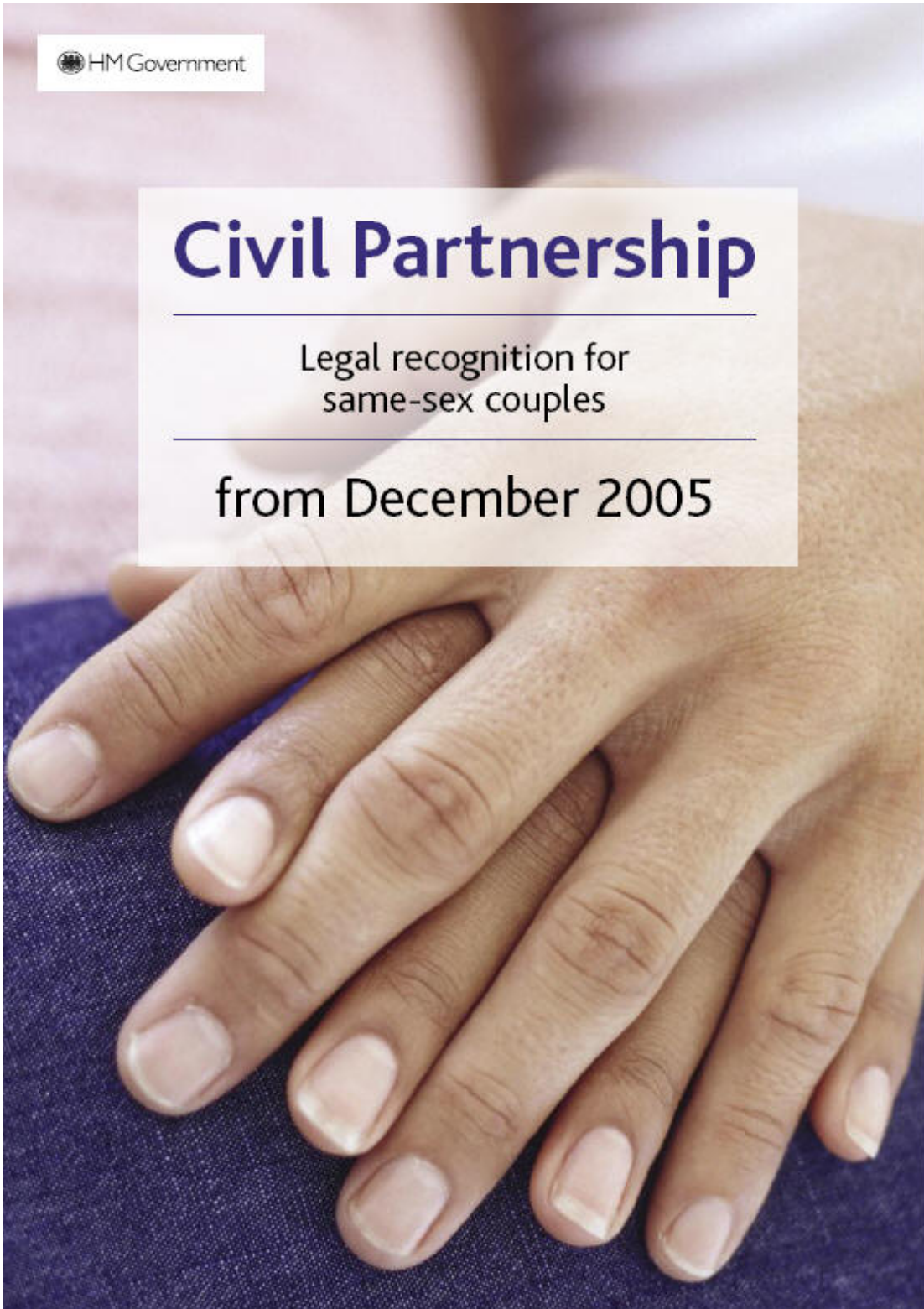


Civil Partnership

Legal recognition for
same-sex couples

from December 2005



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INTRODUCTION

This guide is for people who want to find out more information about civil partnership in England and Wales. It gives information on how to register and the main rights and responsibilities civil partners will have. **Please note that the law in some areas can be quite complicated. This guide is designed to give an overview of those areas. If anyone is in any doubt about their rights they should seek independent legal advice.**

This guide applies to England and Wales only. While civil partnership is also being introduced in Scotland and Northern Ireland in December and is broadly similar across the UK, there are some differences. For more information about civil partnership in Scotland or Northern Ireland, go to:

Scottish Executive
Justice Department
Civil Law Division
St Andrews House
Edinburgh EH1 3DG
Tel: 0131 244 3581
Website: www.scotland.gov.uk/Topics/Justice/Civil/18313/12657
Email: civilpartnershipregistration@scotland.gsi.gov.uk

The Office of Law Reform
Lancashire House
Belfast BT2 8AA
Northern Ireland
Tel: 028 90 542900
Website: www.olrni.gov.uk
Email: info@olrni.gov.uk

WHAT IS CIVIL PARTNERSHIP?

Civil partnership is a new legal relationship, which can be registered by two people of the same sex. It gives same-sex couples the ability to obtain legal recognition for their relationship.

Civil partnership comes into force on 5 December 2005. The first civil partnerships registered in England and Wales under the standard procedure will take place on 21 December. In some special circumstances, civil partnerships may be registered from 5 December.

Some relationships registered overseas (e.g. civil unions or same-sex marriages) will automatically be treated as civil partnerships in the UK from 5 December provided certain conditions are met. See Part Two of this guide for more details.

