



The Law Reform Commission
AN COIMISIÚN UM ATHCHÓIRIÚ AN DLÍ

The Commission's Report Rights and Duties of Cohabitants

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Overview and scope of reform

- Cohabitants in an intimate relationship
- Public registration: marriage and civil partnership
- Cohabitants who do not register:
Commission's Report



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Cohabitants who do not register

- Issue 1: lack of general recognition, eg, health care context
- Issue 2: vulnerable position at end of long term relationship (whether by death or otherwise), eg economic dependency



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Underlying Approach

- Increase in cohabitation
- Marriage and civil partnership: opt-in
- Not registered: opt-out?
- Personal autonomy v protection of vulnerable



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Models of Reform

- Status Model: registration
- Contract Model: private arrangements
- Redress Model: safety net
- General recognition



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The Commission's Report

- Contract: private arrangements
- General recognition: self-executing
- Redress on ending (death or otherwise)
 - Safety net
 - Not automatic
 - Qualifying criteria
 - Application for redress



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Cohabitants and Eligibility

- Living together in an intimate relationship: factors in establishing cohabitation
- Existing marriage
- Eligibility based on context:
 - self-executing through cohabitation, eg contracts
 - Qualifying criteria for public benefit or redress, eg tax treatment and redress

Qualified cohabitant: qualified to apply

- General : 3 years
- With children: 2 years



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Contracts

- Cohabitant agreements
- Scope: financial matters
- Formalities: written, signed, independent legal advice
- Co-ownership agreements



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Tax treatment

- Public benefit
- Qualified cohabitant
- Stamp duty
- Capital Acquisitions Tax



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General recognition of cohabitants

- Existing recognition by Oireachtas, eg social welfare, tenancies
- No justification for limitation to opposite-sex cohabitants
- Extend to same-sex cohabitants
 - Social welfare
 - Residential tenancies
 - Fatal accident actions
 - Enduring powers of attorney
 - Domestic violence
- Pension schemes



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Applications for redress: introduction

- Safety net: default
- Qualified cohabitant
- Application for redress
- No automatic entitlement: discretionary
- Factors to be taken into account, eg,
 - Rights of spouse
 - Rights of children
 - Financial needs
 - Contributions and sacrifices



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Applications for redress: procedure

- Mediation and settlement
- Time limits



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Applications for redress: succession

- Qualifying criteria: relationship must be ongoing
- Application for redress
- Discretionary, not automatic
- Existing spouse rights
- Factors to be applied



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Application for redress: general

- Qualified cohabitant
- Economic dependency: safety net
- Not automatic: discretionary
- Property adjustment order
- Compensatory maintenance
- Pension adjustment and pension splitting: if no other available
- Factors to be taken into account



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Concluding comments

- Public awareness
- Encourage cohabitants to make arrangements
- Safety net for vulnerable cohabitants