



Department of  
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# CIVIL PARTNERSHIP

## What does it mean for you?

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**THE CIVIL PARTNERSHIP ACT 2004:  
LEGAL RECOGNITION FOR SAME-SEX  
RELATIONSHIPS**

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## **Part One: Introduction**

The Civil Partnership Act 2004 comes into force on 5th December 2005. The Act enables same-sex couples to obtain legal recognition of their relationship by forming a civil partnership. Civil partnership is not available for opposite-sex couples, who may, if they wish, marry in order to obtain legal recognition of their relationship.

Civil partnership is a new legal status which permits same-sex couples to enjoy many of the rights and responsibilities which those people who have married enjoy, such as rights to a survivor's pension, rights under inheritance laws. But it also comes with responsibilities, for example the obligation to maintain the other civil partner and any children of the family.

The aim of this guidance is to provide information about the consequences of forming a civil partnership and it is intended primarily for those individuals considering entering into a civil partnership in Northern Ireland. But we hope that this guidance will also be of use to others, such as employers and those providing services to the public eg. civil servants, doctors, teachers, social workers etc as a non-legalistic guide to the implications for the wider community of the new status of civil partnership. It will also provide details of where further and more detailed information on specific issues such as social security benefit entitlement or housing rights may be found.

This guidance is not intended to be a complete or authoritative statement of the law. If you are uncertain about your legal position you should seek legal advice.

The Act applies across the United Kingdom and establishes separate systems of civil partnership registration in Northern Ireland, England and Wales and Scotland. This will enable civil partners to move freely throughout the UK without losing the rights and responsibilities they have in relation to each other. You can form your civil partnership in any part of the United Kingdom, although the formal steps you have to take will vary. This guidance deals only with the procedures for forming and the consequences of civil partnership in Northern Ireland.

This guidance has been produced by the Office of Law Reform (OLR) in the Department of Finance and Personnel, with the assistance of a number of other Government Departments, including the Office of the First Minister and Deputy First Minister (OFMDFM). The guidance aims to reflect the wide-ranging nature and effect of civil partnership for those who form the relationship and those who interact with them.

Government's Priorities and Budget commits OFMDFM's Gender Equality Unit to bring forward a strategic action plan to address sexual orientation issues. This strategic action plan, which is currently being developed, aims to bring a specific focus to issues affecting lesbian, gay and

bisexual (LGB) people and the work of the Unit has benefited from working closely with an informal network of representatives from the LGB community in Northern Ireland. It is intended that the draft sexual orientation strategic plan will be the subject of wide-ranging consultation and will be published on the OFMDFM website. Further guidance on sexual orientation issues generally, and in particular discrimination, has been produced by the Equality Commission for Northern Ireland. The publication, "**Sexual Orientation Discrimination in Northern Ireland: the Law and Good Practice**", is available at <http://www.equalityni.org/publications/publications.cfm>.

This guidance is available in paper based and internet based format at <http://www.olrni.gov.uk>. Copies may be made available in other languages and formats as required. Copies of the guidance may be requested by contacting:

The Office of Law Reform  
1st Floor  
Lancashire House  
5 Linenhall Street  
Belfast BT2 8AA  
Tel: 028 90 542900  
Fax: 028 90 542909  
Email: [info@olrni.gov.uk](mailto:info@olrni.gov.uk)

The Civil Partnership Act 2004 and Explanatory Notes are available from the Stationery Office at 16 Arthur Street, Belfast BT1 4GD, tel 028 9023 8451, fax 028 9023 5401.

The Act may also be found at <http://www.opsi.gov.uk/acts/acts2004.htm>

The Explanatory Notes can be found at <http://www.opsi.gov.uk/acts/expa2004.htm>

For more information about civil partnership in England and Wales contact:

Women and Equality Unit  
Department of Trade and Industry  
3rd Floor  
1 Victoria Street  
London SW1H 0ET  
Email: [info@womenandequalityunit.gsi.gov.uk](mailto:info@womenandequalityunit.gsi.gov.uk)  
Website: <http://www.womenandequalityunit.gov.uk>

For more information about civil partnership in Scotland contact:

Justice Department

Scottish Executive

St Andrew's House

Edinburgh EH1 3DG

Email: [civilpartnershipregistration@scotland.gsi.gov.uk](mailto:civilpartnershipregistration@scotland.gsi.gov.uk)

Website: <http://www.scotland.gov.uk/Topics/Justice/Civil/18313/12657>

## Part Two: How to form a civil partnership

This part of the guidance explains who may form a civil partnership in Northern Ireland and what steps need to be taken.

### Eligibility

Two people may form a civil partnership by registering as civil partners provided:

- They are of the same sex
- They are not already in a civil partnership or lawfully married
- They are not within prohibited degrees of relationship (this means that you cannot form a civil partnership with someone who is closely related to you)
- They are both aged sixteen or over (and, if either of them is under eighteen, the consent of the appropriate bodies or person has been obtained)
- They understand the nature of civil partnership

Civil partnership registrations are carried out by registrars appointed by each of the 26 councils in Northern Ireland. These registrars act under the supervision of the Registrar General for Northern Ireland. Registrars are under a legal duty to register civil partnerships. Annex 1 contains the contact details for registrars.

