

The Family Property Act

The Family Property Act establishes as a general rule that each legally married spouse, common law spouse and same sex spouse is entitled to an equal share of their family property, subject to the exceptions, exemptions and equitable considerations set out in the Act. For example, property acquired before the commencement of the relationship is exempt from distribution.

The court may divide the family property or may order that one spouse pay the other spouse enough money to equalize their shares. Alternatively, the spouses may make an agreement about how to divide their property. The agreement will be binding if it is in writing and each spouse has received independent legal advice.

The Act also includes remedies available to a spouse to prevent the other spouse from depleting their assets. An application to the court for division of family property can be made during the spouses' lifetimes or after the death of one spouse.