cohabitation and Property; Family Discovery Assets; Unequal Division of Propgenerally, § 2-S:15, § 11-S:33 erty; Reapportioning Assets confidentiality, § 6:71 Generally, § 2-S:29, § 2:29, § 8:21 to statement of property, § 6:70, § 7:73 8:39.50 Evidence, § 6:20 Contingent and future interest, § 8:24.50 Execution, § 6:131 Date of distribution or valuation date, Expert evidence, § 2-S:26 § 2-S:31, § 2:31 Forms, § 6:19 Defined, § 2-S:30, § 2:30, § 8-S:150, Income tax, § 6:25 § 8:151, § 9:11, § 9:38 Interest, § 6:23, § 8-S:216, § 8:217 Distributable, § 2-S:43, § 2:43 Interim orders, § 2-S:20, § 4:45 Divisible Jury trial, § 7:74 debts, § 2-S:55, § 2:55 Limitation of actions, § 4:45, § 6:15 division of pensions on marriage Orders, § 6:21 breakdown, § 2-S:46, § 2:46, § 9-Parties, § 2-S:13, § 2:13, § 6:18 S:13 Pleadings, § 2-S:14, § 2:14, § 6:16, 6:17 employment separation allowances, § 2-S:57, § 2:57 Pre-judgment interest, § 4:45 intellectual property: royalties and Preservation orders, § 4:45 patents, § 2:54 Procedural fairness, § 2-S:17 other property, § 2-S:59, § 2:59 Reference, § 4:45 payments after marriage relating to Rehearing, § 7-S:73 matters prior to marriage, § 2:56 Relationship between property and supuniversity degrees and professional port, § 2-S:22 licences, § 2-S:58, § 2:58 Re-opening of proceedings, § 2-S:27 Property, types Rules of evidence, § 2-S:16 acquired after divorce judgment, § 2-Satisfaction of judgments, § 4:45 S:44, § 2:44 Self-represented parties, § 2-S:28 acquired before marriage, § 4:17 Summary judgment, § 2-S:19, § 2:19 contingent and future interests. Time limitations, extension, § 6:126, § 8-§ 8:24.50 S:10, § 8:10 employment benefits, § 8:27.30, Trial venue, § 7:73 § 8:27.50, § 8:27:70 exempt, § 2-S:33 to 2-S:42, § 2:33 to **PRESUMPTIONS** 2:42 Generally, § 6:88 personal, § 4:4 Advancement, § 1:24, § 1:36, § 4:2, Shareable interests, § 8-S:21 to 8-S:23, § 5:17 § 8:21 to 8:39.50, § 9:11 Equal beneficial ownership, § 5-S:16, Transfers by spouse to defeat claims, § 5:17, § 11-S:1 to 11-S:6 § 9:33 Equal division, presumption of, § 5-S:16, Valuation date, § 2-S:31, § 2:31 § 6:6, § 6:64

Valuation issues, § 2-S:31

Equality, presumption of, § 5-S:4, § 5:4

PROPERTY NOT SUBJECT TO MARITAL PROPERTY LEGISLATION

Generally, § 11-S:16, § 11:16
"At risk" performance pay (discretionary), § 8-S:24 to 8-S:43

Birds, exotic, § 7:55

Business assets, § 5-S:14, § 5:15, § 7:53 Damage awards, personal injury, § 4:20,

§ 8-S:74 to 8-S:80, § 8:74 to 8:80, § 9:19

Disability pension, § 7-S:52, § 7:52 Employment termination incentive, § 7:66

Fur coat, § 7:54

Gifts, § 4-S:19, § 4:19, § 5-S:15, § 5:16, § 8:73, § 8:74, § 9-S:18, § 9:18

Gun collection, § 7:56

Inheritance, § 4:19, § 5-S:15, § 5:16, § 7-S:61, § 7:61, § 8-S:74 to 8-S:80, § 8:74 to 8:80, § 9-S:18, § 9:18

Investment property, § 7-S:63, § 7:63

Jewellery, § 7:54, § 7:62

Joint property, § 4-S:21, § 4:21

Life insurance proceeds payable on death of insured, § 8-S:74 to 8-S:76, § 8:74 to 8:76

Making excluded asset shareable, § 4:23 Proceeds of life, accident or sickness insurance, § 9:20

Professional degrees and licences to practice, § 8:23

Property acquired in exchange for gift or inheritance, § 5-S:15, § 5:16

Property excluded by agreement, § 4-S:22, § 4:22, § 7-S:68, § 8-S:74 to 8-S:80, § 8:74 to 8:80, § 9:22