### Formation of a civil partnership

#### Giving notice to the registrar

A couple wanting to form a civil partnership will have to give at least 14 days notice (preferably 3 months) to the registrar of an intention to form a civil partnership. The ***civil partnership notice*** form will be available from the local registrar. In the notice it will be necessary to provide details of name and surname, age, nationality and whether or not the person has been a civil partner or lawfully married in the past. A separate notice is required for each person.

Once both notices have been received the registrar will enter the details in a ***civil partnership notice book*** and put on display the names of the intending civil partners and the date on which they intend to form the civil partnership. The addresses of intending civil partners will not be made available to the public.

## The Civil Partnership schedule

Once the registrar is satisfied that the details provided by the intending civil partners are correct, a **civil partnership schedule** will be produced. This is the document that will be signed by the intending civil partners, the registrar and two witnesses. On the day the civil partnership is to be formed the registrar will invite the civil partners and witnesses to sign the Schedule. The legislation prevents any religious service accompanying the signing of the Schedule.

## Place of Registration

Most intending civil partners are likely to form their civil partnership at a local registration office. But they will also be able to form the civil partnership at other venues, such as hotels, which have been approved for that purpose by local registration authorities.

## How much will it cost?

The fees payable by those wishing to form a civil partnership will be broadly comparable to those applying in relation to civil marriage. Additional fees may also payable depending on the venue for the registration of the civil partnership. Further information on all fees payable will be available from the General Register Office at <http://www.groni.gov.uk> or from local registrars.

## Civil Partners who were formerly married to each other

Special arrangements are available for those existing married couples, one of whom is a transsexual, who wish to form a civil partnership following the annulment of their marriage by a court on the basis that one of the couple has received an interim gender recognition certificate from the Gender Recognition Panel. Couples in this situation who wish to form a civil partnership should contact the General Register Office on 028 90 252036/7 as early as possible to ensure that the necessary arrangements can be put in place.

**For more information on the process of changing gender go to <http://www.grp.gov.uk>.**

## Civil partnerships involving Non-EEA nationals

There are restrictions affecting the formation of a civil partnership in the UK where either of the proposed civil partners is subject to UK immigration control (eg on a visa). Swiss nationals and nationals of the European Economic Area (EEA) are not subject to immigration control. The

EEA comprises the 25 member states of the European Union, as well as Norway, Iceland and Liechtenstein.

**Further information on immigration and nationality issues can be accessed at <http://www.ind.homeoffice.gov.uk> or by telephoning the Immigration and Nationality Directorate on 0870 606 7766.**

There are also separate registration procedures when one of the parties to the intended civil partnership is a non-EEA national. **For further information contact the General Register Office on 028 90 252036/7.**

## **Overseas relationships**

You may already have formed a civil partnership or a civil union or have married a person of the same-sex abroad. In certain cases this relationship will be recognised in the United Kingdom as a civil partnership and you and your partner will be treated as if you had formed the civil partnership in the United Kingdom. If the relationship you formed overseas is recognised as a civil partnership in Northern Ireland you do not need to go through a second registration procedure here.

Some overseas relationships will automatically be treated as civil partnerships here. These are relationships listed in the new legislation and currently include relationships formed in Belgium, Canada, Denmark, Finland, France, Germany, Iceland, Netherlands, Norway, Sweden and the State of Vermont in the USA. This list will be updated before December 2005 and can be found at **<http://www.womenandequalityunit.gov.uk>**

If your overseas relationship is not included in the list above, your relationship will still be recognised throughout the UK if it meets certain conditions. Under the law of the country where the relationship was formed the relationship must

- (i) be exclusive in nature,
- (ii) be intended to be for life, and
- (iii) result in the parties to the relationship being regarded as a couple or treated as married.

## Further information on forming a civil partnership in Northern Ireland

The Civil Partnership Notice forms and other information on forming a civil partnership in Northern Ireland are available from local registrars at the addresses listed in Annex 1, or from:

General Register Office  
Oxford House  
49-55 Chichester Street  
Belfast BT1 4HL  
Tel: 028 9025 2036/7  
Fax: 028 9025 2136  
Email: [groreg.nisra@dfpni.gov.uk](mailto:groreg.nisra@dfpni.gov.uk)  
Website: <http://www.groni.gov.uk>

### Forming a civil partnership in England and Wales

If you wish to form a civil partnership in England and Wales contact:

General Register Office  
Marriages & Civil Partnership Section  
Trafalgar Road  
Southport PR8 2HH  
Tel: 0151 471 4803/4814  
Email: [civilpartnerships.gro@ons.gsi.gov.uk](mailto:civilpartnerships.gro@ons.gsi.gov.uk)  
Website: <http://www.gro.gov.uk>

### Forming a civil partnership in Scotland

If you wish to form a civil partnership in Scotland contact:

