



Key Topics in Matrimonial Real Property Laws

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The purpose of this document is to set out the general subject matters that MRP Laws may cover, along with some of the sub-issues that First Nations may want to cover within these larger topics. This list is provided for general guidance purposes only. MRP Laws need not cover all of these general subject matters and sub-issues, nor is this list necessarily exhaustive.

A. Whereas Clauses and/or Purpose Provision

- “Whereas clauses” may set out MRP Law objectives and values, as well as the First Nation’s legal authority for adopting the MRP Law
- A purpose provision can set out more specifically the purpose of the MRP Law
- Both types of clauses are fully optional

B. Domestic Contracts

- Definition of a “domestic contract”
- Requirements for the domestic contract to be enforceable
- Extent to which domestic contract takes priority over rules set out in MRP Law
- Bases upon which domestic contract may be set aside
- Time limits for enforcing domestic contracts
- Registration of domestic contracts in the First Nation’s own lands registry (if any)

C. Dispute Resolution

- Alternative dispute resolution
- Forum for resolving disputes where alternative dispute resolution fails or is not pursued
- Right of First Nation government to be notified of disputes and to participate in hearings

D. Division of Matrimonial Property or Compensation in Lieu

- Definition of “matrimonial property”
- Who can seek redress, where, and under what time limits
- declarations and orders that applicants may seek
- Principles to guide decisions about the appropriate division or compensation of matrimonial property
- Valuation of matrimonial property

E. Matrimonial Home

- Definition of “matrimonial home”
- Spouses’ right to occupy matrimonial home

- Restriction on disposing or encumbering matrimonial home
- Redress for disposition or encumbrance of matrimonial home
- Exclusive occupation orders
- Time limits for seeking redress from courts

F. Estate Provisions

- Right of non-owner, surviving spouse to occupy matrimonial home for a minimum time after death of spouse
- Right of surviving spouse to real property or compensation in lieu upon death of owner spouse

G. Emergency Protection Orders

- Who may apply for them
- Forum in which to bring these applications
- Minimum and discretionary content of emergency protection orders
- Maximum length of emergency protection orders

H. Amending Procedure

- How the MRP Law may be amended (including for minor and substantive amendments)

I. General Provisions

- Offence provisions
- Date of coming into force of MRP Law
- Severability of clauses in event of a declaration of invalidity