Property used for business, § 7-S:69

RESPs, § 8-S:24 to 8-S:43

Security in matrimonial home, § 6:32 Tools, § 7:60

Traced property, § 8-S:74 to 8-S:80, § 8:74 to 8:80, § 9:21

Trust benefits, § 4:19

Trusts, § 7:67

Wedding ring, § 7:62

PROPERTY RIGHTS ON DEATH

Family Law Act (Nfld. & Lab.) generally, § 6:2, § 6:43, § 6:54, § 6:65 contracting out of matrimonial legislation, § 6:91

PROPERTY RIGHTS ON DEATH

—Cont'd

Family Property Act, The, (Sask.), § 11-S:24, § 11:24

Intestate Succession Act (Man.), § 4:54
Marital Property Act (N.B.), § 5-S:21,
§ 5:22

Marital Property Act (Man.), Part IV shareable assets, § 4:57 who may apply, § 4:56

Matrimonial Property Act (N.S.), § 7:6

PROTECTION OF ASSETS

Before agreement or final order is made temporary orders respecting protection of property, § 3:15

Injunctions

chattels, § 2:66

personal property, § 2-S:64, § 2:64 real property, § 2-S:65, § 2:65

REALIZING EQUALIZATION ENTITLEMENT

Bankruptcy, § 8:117

Delayed payment, § 8:111, § 8:112

Equalization payment, § 8:109

Installment payment, § 8:111, § 8:112

Interest on equalization judgment, § 8:116

Interim orders, § 8:115

Partition/Sale of property, § 8:114

Powers of the court, § 8:108

Property transfer to spouse, § 8:113

Property vested in spouse, § 8:113

Security for equalization obligation, § 8:110

REAPPORTIONING ASSETS

Equalization obligation, reapportioning the difference, § 8-S:87, § 8:87

Exclusion of property from division, § 5-S:22, § 5:23

Judicial discretion, § 4-S:44, § 4:44, § 5-S:22 to 5-S:24, § 5:23 to 5:25

Non-marital property, § 5:25

Varying equal sharing, judicial discretion, § 4-S:44, § 4:44, § 5-S:23, § 5:24

REGULATIONS

Generally, § 6:128

RESIDENCE REQUIREMENT

Generally, § 4:9

RESULTING TRUST

Generally, § 1:2, § 1:3, § 1:26, § 1:27, § 1:35, § 1:36, § 2-S:73, § 5:17, § 8-S:21 to 8-S:23, § 8-S:132, § 8:39, § 8:127

RETIREMENT ALLOWANCES

Generally, § 5-S:11, § 5:11

RETROACTIVE APPLICATION OF LEGISLATION

Generally, § 4:11

RIGHTS OF THIRD PARTY CREDITORS

Generally, § 8-S:183, § 11-S:27, § 11:27

SETTLEMENTS

Conflict of laws, and, § 1:135

SPOUSE

Defined, § 6:27, § 7-S:8, § 7:8, § 8-S:8, § 8:8, § 9:4, § 11-S:7, § 11:7 Rights and duties of, § 10:4

TAXATION

Generally, § 6:25

Alimony, maintenance and support features required to be deductible, APP B & B:3

tax treatment, APP B § B:2

Amounts paid prior to order or written agreement (prior period payments)

defined, APP B § B:12

features required to be deductible, APP B § B:14

tax treatment, APP B § B:13

features required to be deductible, APP B § B:7

tax treatment, APP B § B:6

Capital gains exemption, APP B § B:56 Common-law spouses

child care deduction, APP B § B:55 child tax benefits, APP B § B:54 definition, APP B § B:53

Compensatory support, APP B § B:50 Consequences, § 7-S:72, § 7:72

Corporate tax issues

distribution taxes, APP B § B:51 objectives in marital dissolution, APP B § B:52

1995 Federal Budget

deferred fiscal periods, APP B § B:40

TAXATION—Cont'd

1995 Federal Budget-Cont'd family trust. APP B § B:42 RRSPs, APP B § B:41

Income attribution

defined, APP B § B:24 election, APP B § B:29

election not made, APP B § B:30

example, APP B § B:31

how capital gain is taxed when transferred property is sold to third

married parties, APP B § B:28

separated parties, APP B § B:27

how income from transferred property is taxed

married parties, APP B § B:26 separated parties, APP B § B:25

Income Tax Act, application of, § 6:127, § 11-S:30, § 11:30

Interest on money borrowed to finance lump-sum or maintenance payments, **APP B § B:38**