General Register Office for Scotland  
New Register House  
3 West Register Street  
Edinburgh EH1 3YT  
Tel: 0131 314 4467  
Email: [lou@gro-scotland.gov.uk](mailto:lou@gro-scotland.gov.uk)  
Website: <http://www.gro-scotland.gov.uk>

## Part Three: Effect on family relationships

### Children

Some civil partners may have children from a previous relationship. The new legislation clarifies the relationship between a civil partner and the children of his or her civil partner. A civil partner will become the step-parent of his or her civil partner's children. This in itself will not confer legal parental responsibility for a step-child on the step-parent. To acquire parental responsibility in relation to the other civil partner's children the step-parent will have to apply to a court for a parental responsibility order which will allow the step-parent to make decisions in relation to the children of the other partner. The type of decisions which the step-parent with parental responsibility will be able to take may include decisions about medical treatment, the education and up-bringing of the child etc.

The civil partner will also be able to apply for residence or contact orders in relation to the other civil partner's children. These orders address such issues as who the child lives with and how much time the child spends with each parent.

### Other 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 descriptions of family relationships such as "mother-in-law", "brother-in-law", "step-daughter" etc will apply to relationships which arise as a result of civil partnership. Therefore the brother of a person who has entered into a civil partnership becomes the brother-in-law of the other civil partner.

### "Next of kin status"

Guidance issued to health care professionals will make clear that civil partners of patients should be accorded the same degree of consideration in decision-making as a spouse would be. While the concept known as "next-of-kin" has no legal basis, once a couple have formed a civil partnership they should generally be regarded as the next-of-kin of each other.

### Adoption

At present adoption law in Northern Ireland does not permit the adoption of children by same-sex couples. A wide-ranging review of adoption law and services is currently being carried out by the Department of Health, Social Services and Public Safety (DHSSPS) and new legislation dealing with these issues is expected in 2006/2007.

Further information on the review of adoption law is available on <http://www.dhsspsni.gov.uk/childcare/adoption-strategy.asp>.

## Part Four: Domestic violence

Domestic violence is a real problem in Northern Ireland. The number of people who are affected by domestic violence in Northern Ireland in any year is impossible to calculate. However, there is no reason to suppose that it is an issue which only affects opposite-sex couples.

Domestic violence can take many forms and can go beyond actual physical abuse. It can involve emotional abuse - for example threats to others, including children; the destruction of property; stalking and controlling behaviour. Domestic violence and abuse may be defined as threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on one person by another where they are or have been intimate partners or family members, irrespective of gender or sexual orientation.

While the existing legislation already makes limited provision protecting same-sex couples, the Civil Partnership Act 2004 has amended the main legislation and gives to civil partners, former civil partners and other same-sex cohabiting couples the same protection from domestic violence as is afforded to spouses, former spouses and other opposite-sex cohabiting couples.

### Help is available

Anyone affected by domestic violence or the threat of domestic violence can now access a 24-hour helpline from Northern Ireland on 0800 917 1414. Advice and support and counselling services are available from a number of organisations such as **Lesbian Line, Rainbow, Women's Aid, Men's Advisory Project and Men-to-Men** (contact addresses in Annex 2).

### Remedies available

Under the Family Homes and Domestic Violence Order 1998 a civil partner will be able to obtain one of four types of remedies:

- **Non-molestation orders** – these are designed to protect individuals in certain family or domestic relationships, and/or certain children, from the use of violence or other forms of molestation. This provision should give wide protection, as there is no requirement to prove that violence has been used or threatened.
- **Occupation orders** - these orders declare, confer or regulate occupation (but not *ownership*) rights in the family home between those in certain family or domestic relationships. If combined with a non-molestation order, occupation orders can be used for protection purposes. Alternatively, they can simply be used to declare or

regulate the right of occupation in the home in cases where protection is not an issue but where the relationship has broken down and the parties require the court to determine who should occupy the home in the short term.

- **Exclusion requirements attached to interim care or emergency protection orders** – these permit the court to attach an “exclusion requirement” to an interim care order or emergency protection order under the Children (Northern Ireland) Order 1995. This will allow a suspected abuser to be removed from the home rather than the child.
- **Orders for transfer of certain tenancies** – the court has power to transfer certain protected, secure or statutory tenancies between former civil partners or persons living together as if they were civil partners who are no longer living together.

## Part Five: Benefits and Tax

How will forming a civil partnership affect your entitlement to the benefits that you may be receiving?

### Social security benefits

From 5 December 2005, civil partners who make a claim for income related benefits such as Income Support and Income Based Jobseekers Allowance will have their claims assessed in the same way as married people. The new provisions will also ensure that a person who is "living together" with a same-sex partner will be treated in the same way as a person who is "living together" with an opposite-sex partner. If you are claiming benefit as a single person at the moment, you may have to claim again as a couple from 5 December 2005. This is because you could be paid too much benefit and have to pay it back later. Benefit entitlement will be assessed on each individual set of circumstances in the normal way.

As soon as you form a civil partnership you and your civil partner will be treated in the same way as married couples are currently treated for Social Security Benefit purposes, including Retirement Pension and Bereavement Benefit.

