

*These notes relate to the Family Law (Scotland) Act 2006
(asp 2) which received Royal Assent on 20 January 2006*

FAMILY LAW (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT

Matrimonial homes

Section 5: Occupancy rights: duration

12. **Section 5** concerns the matrimonial home and the rights of the “non-entitled” spouse to occupy the home. An “entitled” spouse is one who has a right to occupy the matrimonial home, whether because he or she is the owner or tenant or because he or she is allowed by a third party to occupy it. A spouse with no such right is a “non-entitled” spouse. The Matrimonial Homes (Family Protection) (Scotland) Act 1981 gives the non-entitled spouse a right to live in the matrimonial home by providing that, if already living there, he or she has the right to continue to occupy it and where not living there he or she has a right to occupy it. Section 5 introduces a time bar to this latter right. Where there has been no cohabitation between a married couple for two years during which the non-entitled spouse has not occupied the matrimonial home, the non-entitled spouse will cease to have occupancy rights.