Civil partners will be treated the same as married couples in a wide range of legal matters, including:

- Tax, including inheritance tax;
- Employment benefits;
- Most state and occupational pension benefits;
- Income related benefits, tax credits and child support;
- The duty to provide reasonable maintenance for a civil partner and any children of the family;
- Ability to apply for parental responsibility for a civil partner's child;
- Inheritance of a tenancy agreement;
- Recognition under intestacy rules;
- Access to fatal accidents compensation;
- Protection from domestic violence; and
- Recognition for immigration and nationality purposes.

Who can register?

Two people may register a civil partnership provided:

- they are of the same sex;
- they are not already in a civil partnership or lawfully married;
- they are not closely related;
- they are both aged 16 or over (if either of them is under 18 the consent of the appropriate person, such as a parent or guardian, has been obtained).

PART ONE - HOW TO REGISTER A CIVIL PARTNERSHIP IN ENGLAND AND WALES

Registering a civil partnership is a secular procedure and is carried out by the registration service, which is responsible for the registration of births, deaths and marriages.

A civil partnership will usually be registered under what is known as the standard procedure. In certain cases however, this can be varied, for example, in cases where people are housebound or ill and not expected to recover. This section sets out the details of this procedure and the variations permitted in certain circumstances.

The Standard Procedure

A couple wishing to register a civil partnership just have to decide the date they want to register and where they want the registration to take place. The formal process for registering essentially consists of two stages – the giving of notice of intention to register and then the registration of the civil partnership itself.

Giving notice

Giving notice of civil partnership is a legal requirement and both partners have to do this at a register office in the area of the local authority where they live, even if they intend to register elsewhere.

The notice contains the name, age, marital or civil partnership status, address, occupation, nationality and intended venue for the civil partnership. It is a criminal offence to give false information when giving notice. If one partner is a non-EEA citizen and is subject to immigration control, there are additional requirements to be fulfilled. See the **“Immigration”** section on Page 13 for more details.

Once the notice has been given, it is displayed at the relevant register office for 15 days. This is to provide an opportunity for objections to be made. The addresses of the couple will not appear on the notice for reasons of privacy. The civil partnership cannot be registered until 15 clear days have passed from the date that the second person gives notice.

Example:

You give notice on 1 July and your partner gives notice on 3 July. The first date the registration can take place is on or after 19 July, which is 15 clear days from

the date of the second notice. The notice is valid until 1 July the following year, which is 12 months from the date of the first notice.

Each partner needs to give notice in the area in which they have lived for at least seven days. If the couple live in different areas they will each give notice at their respective local register office. When giving notice, they will be asked to state where they wish the civil partnership registration to take place.

If a civil partnership is to be registered outside the area where the couple live, each partner will still need to give notice in the area in which they live. When they each give notice, they will be asked to give the date and place where the civil partnership registration is to take place. That means these details will need to be agreed first of all with the local authority where the registration is going to take place.

Example:

You live in Brighton and your partner lives in Eastbourne, but you want to register a civil partnership in a country house hotel in Kent. You will have to give notice to your local register office in Brighton and your partner at Eastbourne register office. When you give this notice, you will both have to be able to give the date and the place where the civil partnership is to be registered, which means that you will have to have arranged this already with the venue and the Kent registration authority.

Residency requirements

A couple can register a civil partnership in England and Wales as long as they have both lived in a registration district in England and Wales for at least seven days immediately before giving notice.

If one person lives in England and Wales and the other lives in Scotland and the couple wish to register in England and Wales, the person living in Scotland may give notice there.

Officers, sailors or marines on board Royal Navy ships at sea can give notice to the captain (or other commanding officer), provided they are going to register with someone who is resident in England and Wales. Service personnel based outside England and Wales have to fulfill the residence requirements outlined above.

Documents required

The couple each need to show the registration officer documentary evidence of their names, ages and nationality - ideally in the form of a passport. Other documents such as full birth certificates may also be acceptable. The couple will

also be asked for proof of address. If either partner has been married or in a civil partnership before, they also need to produce documents that confirm that they are now free to register a civil partnership. These could include a divorce decree absolute bearing the court's original stamp, a certificate of dissolution of civil partnership or the death certificate of the former husband or wife or civil partner. The register office can advise on which documents are needed.

If either partner is subject to immigration control they need to produce one of the following documents:

- entry clearance granted to form a civil partnership;
- a Home Office certificate of approval;
- indefinite leave to remain in the UK.

See the **“Immigration”** section on Page 13 for more details.

Where and when can a civil partnership be registered?

A civil partnership registration can take place in any register office in England or Wales or at any venue that has been approved to hold a civil partnership. Approved Premises include stately homes and other prestigious buildings, hotels, restaurants and even football stadiums. From 5 December, premises that have been approved as a venue for civil marriage will automatically have approval as a venue for civil partnership. Any venue applying for approval after 5 December has to apply for both civil marriage and civil partnership, although they can choose whether to hold civil marriages or civil partnerships or both. A civil partnership cannot be registered on religious premises.

The General Register Office’s website www.gro.gov.uk has a search facility for finding approved premises anywhere in England and Wales. Alternatively, a local authority will have information on approved premises in their area. Couples should confirm with the venue that it is available and can meet their requirements before making a provisional booking with the local register office.

A civil partnership can only be registered between 8am and 6pm (as is the case for marriage) except in cases where one partner is seriously ill and is not expected to recover.