### Carers allowance

If you are entitled to Carers Allowance you can claim extra money for your civil partner providing their weekly income is less than the Adult Dependant Increase. **You can obtain a claim form by calling 028 9090 6186** or alternatively you can pick one up from your nearest Social Security Office.

### Child Support

If you are living together as a couple, whether or not you decide to form a civil partnership, you should get in touch with whoever deals with your claim to check if your Child Support will be affected.

### Tax Credits

From 5th December 2005, if you are claiming child tax credit or working tax credit as a single person but are living with a same-sex partner, or start to live with a same-sex partner as a couple, you must report your circumstances to the Inland Revenue. From 5th December 2005, same-sex couples will be required to make joint tax credit claims whether or not they form a civil partnership.

## Child Benefit

Child Benefit is a weekly benefit payable, regardless of income, to a person responsible for a child. The claimant can either be a person with whom the child is living or a person who contributes towards that child's support. A higher rate of child benefit is paid for the eldest child in a family. From 5th December 2005, if someone is living in a same-sex relationship, whether or not in a civil partnership, and they are both getting the higher rate of child benefit, they should inform HM Revenue and Customs Child Benefit Office who will decide which person which person will receive the higher rate.

## How will forming a civil partnership affect my tax position?

As soon as you form a civil partnership you and your civil partner will be treated in the same way as married couples are currently treated for tax purposes. The main changes in your tax position will be in relation to capital gains tax and inheritance tax when one of the civil partners dies. Advice on the tax implications of forming a civil partnership is available from your nearest Inland Revenue office. **You can find out where your local Inland Revenue office is by telephoning 0845 302 1469.**

### More information

For information on social security benefits please visit the Social Security Agency's website at <http://www.dsdni.gov.uk> or call the Benefits Helpline on 0800 22674.

For information on tax credits contact HM Revenue and Customs, Tax Credits Office, Dorchester House, 52 Great Victoria Street, Belfast BT2 7WF or call the Tax Credits Helpline on 0845 603 2000.

For information on Child Benefit contact the Child Benefit Office (NI), Windsor House, 9-15 Bedford Street, Belfast BT2 7UW or call the Child Benefit Helpline on 0845 603 2000.

For more information on child support contact the Child Support Agency, Great Northern Tower, 17 Great Victoria Street, Belfast BT2 7AD or call 0845 713 9896 (old scheme cases) or 0845 608 0022 (new scheme cases).

More information on the tax consequences of forming a civil partnership is available at <http://www.hmrc.gov.uk>.

## Part Six: Employment rights

Forming a civil partnership will not impact upon the employment rights of most people. However, in certain circumstances, civil partners with children may benefit from the introduction of the new legislation.

### Flexible working

The civil partner of a person with a child under six or a disabled child under 18 may be able to take advantage of the right to request flexible working arrangements from his or her employer. An employee in this situation will have the right to request a change to his or her working pattern to care for the child in question, although the employer may refuse such an application if there are business-related grounds for doing so. More information on the right to request flexible working is contained in the Employment Rights booklet **ER36: Flexible Working – A guide for employers and employees**.

### Statutory paternity, maternity and adoption leave and pay

The civil partner of the birth mother or adoptive parent of a child will be able to receive statutory paternity pay and take statutory paternity leave in respect of that child. The other civil partner (the birth mother or the parent who has adopted the child) will be entitled in the normal way to statutory maternity pay or statutory adoption pay and leave as appropriate. There is, however, no facility at present for civil partners to adopt a child jointly in Northern Ireland. More information on paternity and adoption rights can be found in the booklets **ER34: Rights to paternity leave and pay** and **ER35: Adoptive parents – a guide for employers and employees**.

### Other employment rights

- In some circumstances people are entitled to take a reasonable amount of time off during their working hours in order to provide necessary assistance or make arrangements in respect of a dependant. A man or woman will be able to avail of this right in respect of their civil partner.
- A civil partner of a trade union member will be entitled to the same death benefits arising from their civil partner's trade union membership as the husband or wife of a trade union member.
- A civil partner of an employed person will have the same protection in law from intimidation or the use of violence connected with industrial action as the husband, wife or children of the employed person.

- Where an employee has died, any tribunal proceedings arising under specified provisions of the Employment Rights (Northern Ireland) Order 1996, including guarantee payments, protection from suffering detriment, time off work, suspension from work, maternity leave, written statement of reasons for dismissal, unfair dismissal, redundancy payments and handling procedures, and insolvency of employers, may be instituted or continued on behalf of the estate of the deceased employee by any appropriate person appointed by the industrial tribunal. The civil partner of the deceased employee will now be considered an appropriate person along with the surviving spouse, parent, brother or sister of the deceased employee.

## **Anti-discrimination law**

As regards discrimination in employment, civil partners will have the same protection as married people. In addition, civil partners and spouses will be treated in the same way in relation to workplace benefits (such as the provision of private health insurance).

### **More information**

The guidance mentioned above, together with information about other employment rights, is available from the Library facility of the Department for Employment and Learning's Employment Rights website at <http://www.delni.gov.uk/erlibrary>.

