

If you are married then you have a right to live in your home, even if your home is only in your husband or wife's name. This is known as **matrimonial home rights** or **home rights**. This guide tells you more about matrimonial home rights and how to register your matrimonial home rights.

In this guide we refer to married couples and marriage, but the law is the same for civil partnership couples as well. For more information on civil partnerships, see **A guide to entering into civil partnership**. In this guide we will refer to your husband, wife or civil partner as your **spouse**.

If you are not married or in a civil partnership then this guide does not apply to you. Please see **A guide to living together and the law** and **Owning property jointly with your partner** for further information.

What are home rights?

The law states that if one spouse owns the family home and the other spouse does not, the spouse who does not own the family home has home rights. These home rights include the right to live in the family home and not be made to leave from the family home, unless there is an occupation order stating that you must leave. An **occupation order** is an order which sets out who can live in the family home, or who can enter which parts of the family home. For further information on occupation orders see **A guide to domestic violence injunctions**.

If you do not currently live in the family home, you have the right to enter and live in the family home with the permission of the court.

Example: Mohammed and Fatima are married and live in a 3 bedroom house. Mohammed bought the family home before

they were married and is the sole owner. They have recently split up and Mohammed has asked Fatima to leave the family home. Fatima has nowhere else to live.

Fatima has home rights. This means that, even though she is not an owner of the family home, she still has a right to occupy the family home.

It is important to note that even though you may have home rights and a right to occupy the family home, you must register your home rights in order to fully protect yourself.

Why do I need to register my home rights?

By registering, your home rights will be on the legal documents for the home. This means that other people and organisations such as the Land Registry, banks and people who want to buy the property will know that you have home rights. It also means that your spouse cannot sell or mortgage the property without you knowing about it.

If you do not register your home rights then your spouse could sell or mortgage your home without you knowing about it. This may mean that you have to leave the property. It may also restrict your claims for finances on divorce. See **A guide to financial arrangements after marriage breakdown** for further information on financial claims on divorce.

How can I find out whether my spouse owns the home?

It is important to check if the family home is in your spouse's name before registering your home rights. You can check this by looking at the official copies or title deeds for the family home. **Official copies** apply to registered land, these are copies of the property's register. **Title deeds** applies to unregistered land, this is a set of documents which shows a history of the property. Please see further details on registered and unregistered property below.

What if my spouse owns the property jointly with someone else?

If your spouse owns the home with someone else, for example with a friend or with parents, then you may not be able to register your home rights. This is complicated and you should contact a lawyer for further advice.

How do I register my matrimonial home rights?

There are different procedures for registered and unregistered property when applying to register home rights.

Registered property means the Land Registry holds a register of the property which includes details such as who owns the property. You can see the register by requesting official copies. To check whether you own the property you should contact the Land Registry and ask to see the official copy for the property.

Unregistered property means details of the property are not held in a register by the Land Registry, but kept in separate documents. These documents are called title deeds. The title deeds will show who owns the property. Title deeds will normally be held by your mortgage provider. If you do not have a mortgage the title deeds should

be with an owner or may be held by a solicitor.

Most properties today are registered. You can check with the Land Registry to see if your family home is registered.

If the family home is registered

If the family home is registered, you can register your home rights by completing the form: notice of home rights: application (HR1) and sending this to the Land Registry. At the time this guide was written, there is no fee for this application. However, you should contact the Land Registry for the latest information on fees. If there is no fee then you can enter £0.00 or "no fee" in the box on the form that asks you for the fee.

If the family home is unregistered

If the family home is unregistered, you can register your home rights by completing the form: class F land charge registration: application (K2) and sending this to the Land Charges Department. At the time this guide was written, there is a £1.00 fee for this application. However, you should contact the Land Charges Department for the latest information on fees.

Can I register my home rights against more than one property?

You can only register your home rights against one property at a time. Home rights can only be registered against the family home.

Family home

The **family home** is the main property you live in or lived in or intended to live in with your spouse during your marriage. It can be a house, a flat, a caravan, a house boat or other places that you can live in.

Example: Claire and Sophie are married. Claire owns two properties, one is located in London and one is located in Cornwall.

Claire and Sophie live day to day and raise their children in the property located in London. During the holidays, the family stay in the property in Cornwall.

Claire and Sophie's family home will be the property located in London because this is where they spend a majority of their time. Therefore Sophie may only register her home rights against the property in London.

What about other properties?

If you think that your spouse is going to sell or mortgage a holiday home, investment property or any other property then there are things you can do to stop this happening. You should speak to a lawyer urgently about putting a restriction on the property or getting an injunction to stop your spouse from selling the property.

Can I transfer my home rights?

You can ask the Land Registry to transfer your home rights from one property to another. You can only register home rights against one property at a time. This means that if you have registered your home rights for one property and register home rights for another, the home rights for the first property will be cancelled.

Transferring your registered home rights to a new property

If the family home is registered, you can transfer your home rights by completing the form: notice of home rights: application (HR1) and sending this to the Land Registry. At the time this guide was written, there is no fee for this application. However, you should contact the Land Registry for the latest information on fees. If there is no fee then you can enter £0.00 or "no fee" in the box on the form that asks you for the fee.

If the family home is unregistered, you can transfer your home rights by completing the form: class F land charge registration: application (K2) and sending this to the Land Charges Department. At the time this guide was written, there is a £1.00 fee for this application. However, you should contact the Land Registry for the latest information on fees.