The civil partnership registration

A civil partnership is legally registered once the couple have signed the legal document (known as a civil partnership schedule) in the presence of a registrar and two witnesses. On the day the couple need to bring with them two other people prepared to act as witnesses and sign the civil partnership schedule. If

they wish to do so, the couple will be able to speak to each other the words printed on the schedule:

"I declare that I know of no legal reason why we may not register as each other's civil partner. I understand that on signing this document we will be forming a civil partnership with each other."

Adding personal touches

There are no legal requirements on the day other than signing the schedule before the registrar in the presence of witnesses. This is to enable couples to decide for themselves how they want to mark their civil partnership. Many couples simply want to register in order to obtain legal recognition, whereas others want to mark the occasion with more elaborate celebrations.

Registering a civil partnership is an entirely secular process and the Civil Partnership Act prohibits any religious service from taking place during the registration. Couples may be able to arrange to add individual touches to their registration - the register office will be able to give more details about the options available.

Couples can arrange a ceremony in addition to signing the schedule if they wish. Many local authorities offer a ceremony at the register office, but if a particular local authority does not, couples can go to another local authority or arrange one themselves through another provider and hold it at an approved premises after the legal formalities have been completed.

How much does it cost?

Giving notice of intention to register (whether registration takes place at a register office or an Approved Premises)	£30 per person
Registration at a Register Office	£40
Registration at an Approved Premise	Cost for attendance by a civil partnership registrar is set by the registration authority in question. A further charge may also be made by the owner of the building for the use of the premises.

Cost of civil partnership certificate on the day of registration	£3.50
Further copies of the civil partnership certificate	£7

Giving notice and registering in Wales

All forms used in Wales in connection with civil partnerships are printed in both Welsh and English. When a couple give notice and have the registration in Wales, they can do it in either English, or in English and Welsh. If the latter, both the couple and the registrar must be able to understand the Welsh language. Couples should contact the register office for more information.

How to find a local register office

To find details of local or other register offices, contact the appropriate local council. The General Register Office website www.gro.go.uk also has a search facility for finding local register offices. Alternatively, addresses and phone numbers can be found in the local phone book.

Changing names

After registering a civil partnership, one partner might want to change their surname to that of their partner. Or a couple may choose to hyphenate their surnames. 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 surnames. Private companies such as banks or insurance companies may require a different standard of proof. It is up to the individuals to contact organisations which hold personal data on them, if they wish to change their surname.

Special Circumstances

There are a number of circumstances where there can be variations made to the standard procedure.

Serious illness

If one partner is seriously ill and is not expected to recover, then the civil partnership can be registered at any time of day or night. In those circumstances, the 15 day waiting period does not apply.

The couple have to provide a certificate from the doctor in medical attendance stating that the person is seriously ill and is not expected to recover, that the person cannot be moved to a place where civil partnerships usually take place and that they understand the nature and purpose of signing the Registrar General's licence.

The couple should contact the register office for the area where the ill person is resident to make arrangements. Register offices have long standing arrangements in place for marriages in similar circumstances.

Example:

You and your partner live in Derby but your partner is seriously ill, not expected to recover and cannot be moved from the hospital in Nottingham. Since your civil partnership will take place in the hospital, you should contact the Nottingham register office to give notice.

Housebound people

If one partner is housebound there are special procedures to allow them to register a civil partnership at home. The couple has to provide a statement, made by a doctor, confirming that the person ought not to be moved and that this condition is likely to continue for the next three months. The statement must have been made no more than 14 days prior to notice being given, and must be made on a form which can be obtained from the register office. The normal 15 day waiting period applies between giving notice and the civil partnership registration.

Detained people

There are special procedures to allow a couple to register a civil partnership at a place where one of them is detained in a hospital or a prison. The couple has to

provide a statement, made by the prison Governor or other responsible person, confirming that the place where the person is detained can be named in the notice of proposed civil partnership as the place where the registration is to take place. This statement must have been made no more than 21 days prior to notice being given. The normal 15 day waiting period applies between giving notice and the civil partnership registration.

Gender change

The Gender Recognition Act 2004 enables transsexual people to change their legal gender by obtaining a full Gender Recognition Certificate. Where a transsexual person is married, they cannot obtain a full Gender Recognition Certificate without first ending their existing marriage. However if they and their former spouse then wish to form a civil partnership with one another without delay, they can do so as soon as the full Gender Recognition Certificate has been issued. In those circumstances, they can give notice and register on the same day.

For more information about the processes of changing gender go to www.grp.gov.uk

Immigration

Requirements for people subject to immigration control

The civil partnership provisions for people subject to immigration control are exactly the same as those already in place for marriage. These apply if one partner is a non-EEA citizen and is subject to immigration control (for example, in the UK on a visa). EEA stands for European Economic Area and, for this purpose, includes Norway, Iceland, Liechtenstein and Switzerland as well as the European Union countries.

People subject to immigration control who want to give notice of a civil partnership need to do so at a Register Office designated for that purpose. They are required to produce one of the following as part of that notice:

- entry clearance granted to form a civil partnership;
- a Home Office certificate of approval;
- indefinite leave to remain in the UK.

Entry clearance is the granting of permission to enter the UK by an Entry Clearance Officer in the British Embassy or High Commission in the person's country. It is usually shown as a visa in a person's passport or travel document.