More information on anti-discrimination legislation can be found on the Office of the First Minister and Deputy First Minister's website at: <http://www.ofmdfmni.gov.uk/equality>.

Information on civil partnership for employers can be found at <http://www.acas.org.uk>.

## Part Seven: How to end a civil partnership

A civil partnership ends only on the death of one of the civil partners, or on the issue by a court of a dissolution order or a nullity order or a presumption of death order. This part of the guidance focuses on the steps to be taken when one or both of the civil partners choose to end the civil partnership. The most common option will be for one of the civil partners to seek a dissolution order which will terminate the civil partnership. But other options are available. If there was a material defect in the capacity of either party to enter into a civil partnership then a nullity order may be sought from the court. Or, if the civil partners do 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 of the family. Advice and support for couples contemplating ending a civil partnership is available from a range of sources including **Relate** at <http://www.relateni.org> (tel: 0870 2426091) or **Family Mediation (NI)** at <http://www.familymediationni.org.uk> (tel: 028 90 243265).

### The dissolution process

If one or both civil partners have decided to end the civil partnership legal advice is desirable. The case will usually be dealt with by a 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 civil partnership can be shown/demonstrated in the following ways:

- Unreasonable behaviour by the other civil partner;
- Separation for 2 years with the consent of the other civil partner;
- Separation for 5 years without the consent of the other civil partner;
- If the other civil partner has deserted the applicant for a period of 2 years or more.

### Nullity

In exceptional circumstances one party to a civil partnership may decide that no valid civil partnership was ever formed by the couple, and seek a court order (a “nullity” order) to the effect that the civil partnership was either void or voidable at its inception. The rules governing void and voidable civil partnerships are complex. Legal advice is recommended.

## Separation

The grounds on which a separation order may be sought are exactly the same as those on which an application for a dissolution order may be sought. The difference between the two orders is that whereas a person whose civil partnership has been dissolved is free to marry or form a new civil partnership, a separated person remains in law as the civil partner of the other person.

Although still lawfully in a civil partnership, the separated couple are nevertheless able to use the courts to resolve any disputes they may have about maintenance and property and the care of any children from the relationship (see below).

## Property and financial arrangements

If a civil partnership is ending, or if you are separating, you and your civil partner will need to decide what will happen to any property which belongs either to you as a couple or which each of you own separately. You can also agree what maintenance, if any, is necessary to make reasonable financial provision for one of the civil partners and the children of the civil partnership. You may be able to agree on how to divide your assets and what maintenance should be paid, and in this case you can ask the court to approve the agreement you have reached.

If you are unable to reach agreement with your civil partner you can ask the court to decide how money and property should be divided between you.

The court has power to make a range of orders in relation to property and income. The court 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 family (**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 civil partner. 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 orders and pension sharing orders only take legal effect once the civil partnership has ended through a dissolution order or a nullity order having been made by the court, or when the court has made a separation order.

Even if you and civil partner are able to agree on maintenance and other property issues you should always seek professional legal advice on such issues. In most cases the solicitor dealing with the ending of your civil partnership will be able to provide appropriate advice.

## Care of children

Agreeing the arrangements for the care of any children of the family should be the first priority of couples, whether they are ending the civil partnership or choosing to live apart through legal separation.

The court dealing with your case will wish to be satisfied that you and your civil partner have agreed the arrangements you have made for looking after any children of your family. These arrangements may include how you and your former partner are to share the parenting role in relation to your children as well as what financial support each of you will provide for those children.

If you are unable to agree on arrangements for the care of your children it will be possible for the court to decide on these issues as part of the court proceedings relating to your application to end the civil partnership. The court will be able to decide on how much time the child should spend with each parent and how much financial support should be provided for the children.

Support for parents considering ending their civil partnership is available from a range of sources including **Parents Advice Centre** at <http://www.pachelp.org> (tel: 0800 8010 722).

## Will legal aid be available?

Legal aid, advice and assistance may be available to civil partners wishing to end the civil partnership. This will depend on the applicant's financial eligibility and on the merits of the case. A solicitor can advise you on the legal aid position. **More information on legal aid may be obtained from the Northern Ireland Legal Services Commission at <http://www.nilsc.org.uk> (tel: 028 9024 6441).**

## Part Eight: Wills, intestacy, family provision on death

This and the next part of the guidance provide information about the rights which arise upon the death of a civil partner.

### Wills

Making a will is a sensible way of ensuring that your possessions are disposed of on your death in accordance with your wishes.

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. Many solicitors offer an inexpensive will making service.

The most valuable asset which civil partners will have is likely to be the home they share. If they own the home jointly then on the death of one of them the other civil partner automatically becomes the owner of the home.

But all other property in the possession of one or other of the civil partners will be available for disposal in accordance with the terms of the civil partner's will or under the intestacy rules (see below).

