

## *Unmarried couples' rights*

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Unmarried cohabiting couples, no matter how long they have been together, do not accrue any legal rights as a result of that relationship.

Many individuals who have not sought legal advice remain sadly unaware of this.

### **Lack of Provision**

The main issue surrounds the lack of provision made for cohabittees upon the death of an unmarried partner. Either the deceased has not left a Will, which means that their estate would pass under the Rules of Intestacy or there is a Will which has not been updated (perhaps following a divorce).

Cohabittees do not automatically inherit under the Rules of Intestacy.

Although a Will is automatically revoked upon marriage, this is not the case on divorce. Therefore, a surviving member of a cohabiting couple could find that the deceased's assets are left to his/her ex - even though they are divorced.

It is therefore incredibly important for Wills to be made at the right time.

### **Financial Provision Claim**

If a cohabitee has not been provided for on death by their unmarried partner, it may be open to them to make a claim under the Inheritance (Provision for Family and Dependents) Act 1975 ("the 1975 Act"). In order to be eligible to bring a claim under the 1975 Act the claimant must establish:-

1. That cohabitation was for two whole years immediately prior to death.
2. They lived in the same household at the time of death.
3. That they were living as if husband and wife or civil partner.

Whilst **all** these elements must be present, the Court will consider the practicalities of a relationship and therefore living together for two years, can include time spent apart due to work or time spent in hospital or some other reason. Similar considerations will be made in relation to whether an unmarried couple were living together as husband and wife or civil partners.

Once eligibility to make a financial provision claim under the 1975 Act has been established, the court will need to decide whether the cohabitee was reasonably provided for and if not then what reasonable financial provision would look like for their maintenance. To assess this, it would take into consideration all the elements outlined in section 3 of the 1975 Act which includes the claimant's financial position, the size and nature of the estate and the financial position of any other beneficiary and / or claimant where relevant.

### **So what can be done to assist?**

Making and updating Wills is absolutely essential for couples who have chosen to live together outside of marriage or civil partnerships.

It's easy to sort out – just visit [www.lastwills.uk](http://www.lastwills.uk) – and make your online Will today.