



An Roinn Coimirce Sóisialaí
Department of Social Protection

Cohabitation and Social Welfare Entitlements

16.11.22

1 Introduction

The question of whether a couple are cohabiting as husband and wife, or as civil partners, can affect entitlement under the Social Welfare Acts in a variety of ways. These are prescribed in the Social Welfare Consolidation Act 2005 as amended and include matters such as: entitlement to an increase for a qualified adult; disqualification from entitlement to a payment; or joint assessment of means where people are in a relationship and living together as spouses, civil partners, or cohabitants. Details of these and related matters, and their interaction with various social welfare benefits, are outlined in this report.

2 Working Age Schemes

Working Age Schemes are those schemes that are generally payable to persons aged between 18 to and 65 years of age.

2.1 Unemployment

Under the following schemes, cohabitating and married couples are treated equally. Increases for dependents are paid via a qualified adult increase, which includes spouse, civil partner, and cohabitant.

- Jobseeker's Benefit
- Jobseeker's Allowance
- Jobseeker's Benefit Self-Employed
- Benefit Payment for 65 year-olds
- Farm Assist

In addition to the above, the **Part-Time Job Incentive/ Part-Time Job Incentive Self-Employed** are non-statutory schemes and are paid using Departmental Guidelines. Cohabitating and married couples as well as civil partners are treated equally within the Guidelines.

2.2 Family Payments

2.2.1 One Parent Family Payment

One-Parent Family Payment is not payable to a person who is in a relationship and living with another person of the opposite or of the same sex. To qualify, the person must be widowed, separated, divorced, unmarried, including a dissolved civil partnership, or be a prisoner's spouse or civil partner. They must not be cohabiting, in a relationship and living with another person. A separated or divorced person whose civil partnership has dissolved must be living apart for at least 3 months before making a claim.

Position on cohabitation

The 3-month rule referenced above applies to separated/divorced individuals and not ex-cohabitants. In addition, they must have made efforts to obtain maintenance in advance of making a claim. However, upon the dissolution of a cohabitation, a parent can apply for One-Parent Family Payment without having to wait 3 months.

2.2.2 Jobseekers Transitional Payment

Jobseekers Transitional Payment is a special arrangement under the JA scheme and a person may qualify if they do not live with a spouse, civil partner or cohabitant and their youngest child is aged between 7 and 14 years old. Jobseekers Transitional Payment customers who are married and have recently separated, must be separated for 3 months before they can qualify for Jobseeker's Transitional Payment. Unmarried persons may apply for Jobseekers Transitional Payment from the first day they become a lone parent.

Ex-cohabitants can apply for Jobseekers Transitional Payment from the first day they become a lone parent, unlike divorcees or separated partners who must wait 3 months.

With regard to Working Family Payment and Back to Work Family Dividend, there is

no differentiation regarding cohabiting and married couples.

2.3 Child-based payments

The following schemes are paid in respect of children and there is no differentiation regarding cohabiting and married couples:

2.3.1 Child Benefit

Child Benefit is a payment to a qualified person (usually the mother) for a qualified child, but in cases of separation it may be payable to the parent with whom the child resides the majority of the time. If the child resides 50% of the time with each parent, the mother is paid. Spouses/Civil Partners/Cohabitants of work permit holders who are not permitted to work in the State are given the benefit of their spouse's/civil partner's/cohabitant's status to enable them to satisfy the habitual residence condition for Child Benefit.

2.3.2 Maternity Benefit

Maternity Benefit is a payment made for 26 weeks to employed and self-employed women who satisfy certain PRSI contribution conditions on their own insurance record. Increases of Maternity Benefit are payable in respect of a qualified adult and in respect of a qualified child. The extra amount received for an adult dependant is paid in respect of a spouse, civil partner, cohabitant.

2.3.3 Paternity Benefit

Paternity Benefit is paid for two weeks to employed and self-employed people who are on paternity leave from work and who are covered by social insurance. If a person has dependants, they may be able to get a higher rate of Paternity Benefit. The rate of Paternity Benefit (excluding increases for dependants) is compared to the rate of Illness Benefit (including increases for dependants) that would be paid if they were absent from work through illness. The higher of the two rates will be paid.