A certificate of approval can be obtained from the Immigration and Nationality Directorate. This is usually only issued if the person has been granted leave to enter or remain for over six months from the date on which they entered the UK and as long as three months of that leave is still in force. The certificate of approval has to be surrendered to the registrar when notice is given.

Registrars are required to report any civil partnerships to the Immigration Service if they have suspicions that they are being entered into as a means of circumventing immigration control.

Applications for leave to remain

Civil partners of British citizens and people settled here can apply for an initial period of two years leave to remain in the UK. If the partnership is still intact at the end of that period they can then apply for indefinite leave to remain.

Work permit holders and students

Civil partners of people with temporary leave to remain in the UK, such as students and work permit holders, can apply for leave along with their civil partners. For example if the principal work permit holder has two years leave to remain in the UK, their civil partner will also be granted two years leave. Should the principal work permit holder apply for indefinite leave to remain, their civil partner can apply as a dependant.

A list of Register Offices for people subject to immigration control will be available on the Immigration and Nationality Directorate website. Contact the **Immigration and Nationality Enquiry Bureau** on **0870 606 7766** or visit www.ind.homeoffice.gov.uk

Civil partnership registration for two non-EEA citizens

Two non-EEA citizens can register a civil partnership together in the UK as long as they have entry clearance for the purpose of doing so, and have resided in the registration district for at least seven days before giving notice. Registering a civil partnership does not affect their immigration status. For instance, it will not allow them to stay in the UK any longer than normal and all the usual immigration rules will apply.

Other ways to register

Registering civil partnerships abroad

Couples who are looking for general information about registering a civil partnership in another country should contact the Embassy or High Commission of the country concerned. Couples may be asked to obtain a certificate of no impediment. This is a document required by some foreign authorities to enable a UK national to form a civil partnership in their country and, under certain circumstances, it can be provided by the registration authority.

Registration at UK consulates

It may be possible for couples to register at a UK consulate in another country if one of them is a UK national. However, UK consulates will not register civil partnerships if the host country objects or if civil unions or same-sex marriage is available in that country.

For more information go to the Foreign & Commonwealth Office website:

www.fco.gov.uk

Armed Forces

Members of the Armed Forces can register civil partnerships overseas in those areas where a Service Registering Officer is able to offer this service.

PART TWO: OVERSEAS RELATIONSHIPS

Some couples may already have formed a civil union, registered partnership, domestic partnership or a same-sex marriage abroad. Couples in those kinds of relationships can automatically be recognised in the UK as civil partners without having to register again, provided they meet the conditions set out in sections 212 to 218 of the Civil Partnership Act.

The legislation defines an overseas relationship that can be treated as a civil partnership in the UK as one that is either specified in Schedule 20 to the Civil Partnership Act or one which meets the general conditions in the Act **AND** which meets certain other conditions.

Relationships in Schedule 20

The following relationships are currently listed in Schedule 20:

Country or Territory	Relationship known as:
Belgium	cohabitation légale, wettelijke samenwoning, gesetzliches zusammenwohnen (statutory cohabitation)
Belgium	marriage
Canada: Nova Scotia	domestic partnership
Canada: Quebec	union civile, civil union
Denmark	registreret partnerskab (registered partnership)
Finland	rekisteröity parisuhde, registrerad partnerskap (registered partnership)
France	pacte civil de solidarité (civil solidarity pact)
Germany	Lebenspartnerschaft (life partnership)
Iceland	staðfesta samvist (confirmed cohabitation)
Netherlands	geregistreerd partnerschap (registered partnership)
Netherlands	marriage
Norway	registrert partnerskap (registered partnership)
Sweden	registrerat partnerskap (registered partnership)
USA: Vermont	civil union

A couple who have formed one of the relationships listed above can be recognised in the UK as civil partners if:

- they are of the same sex (*e.g. an opposite sex couple who form a PACS in France will not be treated as a civil partnership in the UK*);
- the relationship has been registered with a responsible body in the country or territory (*e.g. same-sex couples in Nova Scotia are deemed to be in a domestic partnership if they have lived together for a certain amount of time. They can register their relationships or not. Only those who have registered will be treated as civil partnerships in the UK*);
- the couple were eligible to enter the relationship under the laws of that country or territory;
- the couple fulfilled all the formal procedural requirements of the relationship under the laws of that country or territory.

Foreign relationships not listed in Schedule 20

Even if a foreign relationship is not listed in Schedule 20, a couple who have formed that relationship can still be recognised in the UK as civil partners if the foreign relationship meets the general conditions set out in the Civil Partnership Act:

- Under the law of the country or territory in which it was formed, the relationship is exclusive in nature (*in other words the law must prevent a person from registering a relationship if they are already in a civil union or are lawfully married*);
- Under the law of the country or territory in which it was formed, the relationship is indeterminate in duration (*this means that the relationship ends in death, dissolution or annulment and would exclude an arrangement where the parties agreed to live together for a fixed period of time*);
- Under the law of the country or territory in which it was formed, the relationship results in the parties being treated as a couple or treated as married (*this means that the relationship comes with some legal rights and responsibilities and would exclude symbolic schemes like some municipal registers which have no legal effects*).

If the relationship meets those conditions, the couple must also meet the following conditions:

- they are of the same sex (*e.g. an opposite sex couple who form a PACS in France will not be treated as a civil partnership in the UK*);

- the relationship has been registered with a responsible body in the country or territory (*e.g. same-sex couples in Nova Scotia are deemed to be in a domestic partnership if they have lived together for a certain amount of time. They can register their relationships or not. Only those who have registered will be treated as civil partnerships in the UK*);
- the couple were eligible to enter the relationship under the laws of that country or territory;
- the couple fulfilled all the formal procedural requirements of the relationship under the laws of that country or territory.