Joint and several tax liabilities, unanticipated

different rules for separated parties, **APP B § B:33**

impact, APP B § B:34

recommendation, APP B § B:35 rules, APP B § B:32

Legal fees

deductible, APP B § B:37 not deductible, APP B § B:36

Loss carryforward rule, APP B § B:46 Lump sums

defined, APP B § B:4

interest on money borrowed to finance lump-sum payments, APP B § B:38

tax treatment and features. APP B § B:5

Non-resident spouses

payments from non-resident, APP B § B:16

payments to non-resident, APP B § B:15

Principles, generally, APP B § B:1 Release of marital and support rights,

APP B § B:47

Rollover to non-resident, APP B § B:48

TAXATION—Cont'd

Support payments and earned income for RRSP purposes, APP B § B:49

Tax impact and other costs of disposition re business, realty and pension assets

deductions, APPA § A:31, APPA § A:33

no contingent tax liability, APPA § A:32

professionals' roles, APPA § A:34

tax rate, surrounding circumstances and tax planning considerations, APP A § A:36

three kinds of taxes properly included amongst liabilities, APPA § A:35

Tax instalments

penalties and interest, APP B § B:45 timing of payments, APP B § B:44 who must make, APP B § B:43

Third party payments

defined, APP B § B:8

features required to be deductible, APP B § B:10

tax treatment, APP B § B:9

third party payments no deductible, **APP B § B:11**

Transfers of property

can transferor take advantage of any tax planning opportunities, APP B § B:21

common capital property transfers, **APP B § B:18**

matrimonial home, APP B § B:23 RRSPs, APP B § B:22

tax impact of transfer, APP B § B:19 transferee's position, APP B § B:20

Valuation of assets, § 4:27

TENANCY BY THE ENTIRETY

Generally, § 1:21

TENANCY IN COMMON

Generally, § 1:23

THIRD PARTY RIGHTS AND MATRIMONIAL PROPERTY LEGISLATION

Generally, § 1:140

Fraudulent preferences and bankruptcy, § 1:142

Nature of rights and when they arise, § 1:141

Rights independent of legislation, § 1:143

THIRD PARTY RIGHTS AND MATRIMONIAL PROPERTY LEGISLATION—Cont'd

Special provisions relating to the home, § 1:144

Third party claims, § 2-S:77

TIME LIMITS FOR APPLICATION FOR DIVISION OF PROPERTY

Generally, § 5-S:5, § 6:66

TRACING

Generally, § 2-S:33 to 2-S:42, § 2:33 to 2:42, § 4:17, § 6:62, § 8-S:74 to 8-S:80, § 8:74 to 8:80, § 9:21, § 11:16

TRANSFERS BY SPOUSE TO DEFEAT CLAIMS

Generally, § 9:33

TRIGGERING EVENTS

Generally, § 5-S:5, § 6:63, § 7-S:5, § 7:5, § 8-S:9, § 8:9, § 9:5

TRUST BENEFITS

Generally, § 4-S:19, § 4:19

UNEQUAL DIVISION OF PROPERTY

Generally, § 8-S:88, § 8:88, § 9:24, § 11-S:22, § 11:22

Debts or liabilities

failure to disclose debts or liabilities existing on date of marriage, § 8-S:89, § 8:89, § 9:25

incurred recklessly or in bad faith, § 8-S:90, § 8:90, § 9:26

one spouse incurring disproportionate amount for family purposes, § 8-S:94, § 8:94, § 9:30

Equalization disproportionately large given short duration of marriage, § 8-S:93, § 8:93, § 9:29, § 11-S:22, § 11:22

Gifts made by other spouse, § 8-S:91, § 8:91, § 9:27

Governing factors, § 6:7, § 6:67, § 7-S:81, § 7:81

Intentional or reckless depletion, § 8-S:92, § 8:92, § 9:28

Judicial discretion, § 4-S:44, § 4:44, § 5-S:23, § 5:24

Orders, § 11-S:23, § 11:23

Other circumstances relating to acquisition, disposition, preservation of

UNEQUAL DIVISION OF PROPERTY —Cont'd

property, § 8-S:96 to 8-S:105, § 8:96 to 8:105, § 9:32

Particular divisions, § 6:68

Quebec, in, § 10:16

Written agreement that is not domestic contract, § 8-S:95, § 8:95, § 9:31

UNJUST ENRICHMENT AND CONSTRUCTIVE TRUST

Generally, § 4-S:3, § 4:3, § 5:18, § 7-S:87 Compensatory support: relief against unjust enrichment, § 1:154, § 3:37

