

To apply for a barring order/interim barring order you 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.

For further clarification in relation to the new Act contact a Treoir Information Officer at 1890 252 084.

#### Useful addresses

**Treoir**  
Federation of services for unmarried parents and their children  
LoCall: 1890 252 084  
info@treoir.ie  
www.treoir.ie

**GLEN**  
Gay and Lesbian Equality Network  
01 6728650  
info@glen.ie  
www.glen.ie

**The Legal Aid Board**  
Local: 1890 615 200  
legalaid@eircom.net  
www.legalaidboard.ie

**Free Legal Advice Centres**  
01 8745690  
info@flac.ie  
www.flac.ie

The Citizens Information Board has a short piece for cohabitants on the Act on its website:  
[http://www.citizensinformation.ie/en/birth\\_family\\_relationships/problems\\_in\\_marriages\\_and\\_other\\_relationships/redress\\_scheme\\_for\\_cohabiting\\_couples.html](http://www.citizensinformation.ie/en/birth_family_relationships/problems_in_marriages_and_other_relationships/redress_scheme_for_cohabiting_couples.html)

To download the Act go to:  
<http://www.oireachtas.ie/viewdoc.asp?DocID=16409&CatID=87&StartDate=01%20January%202010&OrderAscending=0>

## Cohabiting Parents





# Cohabiting Parents

## What is cohabitation?

Cohabitants are two opposite or same sex adults who are:

- living together in an intimate and committed relationship
- not married to each other
- not in a registered civil partnership (this is only available to same sex couples)
- not related to each other.

## Children of cohabiting parents

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

## Fathers

Generally it is important for children to have the names of both parents on their birth certs. However, fathers do not get guardianship rights in respect of their children where their names are on the birth certs. Fathers could consider becoming a joint guardian with the mother of any children they have either by signing a Statutory Declaration or by going to court. See separate Information Leaflet on Guardianship.

## The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

came into effect on 1st January 2011.

This Act introduced new rights and obligations for qualified cohabitants which are called the Redress Scheme.

## Who is a qualified cohabitant?

A qualified cohabitant is an adult who has been cohabiting –

- for at least 5 years or 2 years if you have child with your partner
- are financially dependent on the other cohabitant

Where one of the cohabitants is still married, neither of the cohabitants will be considered a qualified cohabitant unless the married

cohabitant has lived apart from his/her spouse for at least 4 of the previous 5 years.

## What is the Redress Scheme?

The Redress Scheme is a legal safety net for cohabitants in long-term relationships who may otherwise be very vulnerable financially at the end of a relationship.

You can apply to court for compensatory maintenance, pension adjustment, property adjustment orders or provision from the estate of a deceased cohabitant. See below.

The Redress Scheme applies only to those qualified cohabitants whose relationship ends after 1st January 2011, but the time spent cohabiting immediately before that is taken into account.

## 'Cohabitants' Agreements'

Cohabitants can make a 'cohabitants' agreement' to regulate joint money matters during their relationship and for when their relationship ends. This agreement will be recognised as valid and enforceable.

The agreement can include a full or partial opt out of the redress scheme. Both cohabitants must get legal advice before making an agreement.

The court may vary or set aside an agreement or part of an agreement in exceptional circumstances if putting it into action would cause serious injustice.

## 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.

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

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

If you are a qualified cohabitant and can show the court at the end of your relationship that you are financially dependent on your ex-partner you can apply for a Property Adjustment Order - an order which transfers or settles a property. The court can also vary or end an agreement already made, including one made by will or codicil.

## Maintenance

If you are a qualified cohabitant and can show the court at the end of your relationship that you are financially dependent on your ex-partner you can apply for a Compensatory Maintenance Order, which is an order for regular maintenance or a lump sum. Payments will be dated from date of application. The court may at the same time make an Attachment of Earnings Order which would mean that the maintenance payments are deducted from your ex-partners earnings.

## Pension adjustment

If you are a qualified cohabitant and can show the court at the end of your relationship that you are financially dependent on your ex-partner you can apply for a Pension Adjustment Order which is an order for a payment from the other qualified cohabitant's pension scheme. The court may consider it more appropriate to make a Compensatory Maintenance Order.

Check pension rights to see if it may be possible to nominate a partner as a beneficiary.

## Inheritance

Cohabiting partners do not have automatic inheritance rights from each other.

If you are a qualified cohabitant you can apply for provision from the net estate of the deceased within six months after the probate or administration is first granted. An order under this section shall not affect the legal

rights under the Succession Act 1965 of a surviving spouse or civil partner.

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:

- 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 if you are over 55 years of age.

Cohabiting partners pay tax at 25% on gifts/inheritance over €16,604.

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

## Social Welfare

Cohabitants (both same sex and opposite sex) are treated in the same way as married families for social welfare purposes. Both incomes will be taken into account when assessing income for the means test.

## Income Tax

Cohabitants cannot claim income tax relief in respect of each other.

## 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 you must have been living together for 6 of 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.