2.3.4 Parent's Benefit

Parent's Benefit provides five weeks payment to each parent where a child is aged under 2 years, where the parent is on parent's leave from work and is covered by social insurance. It is available in respect of any child born or placed with their adoptive parents on or after the implementation of the scheme, with effect from 1 November 2019. Each parent is entitled to Parent's Benefit during parent's leave if they satisfy the PRSI qualifying conditions. Increases of Parent's Benefit are payable in respect of a qualified adult and in respect of a qualified child.

2.3.5 Adoptive Benefit

Adoptive Benefit is paid for 24 weeks to an employed or self-employed person who adopts a child and is on adoptive leave from work and is covered by social insurance. If a person has dependants, they may be able to get a higher rate of Adoptive Benefit. The rate of Adoptive Benefit (excluding increases for dependants) is compared to the rate of Illness Benefit (including increases for dependants) that would be paid if they were absent from work through illness. The higher of the two rates will be paid

In addition Health and Safety Benefit is a weekly payment to employed women who are:

- i. pregnant or breastfeeding
- ii. granted health and safety leave by their employer
- iii. Covered by social insurance (PRSI)

This is awarded to an individual and is unrelated to family status.

2.4 Illness and caring payments

2.4.1 Illness & Caring Payments

Illness payments are payments made to persons, generally of working age, who are unable to engage fully in the labour market. Entitlement to these benefits is based on medical certification and a person's social insurance record, or a means test if the person has insufficient contributions made.

There is no differentiation regarding cohabiting and married couples in relation to the following benefits.

2.4.2 Illness Benefit

Illness Benefit is an income support for those who cannot work due to illness of any kind and who are covered by social insurance. This is a short-term payment, payable for a maximum of two years, dependent on continued eligibility. The weekly personal rate is dependent on the person's average weekly income. The maximum personal rate is €208. Increases for qualified adult and qualified children may apply, depending on personal circumstances.

Persons specified to be qualified adults are spouses, civil partners or cohabitants who satisfy the scheme's requirements (e.g. can only be in receipt of specified social welfare payments and cannot earn more than the prescribed income limit).

2.4.3 Invalidity Pension

Invalidity Pension is a social insurance scheme paid to those who cannot work due to a long-term illness or disability and are covered by social insurance. The person must be permanently incapable of work or must have been incapable of work for 12 months and is likely to remain incapable of work for another 12 months. The weekly personal rate is €208.

Increases for a qualified adult and qualified children may apply, depending on personal circumstances.

2.4.4 Partial Capacity Benefit

Partial Capacity Benefit allows a person who has been in receipt of Invalidity Pension or has been on Illness Benefit for more than six months to return to employment or self-employment and continue to receive a partial or full payment. The personal rate of payment of Partial Capacity Benefit is based on a medical assessment of a person's restriction regarding their capacity

for work, whether the person was in receipt of Illness Benefit or Invalidity Pension, and their current rate of payment. The person may not work until they have received written approval from the department.

Increases for a qualified adult and qualified children may apply, depending on personal circumstances.

2.4.5 Occupational Injuries Benefits

The Occupational Injuries Benefit Scheme provides benefits for people injured or incapacitated by an accident at work or while travelling directly to or from work, and who are covered by social insurance. The scheme also covers people who have contracted a disease as a result of the type of work they do. The two main payments under this scheme are Disablement Benefit/Pension and Injury Benefit.

Increases for a qualified adult and qualified children may apply, depending on personal circumstances.

2.4.6 Carer's Benefit

Carer's Benefit is a payment made to insured people (based on PRSI contributions) who may be required to leave the workforce or reduce their working hours to care for a person(s) in need of full-time care. It is payable for a period of 2 years (104 weeks) for each care recipient and may be claimed over separate periods up to a total of 2 years (104 weeks).

2.4.7 Treatment Benefit

The Treatment Benefit scheme consists of three streams: dental, optical benefit and medical appliances benefits. The benefits can be claimed by insured contributors and their dependent spouses, civil partners, or cohabitants. The benefits cannot be claimed for dependent children. Dependent spouses, civil partners and cohabitants can claim benefits under the Treatment Benefit scheme if their partner (i.e., spouse, civil partner, cohabitant) qualifies. The word 'cohabitant' was added to the regulations in 2022.

2.4.8 Carer's Allowance

Carer's Allowance is a means-tested payment to people on low incomes who are caring full-time for a person who needs support because of age, disability, or illness (including mental illness). The person being cared for must require full-time care and attention. Increases for qualified children may apply where appropriate.

