

A Brief Guide to Civil Partnerships

Civil partnership

The Civil Partnership Act 2004 (“the Act”) came into force on 5 December 2005 and enables same-sex couples to obtain legal recognition of their relationship. Couples who form a civil partnership have a new legal status, that of ‘civil partner’. Whilst civil partnership has been referred to as “gay marriage”, this is a misnomer. Under English law, marriage can only take place between an opposite sex couple.

However, the Act has importantly provided that civil partners have equal treatment to 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
- Duty to provide reasonable maintenance for your civil partner and any children of the family
- Ability to apply for parental responsibility for your civil partner’s child
- Inheritance of a tenancy agreement
- Recognition under intestacy rules
- Access to fatal accidents compensation
- Protection from domestic violence
- Recognition for immigration and nationality purposes.

How to register a civil partnership

In order to form a civil partnership the couple must first ‘give notice’. This involves the couple stating their intention to register a civil partnership to their registration authority. Once given, these notices are publicised by the registration authority for a period of 15 days. A civil partnership can be formed in England and Wales at a register office or approved premises.

The General Register Office has detailed information on the process and costs of forming a civil partnership.

Dissolution of a civil partnership

Civil partnership dissolution is for same-sex couples who have formed a legally recognised civil partnership which has ended.

To obtain a civil partnership dissolution, the parties must have been in either a registered civil partnership, or recognised foreign relationship, for twelve months. To begin the dissolution process the person seeking the dissolution (“the Applicant”) must complete a form, called a “Petition”, alleging that the civil partnership has broken down irretrievably and given the reasons (the “facts”) why s/he is applying for such dissolution.

The facts available to establish such irretrievable breakdown are similar to those in divorce, namely:-

1. That the Respondent has behaved in such a way that the Applicant cannot reasonably be expected to live with the Respondent;
2. That the Applicant and the Respondent have lived apart for a continuous period of at least two years immediately preceding the making of the application (“two years’ separation”), and the Respondent consents to a dissolution order being made;
3. That the Applicant and the Respondent have lived apart for a continuous period of at least five years immediately preceding the making of the application (“five years’ separation). The Respondent’s consent in these circumstances is not required;
4. That the Respondent has deserted the Applicant for a continuous period of at least two years immediately preceding the making of the application.

Since the process is a Court based one, the person applying for the dissolution will have to provide evidence to the Court that the civil partnership has broken down irretrievably.

If the parties have children, the Petitioner must also complete a form called a “Statement of Arrangements for Children” in which the court is told what plans have been made for the children once the dissolution is final. This will include such things as who will care for the children, where they will live after the dissolution and what arrangements have been made for their support.

Once the Petition and supporting documents have been lodged with the Court, the Court will issue the Petition and, if requested so to do by the Petitioner, will arrange service (by post) of the paperwork upon the Respondent partner. It is assumed for the purposes of this guide that s/he will be cooperative in completing and returning a form called an “Acknowledgement of Service” to the Court. It is further assumed that s/he will not contest or defend the Petition.

Once the completed Acknowledgement of Service is returned, the Court will supply the Petitioner with a sealed copy of the document. The Petitioner then swears a statement (called an Affidavit) to which the sealed copy of the Acknowledgement of Service is attached. These documents are then forwarded to the Court, accompanied by an Application for a Conditional Order.

Provided that the Judge who deals with this application is satisfied with the evidence provided by the Petitioner and the arrangements for any relevant children, s/he will certify this. The court staff will then list the matter for the pronouncement of the Conditional Order. It is not usually necessary for either party to attend the hearing when the Conditional Order is pronounced.

Application for the making final of a Conditional Order can be made six weeks and one day from the date of pronouncement of the Conditional Order. The Final Order has the effect of dissolving the civil partnership.

It is important to note that there are currently only ten courts in England and Wales that are able to deal with civil partnership proceedings. These are Birmingham, Brighton, Bristol, Cardiff, Chester, Exeter, Leeds, Manchester, Newcastle and the Principal Registry of the Family Division in central London.

For further information regarding matters arising from this article, please telephone Sofia Dionissiou-Moussaoui on 0207 872 0023 or email her: sofia.moussaoui@dwfmbeckman.com

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