



DAWSONS
SOLICITORS

Guide to
Civil Partnerships

Civil partnership

The Civil Partnerships Act 2004 came into force on 5 December 2005, with the first civil partnerships being registered on 21 December 2005. Since that date, same sex couples who enter into a registered partnership are able to take advantage of the benefits and protection afforded to married couples. However, we would recommend that both parties seek independent legal advice prior to entering into a registered partnership to ensure that they understand the changes to their legal rights and obligations that will occur as a result of registering the partnership.

Entering into a civil partnership

Civil partners will need to sign a registration document before a registrar, in the presence of two witnesses. The process will be something like a civil marriage ceremony. Details of registrars in your area can be obtained from <http://www.gro.gov.uk/gro/content/marriages/> or by telephoning 0151 471 4803. If you choose to enter into a civil partnership, you will be subject to the duties and benefits outlined in the Act. The principal provisions are summarised below:

Your status

Registered partners do not count as "spouses" which may mean that your civil partner is not entitled to some of the fringe benefits you obtain as a result of your employment, or investments. You should make specific enquiries of your employer/benefit providers to ascertain whether your civil partner will be recognised, and if not you should make specific provision for them.

Your home

On the breakdown of a relationship, the Court has wide discretionary powers to make orders relating to the family home, akin to the Orders that can be made on the dissolution of a marriage. As with divorce, on the breakdown of a relationship, the Court can order the transfer of property from one party to the other, the sale of the family home or a lump sum order.

Your children

Civil partners are able to obtain Parental Responsibility for each other's children. On the breakdown of a relationship, a civil partner will also have a duty to provide reasonable maintenance for any children of the family.

Financial Support

On the breakdown of a relationship, a formal dissolution process will be followed, similar to divorce. The Court is able to make Maintenance Orders for the benefit of your civil partner.

Death

Civil partners will have their interest in their partner's estate recognised under the intestacy rules. This means that if your partner dies without leaving a will, their estate will automatically pass to you. If you are considering registering as a civil partnership, we would recommend that you draw up new wills, as any pre-existing wills will be revoked by registration.

Tax

The Civil Partnerships Act 2004 did not in itself allow tax benefits to pass to your civil partner. However separate regulations have been introduced which mean that civil partners now benefit from the same tax exemptions as married couples. Taxation is a specialist area and you should take advice from your solicitor or financial adviser in relation to this.

State Benefits

Civil partners will now be eligible for bereavement benefits on the death of their partner.

Pre-registration Agreements

One of the principal reasons for heterosexual couples choosing not to marry is when one or both parties wish to protect premarital assets in the event of a divorce. Those considering civil partnerships will no doubt have similar concerns.

At present, prenuptial agreements are not enforceable in English Law, although in the event of a divorce the Court can take account of any agreement entered into prior to marriage as one of the factors in the case.

Until the full effect of the Civil Partnerships Act 2004 can be seen, it is unclear what view the Courts will take of pre-registration agreements. However, in the absence of any other authority, it is likely that the Court will take a similar approach to pre-registration agreements on the dissolution of a civil partnership as they do to a prenuptial agreement upon divorce.

A pre-registration agreement could therefore provide useful evidence of both parties' intentions at the date of the union, provided it is properly drafted. This may be particularly important to you where one or both of you are bringing substantial assets or income to the partnership which you wish to protect in the event of a dissolution. It may also be relevant if the laws of more than one country could impact on your relationship, for example where:

- one of you is a foreign national;
- you have assets in another country;
- you have lived or intend to live in another country.

If you are considering entering into a civil partnership, but would like to consider a pre-registration agreement, your solicitor will be able to provide you with assistance.

For further assistance please contact

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