UK domiciled persons forming overseas relationships

If a person is domiciled in England and Wales at the time they enter into an overseas relationship, the relationship can only be treated as a civil partnership if, in addition to those conditions above, the domestic eligibility requirements are also satisfied. This means that both partners must be over the age of 16 and not related in a way that would make them ineligible to form a civil partnership in England and Wales. Similar rules apply if the person is domiciled in Scotland or Northern Ireland. This is to prevent people domiciled in the UK from going abroad to enter relationships they cannot enter into in the UK.

A person is, in general, **“domiciled”** in a country where they have (or are deemed by the law to have) their permanent home. For example a person might be temporarily living and working in France but keeps a permanent home in England where they intend to return eventually. That person would be domiciled in England.

Please note that this is a complicated area of law and anyone with a query about his or her domicile should seek independent legal advice.

Updates to Schedule 20

Schedule 20 will be updated before December 2005 to take account of recent international developments in legal recognition of same-sex relationships. To find out which foreign relationships have been added to Schedule 20, go to www.womenandequalityunit.gov.uk/civilpartnership.htm

Relationships will not be added to Schedule 20 if there is legal uncertainty about the relationship in the relevant country or territory. For example, the American state of Massachusetts currently allows same-sex marriage as a result of the Massachusetts Supreme Judicial Court ruling that it is constitutional. The issue is still subject to political uncertainty and may go to a state wide referendum.

As a result, Massachusetts has not been added to Schedule 20. However, a same-sex couple who have married in Massachusetts can still have their relationship recognised in the UK as a civil partnership, provided their relationship meets the necessary conditions.

Dissolution of relationships formed overseas

Where a couple have formed an overseas relationship and that relationship is treated as a civil partnership in the UK, they may be able to obtain a dissolution, annulment or legal separation here. The court in England and Wales may also be able to recognise a dissolution, annulment or legal separation obtained overseas when certain criteria are met. Couples to whom this is relevant are advised to seek legal advice on the options available.

PART THREE - FAMILY RELATIONSHIPS

Children and parenting

Some same-sex couples have caring responsibilities for children. The law will recognise the role of both civil partners in respect of a child living in their household.

Adoption

Under the Adoption and Children Act 2002, which comes into force on 30 December 2005, civil partners may apply jointly to adopt a child.

Parental responsibility

When the Adoption and Children Act comes into force on 30 December 2005, a person will also be able to acquire parental responsibility for the child of their civil partner. They can do this with the agreement of their civil partner so long as the civil partner has parental responsibility themselves. If the child's other parent also has parental responsibility, both parents must agree. Parental responsibility can also be acquired on application to the court.

Civil partners will have a duty to provide maintenance for each other and for any children of the civil partnership.

Relationships arising through civil partnership

In order to keep the range of labels for family relationships as simple as possible, the new legislation provides that traditional family names such as "mother-in-law", "brother-in-law", "step-daughter" should be interpreted to include relationships which arise as a result of civil partnership. For example, the brother of a person who has entered into a civil partnership becomes the brother-in-law of that person's civil partner.

Next of kin status

The concept of "next-of-kin" has a very limited meaning in the context of healthcare. Before health professionals treat an adult patient, they usually need his or her consent. As long as the patient can understand what is involved in the treatment, he or she is the only person who can give consent. If a patient is incapable of giving consent or making decisions for themselves, health professionals will make decisions based on the best interests and medical needs of that patient. Best interests includes general well being and, if appropriate, the

patient's known views. Health professionals will consult those closest to the patient to help establish their likely views.

There have been many anecdotal cases of same-sex partners being excluded from consultation, access to information and even denied the right to visit a critically ill partner where there is no basis for doing so.

The public service trade union UNISON and The Royal College of Nursing have issued good practice guidance to healthcare workers for providing services to lesbian, gay and bisexual service users. The guidance is also endorsed by College of Occupational Therapists, the Chartered Society of Physiotherapy, the Royal College of Midwives, and the Society of Radiographers. To see a copy, go to <http://www.unison.org.uk/acrobat/14029.pdf>

PART FOUR - SOCIAL SECURITY, TAX CREDITS AND CHILD SUPPORT

Forming a civil partnership will affect entitlement to the benefits and tax credits a person may be receiving. If two same-sex partners are living together as a couple, they must contact the office dealing with their benefit or the HMRC Tax Credit Office.

Income Related Benefits

From 5 December, the income of a civil partner or cohabiting same-sex partner will be taken into account when calculating entitlement to income related benefits. These include Income Support, Jobseeker's Allowance (income based), Pension Credit, Housing Benefit and Council Tax Benefit. A person who lives with a same-sex partner (whether in a civil partnership or not) and is receiving Income Related Benefits should contact their benefit office.

Bereavement Benefits or Widow's Benefit

If someone is in receipt of Bereavement Benefit or Widow's Benefit and forms a civil partnership, or is living together as part of a couple with a same-sex partner, they need to contact the office that is dealing with their benefit.

Other benefits

If a person receives benefits such as Incapacity Benefit, Carer's Allowance, Maternity Allowance, Severe Disablement Allowance and Unemployability Supplement and an adult dependency increase is payable for a spouse, they may be able to get extra for their civil partner. Contact the **Benefit Enquiry line** on **0800 882200** for more information

Tax credits

From 5 December the income of a civil partner or a co-habiting same sex partner will be taken into account when calculating entitlement to the child and working tax credits. A person who lives with a same-sex partner (whether in a civil partnership or not) and is receiving child or working tax credits should contact the **Tax Credits Office** or call the **Tax Credits helpline** on **0845 300 3900**.