2.4.9 Disability Allowance

Disability Allowance is a means tested weekly allowance for people with a disability aged between 16 and 66 who are habitually resident in the State. As a result of their disability, a person must be substantially restricted from doing work that would otherwise be suitable for a person of their age, experience, and qualifications.

Increases for a qualified adult and qualified children may apply as appropriate.

2.4.10 Blind Pension

Blind Pension is a means tested payment for blind and visually impaired people between the ages of 18 and 66 who are habitually resident in Ireland.

Increases for a qualified adult and qualified children may apply as appropriate.

3 State Pensions

Moving on from Working Age payments, this section deals with payment of social welfare benefits (including access to free schemes) for those of pension age and outlines the treatment of cohabitation in this area.

3.1 State Pension (Contributory)

This pension is payable on foot of social insurance contributions made, or

credits awarded, during a person's working life.

Once a person reaches pensionable age and has sufficient contributions, s/he can be awarded the State Pension (Contributory). Marital status has no bearing on a person's right to claim this pension. It could be claimed by a spouse, civil partner, or cohabitant once s/he satisfies the qualifying conditions. An Increase for a Qualified Adult may be claimed in respect of spouses, civil partners, or cohabitants (includes those who are married/divorced, or whose relationship has dissolved), once they do not have a social welfare payment in their own right. It is generally paid, where a pensioner has an adult dependent (i.e., a person who is financially dependent upon them), who does not have enough contributions to claim a maximum rate State pension (contributory) in his/her own right.

3.2 State Pension (Non-Contributory)

This is a means tested pension for people aged 66 and over who have insufficient social insurance contributions made to qualify for the State Pension (Contributory).

Marital status has no bearing on a person's right to claim this pension. It could be claimed by a spouse, civil partner or cohabitant, once s/he satisfies the qualifying conditions. An Increase for a Qualified Adult may be claimed in respect of spouses, civil partners or cohabitants, once they do not have a social welfare payment in their own right. Means testing takes half of combined total means of a married, partnered or cohabitant couple (i.e., cohabitants are treated the same as married couples or civil partners).

3.3 Widow(er)'s or Surviving Civil Partner's Contributory Pension

To qualify for this payment, a person must:

- i. be widowed or a surviving civil partner or

- ii. be divorced from their late spouse before their spouse's death and not remarried or
- iii. have had their civil partnership dissolved before their partner's death and have not entered into a new civil partnership
- and
- iv. not be cohabiting with another person as a couple
- and
- v. satisfy certain social insurance contribution conditions. Entitlement is based on either the person's or his/her late spouse's or civil partner's social insurance record. All contributions must have been made before the death of the spouse or civil partner.

3.4 Widow/ers or Surviving Civil Partners Non-Contributory Pension

Widow/er's Non-Contributory Pension or Surviving Civil Partner's Non-Contributory Pension is a means-tested payment payable to a widow or widower or surviving civil partner up to age 66 who does not satisfy the contribution conditions for Widow/ers or Surviving Civil Partners Contributory pension.

Widow/ers Non-Contributory Pension or Surviving Civil Partners Non-Contributory Pension is a payment for widow/ers or Surviving Civil Partners who do not have dependent children. However, people with dependent children who cannot claim the Widow(er)'s Non-Contributory Pension, may be entitled to Jobseeker's Transitional Payment, One Parent Family Payment or, subject to satisfying a means test, State Pension Non-Contributory if over 66 years of age.

To qualify, a person must:

- i. be a widow, widower or surviving civil partner
- ii. not be cohabiting with another person
- iii. pass a means test
- iv. be habitually resident in the State

In the recent O'Meara judgment, the High Court (Mr Justice Heslin) found that the distinction based on marital status in the qualification requirements for the Widow(er)'s/Surviving Civil Partners Contributory Pension was *"a perfectly*

permissible distinction based upon rational grounds and a legitimate State objective”.

3.5 Widowed or Surviving Civil Partner’s Grant

The Widowed or Surviving Civil Partner Grant is a one-off payment to widows, widowers or surviving civil partners with dependent children. It is designed to assist with the income support needs of a widow, widower or surviving civil partner immediately following the death of his or her spouse/civil partner. The grant is also for a widow or a surviving civil partner whose child is born within 10 months of the date of death of her spouse or civil partner.

