

SEPARATING FROM YOUR SPOUSE: MATTERS TO CONSIDER

The following matters frequently arise. It is not an exhaustive list. To protect your interests, you should discuss your specific circumstances and needs with your lawyer.

NEW WILL and NEW POWERS OF ATTORNEY

When spouses separate, there is no automatic change in entitlement under an existing will or by intestacy (when there is no will) and existing powers of attorney continue to be valid. Talk to your lawyer about revoking these documents and/or preparing new ones.

LIFE INSURANCE, RRSP & RRIF BENEFICIARY DESIGNATIONS

Designations of a beneficiary on life insurance policies (group or individual) continue to be effective until the insurer receives written notice of a change of beneficiary. The same applies to the designation of a beneficiary for a RRSP or RRIF.

HEALTH INSURANCE COVERAGE

You should continue to maintain your health coverage for all dependent children. Please discuss with your lawyer any possible obligation to continue to provide such coverage for your spouse before taking steps to cancel that coverage.

JOINT TENANCY OF HOME

Many spouses who own a home together hold title as “joint tenants”. If one “joint tenant” dies, the other becomes the sole owner automatically, by “right of survivorship”.

The joint tenancy can be severed by either spouse, with the effect that a spouse can then include his or her share in his or her estate to be left to the beneficiary of choice by provision in a will. You should discuss your wishes in this regard with your lawyer.

BUYING and SELLING HOMES

If you and your spouse sell your home, do not assume that you will be splitting the proceeds of sale 50/50 or that any part of the proceeds will be available to you immediately after the closing. The lawyer handling the sale cannot release the money to you if there is a dispute about how the proceeds are to be disbursed or divided unless both spouse agree in writing or there is a court order.

If you are buying a new property, be aware that most mortgage lenders will require a signed separation agreement before approving your mortgage.

JOINT BANK ACCOUNTS and JOINT LINES OF CREDIT

Funds held in joint names may be withdrawn by either spouse, who also may continue to draw on any such line of credit. If this is a concern, you should arrange with your financial institution to change your banking arrangements.

DEBTS and CREDIT CARDS

You should review any arrangement whereby you may be responsible to your spouse or your spouse’s creditors for any loan, line of credit or credit card debt and discuss with your lawyer how to protect yourself from the claims of such creditors.

Please remember. General information such as this is no substitute for detailed, personalized and informed advice from your lawyer. To assist you, your lawyer will need full disclosure of all relevant information and documents.