

Other issues:**Social Welfare**

A cohabiting family is treated in the same way as a married family for Social Welfare purpose. Both incomes will be taken into account when assessing income for the means test.

Domestic Violence

A cohabitant can apply for a safety order, a barring order or an interim barring order and/or a protection order.

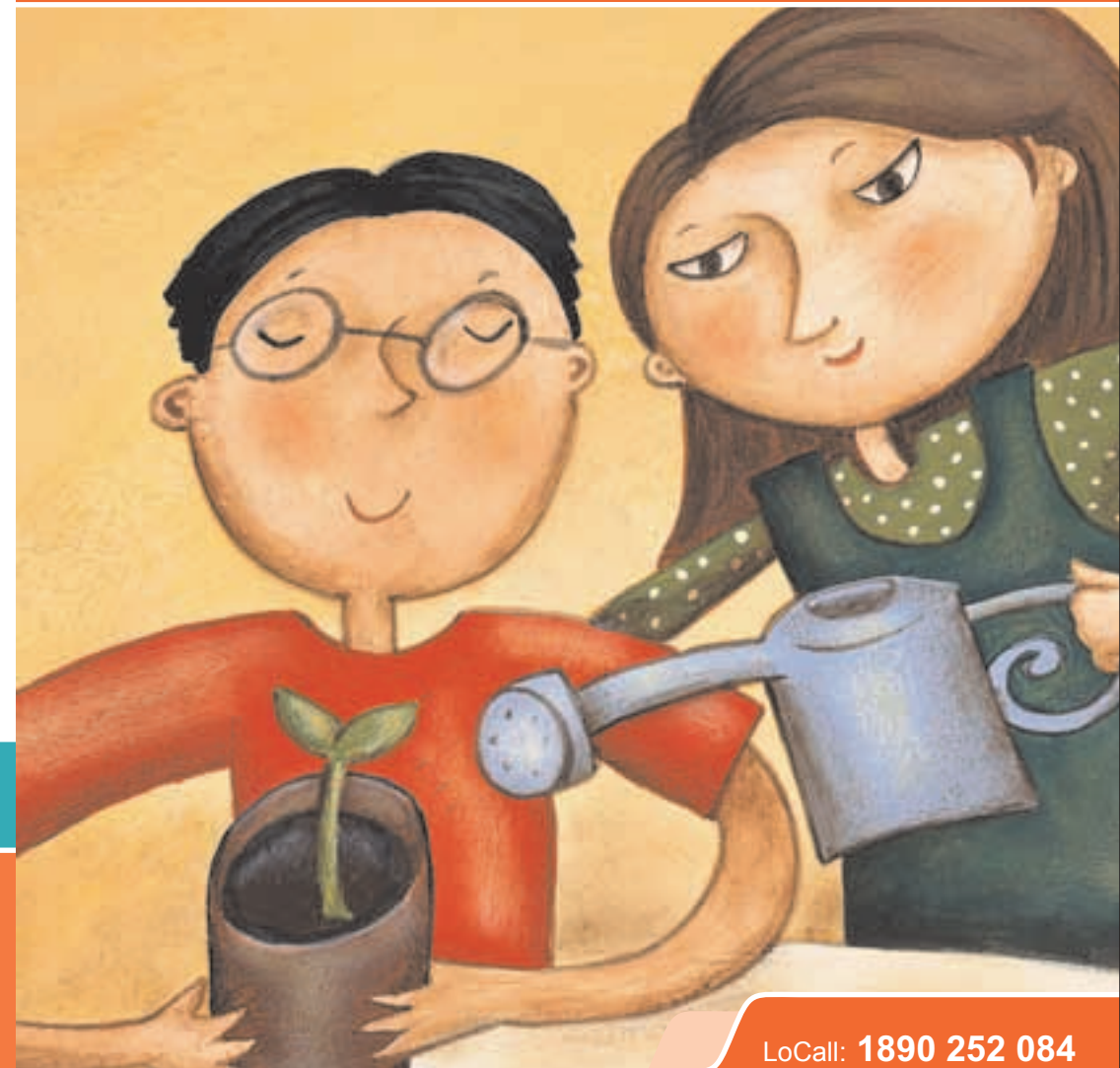
To apply for a safety order the couple must have been living together for 6 months in the previous 12 months. A safety order prohibits the violent person from further acts of violence or threats of violence. It does not oblige that person to leave the family home.

