

## SUBMISSION FROM WOMEN'S LAND REFORM GROUP

### **Entrenched practices that disadvantage self-employed businesswomen**

Self-employed businesswomen risk losing their assets and livelihood if they marry their business partners. Conversely, businessmen stand to gain by marriage, due to entrenched legal practices.

According to the Ministry of Justice, business partners who need to wind up their partnership and resolve their business and tax affairs cannot access the chancery court for partnership remedies if they are divorcing (or divorced).<sup>1</sup> This is not a law or a rule: it is entrenched practice.

Business matters involving couples are directed to the family court but there is no requirement for that court to see audited accounts or proof of proprietorship.<sup>2</sup> This legal loophole has encouraged fraud, false accounting, tax evasion and other financial crimes, to the husband's advantage.

In the family court it is entrenched practice not to investigate partnership accounts or determine tax liabilities but to simply dispossess the wife of business assets (which, in a farming business, includes her home)<sup>3</sup> by forced transfer to the husband, with no compensation: she is then unable to re-establish herself in business. This is a violation of her human rights and the right of establishment.

A simple solution would be to allow all business matters to be resolved in the chancery court - regardless of the parties' marital status - and only then, if necessary, consider any application to vary their shares in the family court. This would discourage financial crime (which is more difficult to conceal in the chancery court) and prevent gender-based dispossession orders in the family court.

Patricia Ann Mallaby  
Women's Land Reform Group  
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<sup>1</sup> Ministry of Justice to Michael Cashman MEP, 11 January 2012

<sup>2</sup> Lord Chancellor Derry Irvine to Pamela White (a farmer), 26 April 2001

<sup>3</sup> House of Lords in *Miller v Miller & McFarlane v McFarlane* (para 135), 24 May 2006