Do I need my spouse's consent to register my home rights?

No. Your spouse will not be asked to provide consent when you register your home rights.

Will my spouse know that I have registered my home rights?

If the family home is registered and you have registered your home rights, your spouse will be informed by the Land Registry. The Land Registry will not withhold this information from your spouse. The Land Registry can put an application on hold for a week if you would like to reconsider your application.

If the family home is not registered and you have registered your home rights, your spouse will not be informed by the Land Charges Department. However, your spouse may still become aware that you have registered home rights by making enquires and searches with the Land Charges Department.

If you are concerned that your spouse will become violent or abusive after being informed that you have registered your home rights, you should seek legal advice by contacting a lawyer or our **advice lines** before you register your home rights. You may also want to consider an injunction. Please see our guide **Domestic violence injunctions** for further details.

When do home rights end?

Home rights will end when the marriage ends (for example, by divorce) or on the death of either spouse. If the marriage is ended by divorce then the home rights will end on the date of your decree absolute. A **decree absolute** is an order from the court officially ending the marriage. Please see **A guide to divorce** or **A guide to dissolving civil partnerships** for further information.

Extending home rights

You may be allowed to occupy the family home after the end of your marriage if the court makes an order, this is called a **continuation order**. The courts are likely to grant a continuation order if your financial proceedings have not concluded and the person who has home rights wishes to stay in the family home. **Financial proceedings** are when the court decides how to divide the family's assets after the breakdown of a marriage. For further information on financial proceedings please see **A guide to financial arrangements after marriage breakdown**.

If a continuation order is granted you will need to renew the registration with the Land Registry or Land Charges Department. There are different procedures for registered and unregistered property when applying to renew registration of home rights.

If the family home is registered

If the family home is registered, you can renew your registration of home rights by completing the form: notice of home rights renewal: registration (HR2) and sending this to the Land Registry. At the time this guide was written, there is no fee for this application. However, you should contact the Land Registry for the latest information on fees. If there is no fee then you can enter £0.00 or "no fee" in the box on the form that asks you for the fee.

If the family home is unregistered

If the family home is unregistered, you can renew your home rights by completing the form: class F land charge registration renewal: application (K8) and sending this to the Land Charges Department. At the time this guide was written, there is a £1.00 fee for this application. However, you should contact the Land Charges Department for the latest information on fees.

After the date of your decree absolute/final order, your former spouse can apply for the home rights to be cancelled. Therefore it is important to consider a continuation order approaching the date of your decree absolute/final order.

Cancelling home rights

As mentioned above, you or your spouse can apply to cancel the registration of your home rights.

Your spouse may only apply to cancel the registration of your home rights if they have a decree absolute for a divorce, a death certificate, an order from the court ending the home rights or something in writing from you stating that you are giving up your home rights.

You can cancel your home rights at any time, you do not have to wait until your decree absolute. You may wish to cancel your home rights if you and your spouse have come to an agreement about who lives in the family home. You should think very carefully before cancelling your home rights as you will no longer be protected from the family home being sold or mortgaged.

If the family home is registered, you can cancel your home rights by completing the form: cancellation of home rights (HR4) and sending this to the Land Registry.

If the family home is unregistered, you can cancel your home rights by completing the form: class F land charge: cancellation (K13) and sending this to the Land Charges Department.

What if we own the property together?

If you own the home jointly with your spouse then you do not need to register your home rights as you are already an owner of the property. This means that you have a right to live in the family home, and it cannot be sold or mortgaged without you giving your consent and signing the relevant documents.

If you are not sure whether you are a joint owner of the family home you should check as soon as possible. If the family home is registered, you can check this by looking at the official copies for the property. If the family home is not registered, you will need to look at the title deeds for the property.

Mortgages

There is a difference between being named on the mortgage of a property and being named on the official copies or title deeds. A mortgage is a loan to finance paying for a property. Being named on the mortgage means you are responsible for the payments, this does not confirm that you are the owner of the property.

What next?

If your marriage has broken down then it is important to remember that registering your home rights is usually a temporary measure until the divorce is finalised. You will need to think about what will happen to the home after the divorce. For further information please see **A guide to financial arrangements after marriage breakdown**.

The law is complex and may have changed since this guide was produced. This guide is designed to provide general information only for the law in England and Wales. You should seek up-to-date, independent legal advice.

Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

For free, confidential, legal advice on family law including domestic violence, divorce and relationship breakdown and issues relating to children:

Women living and working in London: call **020 7490 2562** the advice line is open Mon 11am–1pm, and Tues – Thurs 2–4pm.

For all women: call **020 7251 6577** the advice line is open Tues – Thurs 7–9pm and Fri 12–2pm.

For free, confidential, legal advice on immigration and asylum law or criminal and sexual violence visit **www.rightsofwomen.org.uk** for our advice line details.

Useful contacts

Finding a solicitor

The Law Society
0207 320 5650
www.lawsociety.org.uk/find-a-solicitor/

Ministry of Justice
020 3334 3555
<http://find-legal-advice.justice.gov.uk/>

Resolution
01689 820272
www.resolution.org.uk/

Emergency contacts

Police (emergency)
999

24 hour domestic violence helpline
0808 200 0247
www.nationaldomesticviolencehelpline.org.uk

Property enquiries

Land Registry
0300 006 0411
www.gov.uk/government/organisations/land-registry

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