

Succession rights of common-law partners and adult children

Married individuals in all provinces across Canada have the right to inherit a deceased spouse's estate if their spouse dies without a will. They are also entitled to receive a survivor's pension benefit and to bring an action against their spouse's estate if they are not adequately provided for in their spouse's will. Although these rights have also been extended to common-law partners in many provinces, some inconsistencies remain. The following chart highlights these differences and also summarizes in which provinces an adult child can bring a claim against a parent's estate.

| | Common-law partner's rights | | | | | Adult child |
|---------------------------|--|------------------|----------------------|--|-----------------|------------------|
| | Minimum cohabitation period (years) ¹ | Dependent relief | Intestate succession | Minimum cohabitation period (years) ¹ | Pension benefit | Dependent relief |
| British Columbia | 2 | Yes | Yes | 2 | Yes | Yes |
| Alberta ² | 3 | Yes | Yes | 3 | Yes | No |
| Saskatchewan | 2 | Yes | Yes | 1 | Yes | No |
| Manitoba ² | 3 | Yes | Yes | 1 | Yes | No |
| Ontario | 3 | Yes | No | 3 | Yes | Yes ⁴ |
| Quebec ² | – | No | No | 3 | Yes | Yes ⁵ |
| New Brunswick | 3 | Yes | Yes | 3 | Yes | Yes |
| Nova Scotia ² | – | No | No | 2 | Yes | Yes |
| Prince Edward Island | 3 | Yes ³ | No | – | No | No |
| Newfoundland and Labrador | – | No | No | 1 | Yes | Yes |

As at August 1, 2006

Footnotes:

1. A shorter period may apply if the common-law partners are together the natural or adoptive parents of a child
2. Special legislation may apply – see chart on the reverse
3. Applies to opposite sex common-law partners only
4. If the deceased was providing support or under a legal obligation to provide support
5. Must be able to show a need for support at the time of deceased's death



Definitions:

- i. Dependent relief** – Legislative right to bring a claim against a common-law partner’s (or in the case of an adult child who is not physically or mentally infirm, his/her parent’s) estate for proper maintenance and support
- ii. Intestate succession** – Ability to receive some or all of a common-law partner’s estate should that common-law partner die without a will
- iii. Pension benefit** – Ability to receive a common-law partner’s pension benefit in the event of that common-law partner’s death

Special legislation:

Alberta, Manitoba, Quebec and Nova Scotia have enacted special legislation recognizing common-law relationships. A key benefit of these regimes is that it enables unmarried individuals to have immediate access to many of the same (and in some cases greater) rights as common-law partners without having to cohabit together in a conjugal relationship for a minimum period of time.

| Province | Type of relationship recognized | Benefits conferred |
|-------------|-----------------------------------|---|
| Alberta | Adult interdependent relationship | Same as the chart on the reverse, except immediate access to dependent relief and intestate succession rights without any minimum cohabitation period. |
| Manitoba | Registered partnership | |
| Quebec | Civil union | Immediate access to dependent relief and intestate succession rights without any minimum cohabitation period (these rights not available to common-law partners); same as the chart on the reverse for pension benefit entitlement. |
| Nova Scotia | Registered partnership | |

For more information about this topic, contact your advisor, call us at **1.800.874.6275** or visit our website at **www.aimtrimark.com**.

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