To qualify for this grant, a person must be entitled to, or in receipt of a qualifying payment:

- i. Widow/ers or Surviving Civil Partners Contributory Pension
- ii. One Parent Family Payment
- iii. Death Benefit Scheme (under the Occupational Injuries Scheme)
- iv. A Widow/ers or Surviving Civil Partners Contributory Pension under EU regulations or under a Bilateral Agreement between Ireland and another country.
- v. State Pension (Non-Contributory) which includes an increase in respect of a qualified child.
- vi. Only (former) spouses or civil partners are eligible for the grant. Cohabitants are not eligible for the grant

3.6 Free Travel

This is a non-statutory scheme and award is made by reference to Departmental Guidelines. This is awarded to individuals who meet the qualifying criteria. It does not matter if the individual is married, single or cohabiting.

3.7 Fuel Allowance

This is a non-statutory scheme and award is made by reference to Departmental Guidelines. Eligibility is dependent on satisfying the household composition requirements. In addition, applicants must be in receipt of a qualifying payment and satisfy a means test. The award is not related to marital status.

3.8 Telephone Support Allowance

This is a non-statutory scheme and award is made by reference to Departmental Guidelines. It is paid automatically to recipients of Fuel Allowance and the Living Alone Allowance who are in receipt of one of:

- i. State Pension (Contributory)
- ii. State Pension (Non-Contributory)
- iii. Widow/ers or Surviving Civil Partner's (Contributory) Pension
- iv. Widow/ers or Surviving Civil Partner (Non-Contributory) Pension
- v. Invalidity Pension
- vi. Disability Allowance
- vii. Blind Pension
- viii. Disablement Pension (Incapacity Supplement)
- ix. Deserted Wife's Benefit

As the Living Alone Allowance is involved, the person is not cohabiting (but could have been in the past).

3.9 Living Alone Allowance

The legislative basis for the payment of LAI (Living Alone Increase) is contained in the provisions of the Social Welfare (Consolidation) Act 2005, as amended, which relate to the relevant qualifying payments.

A person will qualify for a Living Alone Allowance if s/he:

- i. lives alone, and
- ii. is aged 66 or over, and
- iii. is getting one of the following payments from the Department:
 - a. State Pension (Contributory or Non-Contributory)
 - b. Widows (Contributory or Non-Contributory) Pension
 - c. Widowers (Contributory or Non-Contributory) Pension
 - d. Deserted Wife's Benefit/Allowance
 - e. Prisoners Wife's Allowance
 - f. Lone Parents Allowance
 - g. One Parent Family Payment
 - h. Widows/Widowers/Dependent Parents Pension under the Occupational Injuries Benefit Schemeor
- i. lives alone, and (irrespective of age),
- ii. is getting one of the following payments from the Department:
 - a. Blind Persons Pension
 - b. Invalidity Pension
 - c. Disability Allowance
 - d. Incapacity Supplement

The key element is that the person lives alone and is in receipt of a qualifying payment under the scheme. His/her family status does not matter.

3.10 Household Benefits Package

Household Benefits consist of a set of allowances which help with the costs of running a household. It includes allowances towards covering electricity or gas costs as well as the television licence. The package is available to everyone aged over 70 and to people under 70 in certain circumstances. The qualifying conditions for the Household Benefits Package vary depending on a person's age and the payment s/he is receiving from the Department.

To be eligible for the Household Benefits Package the applicant must:

- i. be legally living in the State on a permanent basis (full-time, all year round)
- ii. be the only person in the household claiming this benefit
- iii. be the registered bill holder on the Gas/Electricity bill if claiming that allowance
- iv. His/her spouse, civil partner or cohabitant must be a Qualified Adult on their spouse's pension,
- v. be in receipt of a social welfare payment in his/her own right or
- vi. have satisfied the means test, if on a benefit payment.

Married applicants, single applicants or cohabiting applicants can qualify for the Household Benefits.

3.11 Island Allowance

A person will qualify for an Island Increase if s/he

- i. ordinarily lives on an island off the coast of Ireland, as specified in Appendix 1, and
- ii. is aged 66 or over, and
- iii. is getting one of the following payments from the Department:
 - a. State Pension (Contributory or Non-Contributory)
 - b. Blind Persons Pension
 - c. Invalidity Pension
 - d. Widow(er)s (Contributory and Non-Contributory) Pension
 - e. Carers Allowance
 - f. One Parent Family Payment
 - g. Widow/ers Benefit under the Occupational Injuries Benefit Scheme

A person will also qualify if s/he is aged under 66 and is getting one of the following payments from the Department:

- a. Invalidity Pension

- b. Disability Allowance
- c. Incapacity Supplement
- d. Blind Pension

A person getting an equivalent payment in another EU country and who satisfies the above conditions may also qualify. Consequently, a claimant must be over 66 (except if under 66 and in receipt of certain payments), live on a specified island and be in receipt of one of the qualifying payments. Family status is not a concern (unless in receipt of Widow(er)'s or Surviving Civil Partner's Contributory Pension).

