

## **COHABITANTS' INHERITANCE RIGHTS**

*This is only a general background guide to a complex area of the law. Consult your solicitor for specific advice on your own circumstances.*

Cohabitants do not have any automatic inheritance rights. Recent legislation under the Family Law (Scotland) Act 2006 gives cohabitants the right to apply to the local Sheriff Court with a request to be paid something from their partner's estate. They only have this right if the partner died without a Will. There are strict time limits for applying and no guarantee that any award will be made. It can be expensive paying for the court case.

Unfortunately, the current rules do not say what amount the cohabitant should receive. It is up to the Sheriff to decide what is appropriate in each case. As the law itself has not been in operation long there have been only a few court cases and it is not possible to predict what might be awarded.

### **Were you Cohabiting?**

The first point the court has to look at was whether or not you were really cohabiting. The factors the Court has to look at are the length and nature of the relationship; and the nature and extent of financial agreements between the parties.

### **Guidelines for Awards**

The Family Law (Scotland) Act 2006 says that the points to be considered are the size and nature of the deceased's estate; any benefit received or to be received by the survivor on the deceased's death from somewhere other than the deceased's net intestate estate; and the nature and amount of any other claims against the intestate estate AND anything else the court thinks appropriate. The Act also provides that the award cannot be more than a surviving spouse would inherit.