Child Support

From 5 December 2005, civil partners who are parents will be treated in the same way as married partners for Child Support. Also, parents who are living with a same-sex partner even when they have not formed a civil partnership will

be treated in the same way as parents who live together with an opposite-sex partner, but are not married. Depending on the circumstances, this could affect the amount of maintenance paid for the child. For further information, contact the **Child Support Agency** on **08457 133133**.

PART FIVE - PENSIONS

Survivor benefits in occupational and personal pension schemes

Surviving civil partners will be entitled to a pension based on the pension rights accrued by the deceased civil partner.

The new rules for civil partners mean that a surviving partner will benefit from a survivor's pension based on the contracted-out pension rights accrued by their deceased partner from 1988 to the date of retirement or date of death if this occurs before retirement. This is the rule which currently applies to widowers' pensions.

This new rule will apply to all contracted out private pension schemes. This includes all public service pensions such as civil service, NHS, local government, teachers, fire service, police and Armed Forces pensions as well as occupational and personal pension schemes in the private sector.

Schemes that are not contracted-out but which already provide benefits to surviving partners in a same-sex relationship, will be obliged to continue this practice in relation to civil partners. Any questions about how forming a civil partnership will affect pension rights should be made to the employer.

State pensions

From 5 December, civil partners will enjoy most of the same state pension rights as husbands and they will be treated the same as husbands and wives after 2010 when the treatment of men and women will be equalised. For more information contact **The Pension Service** on **0845 6060265**

PART SIX – TAX

How will civil partnership affect tax?

For tax purposes civil partners will be treated the same as married couples. From 5 December tax charges and reliefs and anti-avoidance rules will apply equally to married couples and civil partners, and those treated as such. Information is available from local tax offices and the HMRC web site www.hmrc.gov.uk

PART SEVEN - EMPLOYMENT RIGHTS

Equality regulations

Employers will be required to treat married employees and civil partner employees in the same way. This means, for example, that if an employer has a benefits package (such as 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 regulations will also be amended to make clear that more favourable benefits, such as pension survivor benefits, can be conferred on civil partners and married people, to the exclusion of others who do not have 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 Civil Partnership Act. The amended regulations will come into force on 5 December 2005.

Additional benefits

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.

Flexible working

The civil partner of a person with a child under six or a disabled child under 18 will be able to take advantage of the right to request flexible working arrangements. An entitled employee in this situation will have the right to request a change to his or her working pattern to care for the child, with a duty on the employer to seriously consider the request. More information on the right to request flexible working can be found at www.dti.gov.uk/er/flexible

Paternity and adoption leave and pay

The civil partner of the mother of a child will be able to receive statutory paternity pay and take statutory paternity leave in respect of that child. Where civil partners are adopting a child together, one of them will be able to take adoption leave and receive statutory adoption pay. The other will be able to take

paternity leave and receive statutory paternity pay. More information on paternity and adoption leave and pay can be found at www.dti.gov.uk/workingparents

All employees are entitled to take a reasonable amount of time off during their working hours in order to deal with an unexpected problem involving a dependant. For this right, a dependant can be a child, partner, parent or someone else who relies on the employee for care. This will also include civil partners.

PART EIGHT – WHEN A CIVIL PARTNER DIES

Wills

Making a will is a sensible way of ensuring that possessions are disposed of in accordance with the deceased person's wishes.

The most valuable asset which couples are likely to have is the home they share. If they own the home jointly then ownership of the home will be vested absolutely in the surviving civil partner when the other partner dies. There is no need to make special provisions for this in the will.

But all other property that belongs to one or other of the civil partners will be disposed of in accordance with the terms of the civil partner's will or under the intestacy rules.

Although there is no legal requirement to have a will drawn up by a solicitor, it is advisable to obtain legal advice as there are complex rules relating to the execution and witnessing of wills.

If a person has a will and then registers a civil partnership, it will be revoked automatically unless there are express terms in it that it should not be revoked in these circumstances. New civil partners are advised to make new wills.

Similarly, the law provides that if the civil partnership is ended then gifts to the former civil partner or any appointment of the former civil partner fails, unless it is clear from the will that such a gift should take effect on the death of the deceased civil partner.

Intestacy

If a person dies without making a will there are special legal rules which determine how the estate of the deceased should be shared amongst that person's relatives. Under the new law if a civil partner dies intestate then his or her civil partner can receive a maximum of £200,000 from the estate and a half share of the amount that is left.

If the deceased had children then the amount which the surviving civil partner automatically receives is £125,000 and a half share of the rest.

Family provision

Sometimes a surviving civil partner may feel that neither the deceased civil partner's will or the intestacy rules makes reasonable financial provision for them. They can apply to the High Court asking the court to award them a certain sum of money out of the estate or, perhaps, to award them the family home.

The court does not need proof that the surviving civil partner was financially dependant on the deceased, just that they did not make reasonable financial provision for the surviving partner.

Former civil partners may also make a claim for reasonable financial provision from the estate of the deceased.

Life assurance

There are special legal provisions relating to life assurance contracts. Under the new legislation, a civil partner will be presumed to have an insurable interest in the life of his or her civil partner and there will be no limit on the amount of value of that interest. Civil partners will have the right to obtain assurance on their civil partner's life on a basis equivalent to married people.