3.12 Over 80s Allowance

A higher rate of pension is payable to a pensioner aged 80 or over. The increase is paid automatically - there is no need to apply. It is not means tested and Qualified Adults do not receive this increase.

The award of this allowance is not related to marital status.

4 Administration

4.1 Guidelines

Decisions on entitlement to payments of statutory social welfare benefits are made by Deciding Officers appointed under the Social Welfare Consolidation Act, assisted by guidelines. There are two central aspects to be examined when considering if a couple is cohabiting:

1. Are the couple in a relationship ?

2. Are the couple living together ?

- no single criterion can necessarily support a decision that a couple are living together as husband and wife or civil partners. It is essential to have as much information as possible on all the criteria before arriving at a decision
- evidence, or the lack of it, relating to any criterion may not necessarily be conclusive
- a voluntary admission of living together as husband and wife or civil partners is accepted as sufficient evidence where the person makes the admission in the knowledge that his/her own entitlement will be adversely affected by it. Such admission should be obtained in writing, as far as possible in his/her own words, and the statement should be read over to him/her before being signed.
- where cohabitation is admitted the period where the couple were cohabiting and claiming a social welfare payment should be included in the admission

Where such a signed statement is not received, if appropriate, both parties could be interviewed. It may not be appropriate in certain instances.

The second party should be interviewed where his or her claim to benefit or assistance may be affected, and/or where his or her means are being taken into consideration.

All available information and evidence should be on file and before the Deciding Officer in advance of a decision being taken.

It must be remembered that where further information is presented at a later stage, e.g., when a case is under appeal at an oral hearing, this information cannot then be considered, as the client was not given the opportunity, under the principles of natural justice, to respond to this information.

The criteria for assessing cohabitation

- the duration of the relationship,
- the basis on which the couple live together,

- the degree of financial dependence of either adult on the other and any agreements in respect of their finances,
- the degree and nature of any financial arrangements between the adults including any joint purchase of an estate or interest in land or joint acquisition of personal property,
- whether there are one or more dependent children,
- whether one of the adults cares for and supports the children of the other
- the degree to which the adults present themselves to others as a couple

4.2 Duration of the relationship

Marriage/Civil Partnership is entered into as a stable relationship and therefore in deciding whether a couple are living together as husband and wife/civil partners, regard should be had to the stability of their relationship. This may be reflected either in the duration of the relationship or in the level of commitment to one another.

A couple who have decided to share together for a temporary period only (example: a couple who are unmarried or who are not in a civil partnership where one party lives elsewhere and is only on holiday in Ireland) are not therefore cohabiting as husband and wife/civil partners, and one could not claim an increase for the other as a qualified adult.

Questions to be considered include:

- what has been the length of time that the relationship has existed?
- do the couple have plans to marry or enter into a civil partnership?
- what were the circumstances in which they took up residence together?
- have they moved from house to house together?
- how long have they been residing together?

It must be remembered that it is not only the motive which caused the parties to live together which is important but the facts and circumstances which apply after they have done so.

4.3 The basis on which the couple live together

The fact that the couple reside in a common residence is insufficient by itself to determine that they are living together as husband and wife or civil partners. There also needs to be consideration as to whether they constitute a single household. Relevant questions include:

- whether they reside in a single residential unit,

- is the accommodation a single flat, apartment, house, caravan or other dwelling place?
- if it is a house, is it officially a single household unit? Do the local housing rules permit it to be subdivided into more than one unit?
- what type of accommodation is available and how is it shared?
- who pays the household expenses such as rent, gas, electricity, mobile telephone(s), home telephone, television stations including satellite and cable television services, television license fee, wi-fi/broadband? In whose name(s) are these accounts?
- do either maintain (or live in) another home, or use another address? If so, which place is the effective residence? At which address do they keep their personal belongings ?
- are they listed on the electoral register as resident together?
- what address do they both use for employment or social welfare purposes?