#### Existing wills – warning

**It is important for people thinking about forming a civil partnership to be aware that any will already made by the intending civil partner will be revoked by the formation of a civil partnership, unless the will clearly states that the will should not be revoked in these circumstances. Best practice for both newly-weds and new civil partners would be for both parties to make new wills.**

**The law also provides that if the civil partnership is ended, then gifts in the will to the former civil partner are ineffective, unless it is clear from the will that such a gift was intended to take effect on the death of the deceased civil partner (despite the ending of the civil partnership).**

### Intestacy

If a person dies without making a will there are special and complex legal rules which determine how the "estate" of the deceased should be shared amongst that person's spouse, civil partner, children and other relatives. A person's "estate" is the property owned solely by the deceased and may include land, houses, household and personal items, money, stocks,

shares and other investments. Under the new law if a civil partner dies intestate (without making a valid will) and the deceased had no children, then his or her civil partner is entitled to up to £200,000 out of the estate and a half share of the amount which is left. The rest is divided amongst other relatives.

If the deceased had children then the amount which the surviving civil partner is entitled to is up to £125,000. The surviving civil partner also receives the income from half of the amount which is left.

## **Family provision**

Sometimes a surviving civil partner will consider that neither the deceased civil partner's will or the intestacy rules makes reasonable financial provision for that person. If a surviving civil partner thinks this is the case then he or she can apply to a court asking the court to award him or her a certain sum of money out of the estate of the deceased or, for example, to order that ownership of the family home be given to the surviving civil partner.

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

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

A person who lived in the same house as the deceased as if they were civil partners for two years immediately before the death of the deceased is also entitled to make an application for reasonable financial provision.

## Part Nine: Life insurance, fatal accidents, criminal injuries compensation, occupational pensions

### Life insurance

There are special legal rules which will apply to life insurance contracts. Under the new legislation a civil partner will be able to insure his or her life for the benefit of his or her civil partner and for the benefit of the children of the civil partnership.

### Fatal accidents

If a person dies in an accident which has been caused by the negligence or fault of another, then that person's civil partner or a person who was living with him or her as if in a civil partnership will be entitled to claim compensation because of the death. The current amount of damages recoverable upon a death in such circumstances is £10,000.

### Criminal injuries compensation

Civil partners, or those living together as civil partners, claiming under the Criminal Injuries Compensation Scheme 2002 or the Criminal Damage (Compensation) Order 1977 will be afforded the same rights as married couples or those living together as married. **More information is available on the Compensation Agency website at <http://www.compensationni.gov.uk>.**

### Occupational pensions

As well as their rights in the family home, surviving civil partners will need to know about their entitlement to inherit the pension rights of the deceased civil partner.

The new rules for civil partners mean that a surviving civil partner will benefit from a survivor's pension based on the years worked by their deceased partners from 6th April 1988 to the date the deceased retired. This is the rule which currently applies to widowers claiming a survivor's pension based on his wife's earnings.

If a civil partner dies in service the surviving civil partner will benefit from a pension entitlement based on the years worked from 6th April 1988 to the date of the death of the civil partner.

This new rule will apply to all public sector pensions such as civil service, NHS, local government, teachers, fire service, PSNI and army pensions. The new rules also apply to all

contracted out private pension schemes. Most private sector pension schemes already provide benefits to surviving partners in a same-sex relationship and will be obliged to continue this practice in relation to civil partners. **Any questions about how forming a civil partnership will affect your pension rights should be made to your employer.**

## **State Pensions**

From 5th December civil partners will enjoy most of the same state pension rights as husbands, and they will be treated in the same way as married couples after 2010 when the treatment for men and women will be equalised. If you have any questions about your state pension rights you should contact:

### **The Pension Service**

Windsor House  
9 - 15 Bedford Street  
Belfast BT2 7UE  
Tel: 028 9054 9393

## **Part Ten: Tenancy Rights**

One of the most important things about our lives is where we live and the rights to remain in our homes if something goes wrong. The Civil Partnership Act 2004 has important consequences for the tenancy rights of those who have formed a civil partnership or who are living together as if they were civil partners.

### **Tenancy rights during the civil partnership**

If your civil partner is the tenant of rented accommodation belonging to the Housing Executive or a Registered Housing Association and you leave the accommodation because your partner has been violent towards you or towards a member of your family who is living with you, or has made threats of such violence, your partner could lose the tenancy if the landlord applies for a court order on the grounds of domestic violence.

Similarly, if you and your civil partner hold a joint tenancy of rented accommodation belonging to the Housing Executive or a Registered Housing Association and you leave the accommodation because of violence or threats by your civil partner, your partner could lose their “half” of the tenancy.

If the court decides to end the tenancy because of domestic violence, the landlord will normally offer the tenancy to you, if you are willing to return to your former home after your partner has gone.

If you and your partner had not formed a civil partnership under the new legislation, the court would still have the power to end the tenancy or your former partner’s share in it in the circumstances described above. The landlord should still be prepared to offer the tenancy to you.

### **Tenancy rights on death**

If your civil partner dies then you may have certain rights to continue living in the home you shared if your civil partner was the tenant of the property. This section applies to civil partners who are living in rented accommodation belonging to the Housing Executive, a Registered Housing Association or private landlord. The new legislation creates equality of treatment between spouses and civil partners in their right to succeed to a tenancy when one of the civil partners dies.