To apply for a barring order/interim barring order the couple must have been living together for 9 of the previous 12 months. A barring order requires the violent person to leave the family home unless that person owns the family home in full or has greater rights than you to the home.

You can get a protection order immediately while you are waiting for the court to decide on your application for either a safety or barring order. A protection order does not require the violent person to leave the home.

Cohabiting Parents

The Civil Partnership Bill 2009 will introduce changes for cohabitants when it becomes law. Check with Treoir for an update.



ALL PRICES QUOTED ARE CORRECT AT
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Cohabiting Parents

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What is cohabitation?

- Cohabitation (for the purpose of this leaflet) is where two persons are living together as husband and wife and are not legally married to each other.
- In Ireland at present there is no legal concept of common law husband or wife.
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Children of cohabiting parents

Children of cohabiting parents have the same **succession** and **maintenance** rights as children born to married couples.

It is important for all children to have the father's name on the child's **birth cert.**

This means that his paternity of his child is presumed but does not give the father any guardianship rights to his child.

The mother is automatically a **guardian** of the child. The father should consider becoming a joint guardian with the mother of any children they have. See separate leaflet on *Guardianship*.

How are cohabiting parents treated differently to married parents?

Income Tax

Cohabiting parents are treated as single persons for income tax purposes. They are not entitled to the married person's tax allowances or tax bands. If one partner is in paid employment s/he cannot claim tax relief for the other who is working full-time in the home.

Property

Cohabiting families do not have the benefit of the **Family Home Protection Act 1976** which applies only to married families. This means that property owned solely by one parent and being used as a family home can be sold without the consent of the other parent.

If you separate and if you have contributed to the property you may have a beneficial interest in the property.

Maintenance

If cohabiting parents separate they cannot claim **maintenance rights** from each other. Maintenance can only be claimed in respect of any children they have together. See separate leaflet on *Maintenance*.

Inheritance

Cohabiting partners do not have *automatic inheritance rights* from each other. However, Principal Residence Relief allows an individual to receive a gift or inheritance of a residential property free from capital acquisitions tax (CAT), popularly known as inheritance tax or gift tax, if the following conditions are met:

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- The premises is/was the beneficiary's principal private residence for three years prior to the gift or inheritance
- The individual has no beneficial interest in any other residential property in the State
- The individual remains living in the property for six years after the gift or inheritance.
- This does not apply in the case of a recipient over 55 years of age and in certain other circumstances.

Spouses are exempt from Capital Acquisitions Tax (Inheritance Tax) whereas cohabiting partners pay tax on gifts/inheritance over €21,700.

Safeguards for cohabiting parents

Parenting

The father should consider becoming a joint guardian with the mother of any children they have.

Income Tax

It is possible to enter into a legally binding covenant which will provide an income for the non-earning partner and which could have some tax advantages. The disadvantage of a covenant is that it becomes a gift for Capital Acquisitions Tax purposes.

Jointly owned property

Where a home is being bought jointly it is advisable to draw up a Deed of Trust or a Declaration of Beneficial Ownership.

Check with a solicitor whether Joint Tenancy or Tenancy in Common is the best ownership option as regards any joint property.

Take out a mortgage insurance policy to cover the mortgage in the event of the death of one partner.

Inheritance

Cohabitants could consider taking out a Section 60 insurance policy, through a life insurance company, which covers inheritance tax where this arises. Talk to your insurance broker.

Pensions

Check pension rights to see the position for a cohabitant. It may be possible to nominate a partner as a beneficiary. Public Service pensions in Ireland are paid to the legal spouse only.

Wills

It is very important to make a will to provide guardianship for any children in the event of the death of a parent before the child reaches 18 and to provide for the inheritance of the partner.