

## CIVIL PARTNERSHIP - ADVICE FOR EMPLOYERS

The Civil Partnership Act 2004 is due to come into force on 5 December 2005. From that date, couples who want to register a civil partnership will be able to give notice of their intention to do so. This will allow the first civil partnerships to be registered in England and Wales under the standard procedure on 21 December, after the 15 day waiting period has passed. In a very few cases, where special circumstances apply, civil partnerships will exist from 5 December.

This information is for employers, to alert them to the implications of this legislation, specifically the need to treat employees in a civil partnership in the same way as married employees.

Acas will be updating its publication 'Sexual Orientation in the Workplace' in September to reflect the introduction of civil partnership. It will cover the introduction of civil partnership in the context of wider sexual orientation issues. For more information go to Acas website <http://www.acas.org.uk/>

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### What is Civil Partnership?

The Civil Partnership Act creates a new legal relationship of civil partnership, giving legal recognition to same-sex couples for the first time. It also provides same-sex couples, who register a civil partnership, with parity of treatment in a wide range of legal matters with couples who marry.

The couples who wish to register as civil partners must both be:

- ❖ of the same-sex,
- ❖ not already in a civil partnership or marriage,
- ❖ 16 years of age or older, and
- ❖ not within the prohibited degrees of relationship (i.e. related).

To register, couples should get in touch with their local register office for more information. More details about how to go about registering a civil partnership can be found here -

<http://www.womenandequalityunit.gov.uk/lgbt/faq.htm>

Some overseas relationships will automatically be treated as a civil partnership in the UK if they meet the conditions set out in **the Civil Partnership Act**. The Act lists those countries whose schemes meet these conditions, such as same-sex marriage in the Netherlands and Belgium, civil partnership schemes in Scandinavian countries and civil unions in the US state of Vermont. Other countries schemes not listed in the Act can also be treated as civil partnership in the UK, provided they meet the conditions outlined in the Act. The Department of Trade and Industry will issue more detailed guidance on overseas relationships later this year.

Important rights and responsibilities will flow from registering a civil partnership, helping same-sex couples to organise their lives together. Provisions include:

- ❖ A duty to provide reasonable maintenance for your civil partner and any children of the family;
- ❖ Civil partners to be assessed in the same way as spouses for child support;
- ❖ Equitable treatment with married couples for the purposes of life assurance;
- ❖ Employment and pension benefits;
- ❖ Recognition under intestacy rules;
- ❖ Access to fatal accidents compensation;
- ❖ Protection from domestic violence;
- ❖ Recognition for immigration and nationality purposes; and
- ❖ Same tax treatment as spouses.

For further information about the rights and responsibilities flowing from civil partnership, click here -

<http://www.womenandequalityunit.gov.uk/lgbt/faq.htm>

### **How does it affect me as an employer?**

#### **(i) Employee benefits**

The main impact that Civil Partnership will have on you is that you will be required to treat your married employees and civil partner employees in the same way. This means, for example, that if you have a benefits package (for example private health care), which is available to the spouse of an employee, it should also be available to an employee's civil partner from December of this year.

The Employment Equality (Sexual Orientation) Regulations 2003 are being amended so that a civil partner who is treated less favourably than a married person in similar circumstances will be able to bring a claim for

sexual orientation discrimination. The regulation will also be amended to make it clear that more favourable benefits, such as pension survivor benefits, can be conferred on civil partners and married people, to the exclusion of others without such a status. The existing exemption allowing married people to be awarded more favourable benefits than anybody else will remain in respect of service, which pre-dates the coming into force of the Civil Partnership Act. The amended regulations will come into force on 5 December.

Some employers already have benefits packages that are available to the unmarried opposite sex partners and same-sex partners of employees, but if there are additional benefits available to married employees (for example time off before or after a wedding) similar provision should be made for civil partners.

### *What this means in practice for employers*

- ❖ ***Examine internal policies:*** Look at your benefits packages and internal HR systems and processes to identify where changes are needed to make sure you treat civil partners and married people in the same way.
- ❖ ***Be aware of sensitivities:*** You will need to bear in mind that while an employee may have a civil partner, they may not want people to be aware of this. To avoid unnecessarily making this information public:
  - There should not be a completely separate process for employees to claim benefits in relation to their civil partnership. Existing benefit packages for spouses can be re-branded as benefits for 'spouses or civil partners'. This is to avoid the need for someone to identify themselves as having a spouse or a civil partner.
  - You should avoid asking someone, for example in a form, to identify themselves as a civil partner. Instead people should be asked to identify themselves as 'married or in a civil partnership' or a 'spouse or civil partner'.
- ❖ ***Communicate these changes to employees:*** Make sure that employees know that these changes have taken place and know how to claim benefits available to them or their civil partner.
- ❖ ***Consider impact on products and services:*** Companies will want to give thought to how they can adapt their products and services to take account of civil partnership. The points made above in relation to internal HR procedures and forms will apply equally when dealing with customers and clients - e.g. an application form for a bank account should ask for someone's

marital or civil partnership status, rather than requiring someone to identify themselves as one or the other.

## (ii) Occupational pensions

*If your company has a contracted out pension scheme, the scheme rules will need to be amended to comply with the new legislation. For further information go to -*

[www.dwp.gov.uk/consultations/2005/index.asp](http://www.dwp.gov.uk/consultations/2005/index.asp)

The Department for Work and Pensions is amending the contracting out rules to ensure that pension schemes provide survivor benefits for civil partners on the basis of deceased members' rights accrued from 6 April 1988, to treat them on par with widowers.

The changes will also extend the circumstances where schemes need not pay a survivor benefit (for example, where the widow or widower re-marries or lives with another person as husband and wife) to survivors who form a civil partnership or who live with another person as if civil partners.

However, widows or widowers of scheme members who died before the introduction of civil partnership on 5 December 2005 will not lose their survivor benefits should they form a civil partnership or live together with another person of the same sex as if they were civil partners.

Full details of the proposed amendments to legislation on contracting out are contained in the consultation document "The Civil Partnership (Amendment of Provisions Relating to Contracted-Out Occupational and Appropriate Personal Pension Schemes)(Surviving Civil Partners) Order 2005" and the Government's response to the consultation exercise can be accessed through the DWP website: [www.dwp.gov.uk/consultations/2005/index.asp](http://www.dwp.gov.uk/consultations/2005/index.asp)

## **Name changes after registering a civil partnership**

After registering a civil partnership, some people might want to change their surname to that of their partner's, or a couple may choose to hyphenate their names. Government departments and agencies such as the Passport Agency and the DVLA will accept civil partnership certificates in the same way that they accept marriage certificates as evidence for changing names. We would encourage employers and companies to also follow this approach.

## **Further information**

If you want further information about civil partnership, go to the Women and Equality Unit website

<http://www.womenandequalityunit.gov.uk/lgbt/partnership.htm>

The Government will be issuing further e-bulletins like this over the coming months, covering general issues around the implementation of the Civil Partnership Act. If you would like to receive these updates, e-mail [info.civilpartnership@dti.gsi.gov.uk](mailto:info.civilpartnership@dti.gsi.gov.uk)

Enquiries about civil partnership in Scotland should be referred to the Scottish Executive:  
[civilpartnershipregistration@scotland.gsi.gov.uk](mailto:civilpartnershipregistration@scotland.gsi.gov.uk)

Enquiries about civil partnership in Northern Ireland should be referred to the Office of Law Reform: [info@olrni.gov.uk](mailto:info@olrni.gov.uk)