## Public sector tenancies

The majority of civil partners living in social housing will occupy properties provided by the Housing Executive or by Registered Housing Associations. Such properties are normally occupied under tenancies which may be either “secure” or “introductory”. Provided you occupy the property as your only or main home you will be able to succeed to the tenancy on the death of your civil partner if your partner was the named tenant of your home.

If you and your partner had not formed a civil partnership under the new legislation you may still be qualified to succeed to a secure or introductory tenancy if you were living with your partner as if you were civil partners for at least 12 months prior to your partner’s death.

## Private sector tenancies

If you are living in privately rented accommodation you may be a “protected” or “statutory” tenant. Similar rules apply to your right to stay in your home after the death of your partner or someone you were living with as if you were civil partners.

### More information

Further information on your rights in relation to Housing Executive and Housing Association tenancies is available at <http://www.nihe.gov.uk/publications/leaflets/handbook.pdf>.

For further information on private sector tenancies you can contact the Housing Rights Service <http://www.housingrights.org.uk>.

## Contact details for local government registrars

**The Registrar**  
**Antrim Borough Council**

The Steeple  
Steeple Road  
Antrim BT41 1BJ  
Tel: 028 9448 1315

**The Registrar**  
**Ards Borough Council**

2 Church Street  
Newtownards BT23 4AP  
Tel: 028 9182 4003

**The Registrar**  
**Armagh City & District Council**

Council offices  
The Palace Demesne  
Armagh BT60 4EL  
Tel: 028 3752 9615

**The Registrar**  
**Ballymena Borough Council**

80 Galgorm Road  
Ballymena BT42 1AB  
Tel: 028 2566 0352

**The Registrar**  
**Ballymoney District Council**

Riada House  
14 Charles Street  
Ballymoney BT53 6DZ  
Tel: 028 2766 0206

**The Registrar**  
**Banbridge District Council**

Civil Building  
Downshire Road  
Banbridge BT32 3JY  
Tel: 028 4066 0614

**The Registrar**  
**Belfast City Council**

City Hall  
Belfast BT1 5GS  
Tel: 028 9032 0202

**The Registrar**  
**Carrickfergus Borough Council**

Town Hall  
Joymount  
Carrickfergus BT38 7DG  
Tel: 028 9335 1604

**The Registrar**  
**Castlereagh Borough Council**

Civil Centre  
Borough Court  
Belfast BT8 6RB  
Tel: 028 9049 4520/1

**The Registrar**  
**Coleraine Borough Council**

66 Portstewart Road  
Coleraine BT52 1EY  
Tel: 028 7034 7020

**The Registrar**  
**Cookstown District Council**  
Burn Road  
Cookstown BT80 8DT  
Tel: 028 8676 2205

**The Registrar**  
**Derry City Council**  
98 Strand Road  
Derry BT48 6DQ  
Tel: 028 7126 8439

**The Registrar**  
**Dungannon District Council**  
Council offices  
Circular Road  
Dungannon BT71 6DT  
Tel: 028 8772 0329

**The Registrar**  
**Larne Borough Council**  
Smiley Buildings  
Victoria Road  
Larne BT40 1RU  
Tel: 028 2827 2313

**The Registrar**  
**Lisburn Borough Council**  
Island Civic Centre  
The Island  
Lisburn BT27 4RL  
Tel: 028 9250 9250

**The Registrar**  
**Moyle District Council**  
Sheskburn House  
7 Mary Street  
Ballycastle BT54 6QH  
Tel: 028 2076 2225

**The Registrar**  
**Craigavon Borough Council**  
PO Box 66  
Craigavon BT64 1AL  
Tel: 028 3831 2400

**The Registrar**  
**Down District Council**  
24 Strangford Road  
Downpatrick BT30 6SR  
028 4461 0825

**The Registrar**  
**Fermanagh District Council**  
Townhall Street  
Enniskillen BT74 7BA  
Tel: 028 6632 5050

**The Registrar**  
**Limavady Borough Council**  
7 Connell Street  
Limavady BT49 0HA  
Tel: 028 7772 2226

**The Registrar**  
**Magherafelt District Council**  
50 Ballyronan Road  
Magherafelt BT45 6EN  
Tel: 028 7939 7979

**The Registrar**  
**Newry and Mourne District Council**  
District Council Offices  
Town Hall  
Newry BT35 6HR  
Tel: 028 3026 1512

**The Registrar**  
 **Newtownabbey Borough Council**  
Mossley Hill  
Newtownabbey BT 36 5QA  
Tel: 028 9034 0179

**The Registrar**  
 **Omagh District Council**  
The Grange  
Mountjoy Road  
Omagh BT79 7BL  
Tel: 028 8224 5321

## Annex 2

### Some useful addresses

#### **Belfast Butterfly Club**

C/o Cara-Friend  
PO Box 210  
Belfast BT1 1BG

#### **Equality Commission for Northern Ireland**

Equality House  
7-9 Shaftesbury Square  
Belfast BT2 7DP  
Tel: 028 90 500600  
Email: [information@equalityni.org](mailto:information@equalityni.org)  
Website: <http://www.equalityni.org>

