



Eatons

Government Abandons Plans to Protect Cohabitees

The Government has announced that it does not, for the time being at any rate, intend to proceed with reforms to the law that would have given cohabiting partners similar rights to married couples or civil partners on the breakdown of their relationship.

This unexpected announcement was made by Justice Minister Bridget Prentice and is all the more surprising given the inconsistency of rulings made by the courts in this problematic area.

The Law Commission had spent two years working on proposals to give protection to couples who live together. If introduced, these would have set out the respective rights of cohabitees as regards the financial arrangements on the termination of a relationship.

The number of people who are living together in a relationship but who are neither married nor civil partners continues to rise. Many of these people are probably completely unaware that they have few rights in the event of a break-up of their relationship and that such rights as they do have centre around any children of the relationship.

The problem stems from the fact that, contrary to popular belief, in law there is no such thing as a 'common law spouse'. Couples who live together do not acquire legal rights and there are no set rules for how their assets should be divided if they split up. With over 2.5 million people currently living together informally, the courts are seeing a flood of disputes about who owns what when such relationships end.

One common problem is where partners have lived together for a long time but the property they share continues to be held in the name of only one of the couple. If the couple then split up, this may give rise to a claim that the property should belong to both parties. The issues involved are often complex and such disputes can be very expensive to resolve in court. In some cases, people who have made a very substantial contribution to the financing and improvement of a shared home have been left with little or nothing for their efforts.

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The review of the law in this area was intended to create more certainty in such cases, but the Government has chosen instead to wait to see what are the effects of planned reforms to the law in Scotland before any changes are made to the law in England and Wales.

Meanwhile, the position of cohabittees is best protected by having a formal written agreement, which should be made with the benefit of independent legal advice on both sides. This is particularly important where the assets involved are substantial, so that in the event that the relationship founders, a drawn out and acrimonious dispute can be avoided.

For advice on all aspects of family and matrimonial law please contact Liz Williams on Tel: 01274 728 327.

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