Fatal accidents

If a person dies in an accident which has been caused by someone else's negligence, then their civil partner will be entitled to claim compensation for financial loss as a dependant of the deceased. They will also be entitled to claim bereavement damages, currently £10,000. In addition, someone living with the deceased as though they had been in a civil partnership for at least two years before the date of death will also be entitled to claim compensation as a dependant.

PART NINE - TENANCY RIGHTS

The Civil Partnership Act has important consequences for the housing rights of people who have registered a civil partnership or who are living together as if they were civil partners.

The general effect in relation to tenancies is to give rights to civil partners and their families that are equal to those currently enjoyed by married couples and their families. The Act also equalises the rights of same-sex partners who are living together as if they were civil partners and their families with those of unmarried opposite-sex cohabitants and their families.

Adding a partner to the tenancy agreement

If two people register a civil partnership and one is a tenant, he or she may be entitled to add the partner's name to the tenancy. This is called a variation of tenancy and will change the tenancy from a sole to a joint tenancy.

Right to Buy

If a person has the Right to Buy their rented home, they have the right to share the Right to Buy with their civil partner, or with a partner they have been living with as if they were civil partners for the past 12 months.

If their civil partner qualified for the Right to Buy their rented home, they will also have the Right to Buy if they succeed to the tenancy on their death.

In this context, the Right to Buy also includes the Preserved Right to Buy and the Right to Acquire. If anyone is in any doubt about whether they have any of these rights, they should seek independent legal advice.

Tenancy and Succession

If the sole tenant of a property dies, their civil partner (or partner they co-habited with) may have the right to continue living in the home. **Please note that this is a complicated area of law and the guidance that follows is only an outline. Anyone with any doubts about their rights should seek independent legal advice.**

Tenants of Local Authorities

Civil partners of local authority tenants with a secure, introductory or demoted tenancy will benefit from the changes introduced by the Civil Partnership Act. In most cases, if a person occupied the property as their only or main residence, they will be able to succeed to the tenancy on the death of their civil partner, if their partner was the named tenant of the home.

Tenants of Registered Social Landlords

In most cases, someone who is the same-sex partner of a tenant of a Registered Social Landlord (as long as they were occupying the property as their only or main home immediately prior to their partner's death) should be able to succeed to the tenancy. This will apply equally whether they were civil partners or living together as though they were civil partners.

Further information on rights in relation to Registered Social Landlord tenancies is available at www.housingcorp.gov.uk

Private sector tenants

The same-sex partner of an assured tenant or an assured shorthold tenant, will have the same rights of succession as assured or assured shorthold tenants of Registered Social Landlords.

If the person's same sex partner is a sole protected or statutory tenant, the Civil Partnership Act will provide them with similar rights of succession as the same-sex partners of assured tenants.

For further information on Housing and Tenancies visit www.odpm.gov.uk or email an enquiry to the Office of the Deputy Prime Minister on enquiryodpm@odpm.gsi.gov.uk

PART TEN – WHEN THINGS GO WRONG

Relationship support

Problems arise in all relationships which people may not be able to solve on their own. For sources of advice or counselling to help people work through their difficulties, contact **RELATE** on **0845 456 1310**

Domestic violence

Anyone can experience domestic violence regardless of their age, ethnicity, sex, sexuality, disability, social class, geography and lifestyle. It is difficult to calculate the real number of people who are affected by domestic violence. It is rarely a one-off event. Physical and sexual abuse tends to get more severe and become more frequent over time.

The Civil Partnership Act has amended existing legislation in order to grant civil partners, former civil partners and same-sex cohabiting couples the same protection from domestic violence that is afforded to spouses, former spouses and opposite-sex cohabiting couples.

A range of legal options are available. These include ***non-molestation orders*** which are used to restrain someone from threatening or causing violence to another person. ***Occupation orders*** can specify who should stay in the home shared by the couple to protect either party or any children from domestic violence.

If either of the civil partners is a tenant, or if they are joint tenants, of rented accommodation belonging to a local authority or a Registered Social Landlord and one person leaves the accommodation because their partner has been violent towards them or a member of their family living with them, or has made threats of such violence, the landlord can apply to the court for a possession order on the grounds of domestic violence. If the court grants this order, the tenancy will be brought to an end.

If the same-sex couple have not formed a civil partnership but are living together as though they are civil partners, the court can still end the tenancy in the circumstances described above.

If the court does this, the landlord may offer the person who sought protection a new tenancy of the property if they are willing to return to their former home. However, the landlord may decide to offer them alternative accommodation.

There are sources of advice available for anyone affected by domestic violence or the threat of domestic violence. One is the **FREE 24HR DOMESTIC VIOLENCE NATIONAL HELPLINE** on **0808 2000 247**. Another is **BROKEN RAINBOW** on **0845 260 4460** (available 9am-1pm, 2pm-5pm) which is a lesbian, gay, bisexual and transgender domestic violence forum. In an emergency, always call 999.

PART ELEVEN - ENDING A CIVIL PARTNERSHIP

A civil partnership ends only on the death of one of the civil partners, or on the issue of a dissolution order or a nullity order or a presumption of death order by a court. This part of the guide focuses on the steps to be taken when one or both of the civil partners choose to end the civil partnership. The most likely option is for one of the civil partners to seek a dissolution order to terminate the civil partnership. But other options are available. For example, if one party did not validly consent either as a result of duress, mistake or unsoundness of mind, then a nullity order may be sought from the court. Or, if the civil partners does not wish to terminate the partnership one of them may ask the court for a separation order.