#### **Housing Rights Service**

Middleton Buildings  
10-12 High Street  
Belfast BT1 2BA  
Tel: 028 90 245640  
Website: <http://www.housingrights.org.uk>

#### **Law Society of Northern Ireland**

Law Society House  
98 Victoria Street  
Belfast BT1 3JZ  
Tel: 028 90 231614  
Email: [info@lawsco-ni.org](mailto:info@lawsco-ni.org)  
Website: <http://www.lawsoc-ni.org>

#### **Lesbian Line Belfast**

Cathedral Buildings  
64 Donegall Street  
Belfast BT1 2GT  
Tel: 028 9023 8668  
Email: [admin@lesbianlinebelfast.org.uk](mailto:admin@lesbianlinebelfast.org.uk)  
Website: <http://www.lesbianlinebelfast.org.uk>

#### **Coalition on Sexual Orientation (CoSO)**

2-6 Union Street  
Belfast BT1 2JF  
Tel: 07788 570007  
Email: [admin@coso.org.uk](mailto:admin@coso.org.uk)  
Website: <http://www.coso.org.uk>

#### **Family Mediation (NI)**

7 University Street  
Belfast BT7 2GY  
Tel: 028 90 243265  
Email: [enquiry@familymediation-ni.org.uk](mailto:enquiry@familymediation-ni.org.uk)  
Website: <http://www.familymediationni.org.uk>

#### **Law Centre (NI)**

124 Donegall Street  
Belfast BT1 2GY  
Tel: 028 90 244401  
Email: [admin.Belfast@lawcentreni.org](mailto:admin.Belfast@lawcentreni.org)  
Website: <http://www.lawcentreni.org>

#### **Lesbian Advocacy Services Initiative (LASI)**

C/o Womens Support Network  
109-113 Royal Avenue  
Belfast BT1 1FF  
Tel: 028 27641463  
Email: [info@lasionline.org](mailto:info@lasionline.org)  
Website: <http://www.lasionline.org>

#### **Men's Advisory Project**

Cathedral Buildings  
64 Donegall Street  
Belfast BT1 2GT  
Tel: 028 90 241929  
Email: [mensadvisoryproject@hotmail.com](mailto:mensadvisoryproject@hotmail.com)

### **Men to Men**

58 Howard Street  
Belfast BT1 6PJ  
Tel: 028 90 247027  
Email: [mentomen@ireland.com](mailto:mentomen@ireland.com)  
Website: <http://www.mentomen.org>

### **NIGRA**

Northern Ireland Gay Rights Association  
PO Box 44  
Belfast BT1 2GT  
Email: [nigra@dnet.co.uk](mailto:nigra@dnet.co.uk)

### **Northern Ireland Women's Aid Federation**

129 University Street  
Belfast BT7 1 HP  
Tel: 028 90 249041  
Email: [info@niwaf.org](mailto:info@niwaf.org)  
Helpline Email: [helpline@niwaf.org](mailto:helpline@niwaf.org)  
Website: <http://www.niwaf.org>

### **Press for Change**

BM Network  
London WC1N 3XX  
Email: [editor@pfc.org](mailto:editor@pfc.org)  
Website: <http://www.pfc.org.uk>

### **The Rainbow Project (Belfast Office)**

2-6 Union Street  
Belfast BT1 2JF  
Tel: 028 90 319030  
Email: [manager@rainbow-project.org](mailto:manager@rainbow-project.org)  
Website: <http://www.rainbow-project.org>

### **NI Association of Citizens' Advice Bureaux**

11 Upper Crescent  
Belfast BT7 1NT  
Tel: 028 90 231120  
Website: <http://www.adviceguide.org>

### **Northern Ireland Human Rights Commission**

Temple Court  
39 North Street  
Belfast BT1 1NA  
Tel: 028 90 243987  
Website: <http://www.nihrc.org>

### **Parent's Advice Centre**

Franklin House  
Brunswick Street  
Belfast BT2 7GE  
Tel: 0800 8010 722  
Email: [parents@pachelp.org](mailto:parents@pachelp.org)  
Website: <http://www.pachelp.org>

### **Relate (NI)**

3rd and 4th Floors  
3 Glengall Street  
Belfast BT12 5AB  
Tel: 0870 2426091  
Email: [office@relateni.org](mailto:office@relateni.org)  
Website: <http://www.relateni.org>

### **The Rainbow Project (Derry Office)**

37 Clarendon Street  
Derry  
BT48 7ER  
Tel: 028 71 283030  
Email [manager@rainbow-project.org](mailto:manager@rainbow-project.org)  
Website <http://www.rainbow-project.org>



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The Office of Law Reform  
1st Floor, Lancashire House, 5 Linenhall Street, Belfast BT2 8AA  
Tel: 028 9054 2900  
Website: [www.olrni.gov.uk](http://www.olrni.gov.uk)