VALUATION DATE

Generally, § 2-S:31, § 2:31, § 4-S:27, § 4:27, § 9:8, § 11-S:11, § 11:11

Deductions, § 9-S:9, § 9:9

Divorce, nullity and death, § 8:18

Property excluded by contract, § 9-S:10, § 9:10

Separation without reasonable prospect of resuming cohabitation, § 8:17

VALUATION OF ASSETS

Generally, APPA § A:1, § 2-S:32, § 4:27, § 5-S:25, § 5:26, § 6:72 to 6:76, § 7-S:86, § 11-S:12, § 11:12

Basic valuation principles, APPA § A:24
Business assets, § 11-S:13, § 11:13

Business valuator, selection of, **APP A** § **A:67**

Debts, § 8:63

Definitions and concepts

adjusted equity, APPA § A:2

book value, APPA § A:3

en bloc value, APPA § A:4

fair market value, APPA § A:5, APPA § A:6

going-concern value, APPA § A:7

goodwill, APPA § A:8

internally and externally financed transactions, APPA § A:9

intrinsic value, APPA § A:10

liquidation value, APPA § A:11

maintainable earnings, APPA § A:12

market and investment approaches to value, APPA § A:14

market value and market price, APPA § A:13

minority interest, APPA § A:15

VALUATION OF ASSETS—Cont'd

Definitions and concepts—Cont'd open market vs notional market, APP A § A:17

rateable value, APPA § A:18

redundant assets, APPA § A:19

salaries when determining value, support, APPA § A:20

special purchasers, APPA § A:21 tangible asset backing, APPA § A:22

value to owner, APPA § A:23

Examination and cross-examination of business valuation expert

cross-examination on valuation report, APPA § A:71

examination in chief, APPA § A:70 instructing the expert, APPA § A:68 preparing for examination in chief,

APPA § A:69

selection of business valuator, APP A § A:67

Exclusions, § 8-S:72 to 8-S:80, § 8:72 to 8:80

Fair value

generally, APPA § A:25

burden of proof, APPA § A:29

impact of restrictive covenant and employment contracts, APP A § A:28

why fair value is preferable to fair market value, **APPA § A:27**

Farming assets, § 8:64

Jobs, professional degrees, licences and rights to practise, **§ 1:155**

Minority interests

generally, APPA § A:37

Revenue Canada's view on family control, APPA § A:38

Miscellaneous, § 8:71

Notional tax and disposition costs, § 8:61

Pensions, § 8:66, § 9-S:13, § 11-S:14, § 11:14

Private corporation, § 8:67

Professional practices

generally, APPA § A:39, APPA § A:47

applicability of rules-of-thumb in valuation, APPA § A:40

contingent income tax costs of disposition, APPA § A:46

VALUATION OF ASSETS—Cont'd

Professional practices—Cont'd determining maintainable earnings, APPA § A:41

discretionary expenses, APPA § A:43 non-completion agreements, APPA § A:45

off-balance-sheet assets, APPA § A:44 other issues, APPA § A:42 shares, § 8:70

Stock options

generally, APPA § A:48, APPA § A:56

discounts unique to employee stock options, APPA § A:53

factors affecting option's value, APPA § A:50

impact of employee stock options on income, APPA § A:55

valuation approaches, APPA § A:52

Tax impact and other costs of disposition re business, realty and pension assets deductions, APPA § A:31, APPA

§ A:33 no contingent tax liability, APPA

§ A:32 professionals' roles, APPA § A:34

VALUATION OF ASSETS—Cont'd

Tax impact and other costs of disposition re business, realty and pension assets —Cont'd

tax rate, surrounding circumstances and tax planning considerations, APP A § A:36

three kinds of taxes properly included amongst liabilities, APPA § A:35

Trusts, § 8-S:70

Valuation of Bank Accounts, § 8:62

Valuation reports

disclaimer, APPA § A:62

disclosure of valuation basis, APPA § A:65

impact of not addressing special purchasers, APPA § A:64

information to be provided to valuator, **APPA § A:63**

types of reports

formal report, APPA § A:59 informal report, APPA § A:60 various financial calculations, APPA § A:61

VOID AND VOIDABLE MARRIAGES

Generally, § 2:3, § 2:4, § 4:12, § 8:8, § 9:4