Ending a civil partnership is a serious step with potentially grave consequences for both parties and for any children. Advice and support for couples thinking about ending a civil partnership is available from a range of sources including **RELATE** on **0845 456 1310**

The dissolution process

Whoever decides to end the civil partnership should seek legal advice. The case will usually be dealt with by a civil partnership proceedings county court, although the High Court will also sometimes deal with especially complex cases.

To end a civil partnership the applicant (“petitioner”) must prove to the court that the civil partnership has irretrievably broken down. Proof of irretrievable breakdown of marriage can be evidenced in the following ways:

- Unreasonable behaviour by the other civil partner;
- Separation for two years with the consent of the other civil partner;
- Separation for five years without the consent of the other civil partner;
- If the other civil partner has deserted the applicant for a period of two years or more.

Nullity

In exceptional circumstances one party to a civil partnership may decide to seek a court order (a “nullity” order) to annul the civil partnership.

Separation

The grounds on which a separation order may be sought are exactly the same as those for a dissolution order. The end result, though is very different, as a person whose civil partnership has been dissolved is free to marry or form a new civil partnership, whereas a separated person remains the civil partner of the other person, as far as the law is concerned.

Property and financial arrangements

If a civil partnership is ending, or if the couple are separating, they will need to decide what should happen to any property which belongs to them. If they agree on how to divide the assets and what maintenance should be paid, they can ask the court to approve the agreement. If they are unable to reach agreement, they can ask the court to decide how the assets should be divided between them.

The court has power to make a range of orders in relation to property and other money, such as income. It can:

- Make an order that one civil partner pay maintenance to the other either for the benefit of the civil partner or for the benefit of any children of the relationship **(known as financial provision orders)**
- Make an order which will adjust the property rights of the civil partners as regards the property and other assets which they own, either together or separately. This may, for example, mean ordering the transfer and ownership of property from one civil partner to another for that person's benefit or the benefit of any children **(known as property adjustment orders)**
- Make an order in relation to the future pension entitlement of one of the civil partners in favour of the other. This order can relate to occupational pensions, personal pensions and other annuities **(known as pension sharing orders)**

Financial provision orders for maintenance can be made before a civil partnership has been ended or a separation order granted by the court. Property adjustment and pension sharing orders only take legal effect once a dissolution, separation or a nullity order has been made by the court.

Even if the couple have been able to agree on maintenance and other property issues they should still seek professional advice on such issues. In most cases

the solicitor dealing with the ending of the civil partnership will be able to provide appropriate advice.

Details of local solicitors with relevant experience can be obtained from the **Community Legal Service** on **0845 3454345**, or by visiting their website www.clsdirect.org.uk/index.jsp
Alternatively, advice is available from any Citizens Advice Bureau.

Care of children

Agreeing the arrangements for the care of any children should be the first priority of couples who are ending their civil partnership or choosing to live apart through separation.

If a couple decide to end the civil partnership the court will want to ensure that both partners are happy with the arrangements for looking after any children. These arrangements may include how the former partners are to share the parenting role in relation to their children as well as what financial support each will provide for those children.

If a couple are unable to agree on arrangements for the care of their children the court may do so as part of the proceedings relating to the application to end the civil partnership. The court will decide how much time the child should spend with each parent and how much financial support should be provided.

Will legal aid be available?

As with applications from spouses wishing to end a marriage, legal aid, advice and assistance may be available to civil partners wishing to end the civil partnership. Availability will depend on the applicant's financial eligibility and on the merits of the case. A solicitor can advise on the legal aid position. More information can be obtained from the Legal Services Commission www.legalservices.gov.uk

CONTACTS FOR FURTHER INFORMATION

For more information about civil partnership, go to the Women & Equality Unit website at www.womenandequalityunit.gov.uk/civilpartnership.htm or email info.civilpartnership@dti.gsi.gov.uk or write to Civil Partnership, WEU, Department of Trade & Industry, 1 Victoria Street, London, SW1H 0ET

Interested in registering a civil partnership? Contact your local register office or go to the General Register Office website www.gro.gov.uk

Stonewall can provide information on a wide range of issues affecting lesbian and gay people. Go to www.stonewall.org.uk

For information on civil partnership in **Northern Ireland**, go to www.olrni.gov.uk

For information on civil partnership in **Scotland**, go to www.scotland.gov.uk/Topics/Justice/Civil/18313/12657

Tax – contact your tax office or go to www.hmrc.gov.uk

Pensions – contact The Pension Service on **0845 6060265**

Social Security Benefits – contact the Benefit Enquiry line on **0800 882200**

Tax Credits – contact the Tax Credits helpline on **0845 3003900**

Child Benefit – contact the Child Benefit helpline on **0845 3021444** or email child.benefit@hmrc.gsi.gov.uk

Child Support Agency – contact **08457 133133**

Adoption – for more information go to www.everychildmatters.gov.uk/socialcare/lookedafterchildren/adoption or contact your local council or voluntary adoption agency

Immigration – contact the Immigration and Nationality Bureau on **0870 6067766** or go to www.ind.homeoffice.gov.uk

Relationship Support – contact **Relate** on **0845 4561310**

Domestic Violence – 24 hour free helpline **0800 2000247**

Broken Rainbow (LGTB domestic violence forum) on **0845 2604460**

