

Press Release

So what if we're not married?

New legislation on the rights of cohabitating couples included in the family justice bill, planned to come into effect next summer, aims to protect unmarried couples with children against financial disadvantage when a relationship ends. But with lots of question marks still hanging over the legislation, cohabiting couples are encouraged to actively safeguard their own future by creating a legally binding document stating what will happen if they do separate.

Currently, many unmarried couples that live together are unaware of their rights and wrongly believe that cohabitation makes them “common law” spouses with rights similar to those of married couples. Many contribute financially to a home which is in their partner’s name, or reduce their earning capacity by looking after children, only to receive little or nothing when the relationship ends.

The proposed legislation will allow unmarried couples to make divorce-style financial claims against each other after separating. Under the plans, people who live together outside marriage should be able to claim lump sums, a share of property including the family home, regular maintenance payments or a share of their partner’s pension.

However, claims will not be automatic; individuals will have to prove either that they have suffered a significant financial disadvantage from the relationship or that their partner had gained a significant financial advantage.



The Law Commission has provisionally recommended that only people with children should be allowed to make claims and has asked for views from parliament on whether the rights should also extend to those without children.

Mike Spencer, family lawyer at Actons Solicitors says:

“Any new legislation that brings greater clarity for unmarried couples as to their status in law is welcomed, but while this legislation is in its preliminary stages we would still urge cohabiting couples to create a legal document which protects them both in the future whatever the circumstances.”

For more information on these issues or any other aspect of family law, please contact Mike Spencer on 0115 9 100 200 or email enquiries@actons.co.uk.

Ends

Notes

1. <http://www.legalservices.gov.uk/>
2. <http://www.lawcom.gov.uk/cohabitation.htm>
3. <http://politics.guardian.co.uk/homeaffairs/story/0,,1935577,00.html>

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