Where household duties such as those listed below are done by one partner for the other, or by both for each other, in the same way in which husbands and wives/civil partners ordinarily perform such tasks, then that is further evidence that the couple are living together as husband and wife/civil partners.

Do the couple share any of the following:

- providing meals and shopping
- cleaning and laundry
- caring for each other and members of the household during illness
- decorating, gardening, washing up

Note 1: Even if one or both of the couple own or rent alternative accommodation they may still be regarded as living together as husband and wife or civil partners, particularly where the alternative accommodation is seldom used. Evidence should therefore be obtained in such cases on the ownership/tenancy of the shared accommodation, the ownership of furniture etc.

Note 2: A married couple/civil partners may also live apart for significant periods of time because of work abroad or elsewhere in Ireland, or because of providing care for relatives, but the relationship remains intact. All the circumstances of each case need to be taken into consideration where similar factors affect a permanent relationship where the couple are not married or in a civil partnership.

4.4 The degree of financial dependence of either adult on the other and any agreements in respect of their finances

Evidence of a common household fund is an indication of living together as husband and wife or civil partners. Joint bank accounts used for household expenses would be strong evidence of such a relationship.

The following questions should be considered:

- is one party supported by the other?
- is there a pooling of financial resources?
- is there a financial commitment to a joint mortgage, joint bank accounts, etc.?
- if it is rented property, is it rented in joint names?
- who pays the household expenses such as rent, gas, electricity, home telephone, television, broadband? In whose name(s) are these accounts?

Where one of the parties claims to be a subtenant or lodger but the amount paid is not realistic, comment should be made as to the average local rate for a lodger to pay for what s/he is receiving by way of accommodation, meals etc.

The absence of a common fund, however, is in itself not conclusive evidence that the couple are not living together as husband and wife/civil partners, as financial arrangements vary frequently in marriages/civil partnerships. An evaluation will be made by the deciding officer as to whether the financial arrangement mirrors a householder - tenant or lodger, a householder - housekeeper, or a husband – wife/civil partner relationship.

4.5 The degree and nature of any financial arrangements between the adults

This includes any joint purchase of an estate or interest in land or joint acquisition of personal property;

- who owns the property? Was it purchased jointly, and/or is it registered in joint names?
- are both parties named as mortgage holders?
- have the couple jointly purchased or jointly acquired any other land or property?
- Whether there are one or more dependent children; is there a commitment to raise (their) children together?

Whether one of the adults cares for and supports the children of the other

- how are the children cared for?
- who attends school/medical/dental appointments for or with the children?
- are baby-sitting responsibilities shared or are babysitters employed regardless of the availability of the other party?

4.6 The degree to which the adults present themselves to others as a couple.

If a couple are acting socially or representing themselves to others as husband and wife /civil partners such evidence should be included where it is known.

- do the couple socialise together?
- do they act in a parental manner to any children?
- are they known locally as a couple?
- have they any plans to marry or enter into a civil partnership or would they marry or enter into a civil partnership if they were free to do so?
- did they represent themselves as a couple in applying for tenancy/mortgage?
- do they use a common surname?
- do they take holidays together?

The use of unnamed sources or local enquiries to establish facts is not permitted. If a person or persons make allegations, the facts must be established. Information obtained from local, reliable or other sources should, be used as pointers for an Inspector to pursue his/her own enquiries.

4.7 Revised Decisions under Section 302(a)

In making a revised decision on a claim under Section 302(a) of the 2005 Social Welfare Consolidation Act (as amended) please note the following:

Sub-section 302(a) applies where:

- a. There is evidence of deliberate false or misleading information
- b. It is established there was a deliberate failure to disclose relevant information

Therefore, there must be evidence that the information was not just false, but deliberately so, and that any subsequent failure to disclose information was “deliberate.”

4.8 Summary

It is not necessary that all the above elements be present before cohabitation is established but some of the elements must be established. It would be necessary to

establish that a relationship exists between the couple and that the couple co-reside - that the couple actually or normally reside at the same address - and that some of the other elements are also present.

The questions above are illustrative of the type of questions which may be useful in different situations in trying to determine whether cohabitation exists.

There is a strong presumption that members of a couple are cohabiting if they are living at the same address and:

- sexual relations between the couple are admitted
- they are a couple who have a child or children of their union.

ENDS

