



## **New remedies for cohabitants – different from divorce**

The Law Commission today rejects calls that cohabitants should be given the same rights as married couples and civil partners in the event of their separation. Its report “Cohabitation: The Financial Consequences of Relationship Breakdown” instead recommends the introduction of a new scheme of financial remedies which would lead to fairer outcomes on separation for cohabitants and their families.

Stuart Bridge, the Commissioner leading the project, said

More and more families involve couples who are living together but who have not married. The law that currently applies to resolve property disputes between such couples on separation is unclear and complicated, and it can produce unfair outcomes. This causes serious hardship not only to cohabitants themselves, but also to their children.

The scheme we are recommending, in the light of consultation, is distinct from that which applies between spouses on divorce. It would not apply to all cohabitants and where it did apply would only give rise to remedies relating to contributions made to the relationship. We do not accept the argument that such reform would undermine marriage. We consider that our scheme strikes the right balance between the need to alleviate hardship and the need to protect couples’ freedom of choice.

The Law Commission was asked by Government to review the law that currently applies to cohabitants when they separate. The Commission has concluded in the light of consultation that reform is necessary. The existing law is uncertain and expensive to apply and, because it was not designed for cohabitants, often gives rise to results that are unjust.

Under the Law Commission’s recommended scheme, financial remedies would respond to the economic impact of the parties’ contributions to the relationship, and first consideration would be given to any dependent children of the couple. Unlike in cases of divorce, cohabitants would not be expected to meet each other’s future needs by means of maintenance payments and there would be no principle that the parties should share their assets equally. Merely moving in with someone would not give rise to any entitlement to a remedy.

The scheme would not apply to all cohabitants:

- Only those couples who have had a child together or who have lived together for a minimum period would be eligible. The Commission recommends that the minimum period for couples without children should be set within a range of two to five years.
- Couples who wished to do so could opt out of the scheme by a written agreement to that effect. They would then be free to make their own arrangements for what would happen to their assets in the event of separation.

The report makes recommendations to Government. It will be for Government to decide whether and when to introduce legislation in Parliament in order to implement them.

The recommendations apply only to England and Wales. In Scotland, cohabitants have had access to statutory remedies on separation since May 2006.

An Executive Summary attached to this release provides more details about the recommended scheme and the case for reform. It provides examples demonstrating how the scheme would operate.

ENDS

### **Notes for Editors**

1. The Law Commission is a non-political independent body, set up by Parliament in 1965 to keep all the law of England and Wales under review, and to recommend reform where it is needed.
2. The Law Commission's report follows a consultation paper issued in May 2006. The terms of reference for the project and further details about the report and the consultation paper are available at: [www.lawcom.gov.uk/cohabitation.htm](http://www.lawcom.gov.uk/cohabitation.htm).
3. Further information about the legal issues currently arising from couples living together are available on the Advice Services Alliance website [www.advicenow.org.uk](http://www.advicenow.org.uk)
4. For all press queries please contact:  
Law Commission communications on 020 7453 1273  
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