

A GUIDE TO ENTERING INTO A CIVIL PARTNERSHIP



The Civil Partnership Act 2004 (CPA) came into force in England and Wales on 5th December 2005

and creates the new legal relationship of civil partnership. The CPA gives lesbian and gay couples who enter into civil partnerships legal recognition of their relationship and the same rights and responsibilities that those who have entered into a civil marriage have. A civil partnership is therefore a serious legal commitment and it can only be ended by dissolution or annulment or by the death of one of the partners.

This information sheet relates only to the legal aspects of forming a civil partnership. For practical advice and emotional support see the “Other useful telephone numbers” section at the end of this leaflet.

The law

A **civil partnership** is a relationship between two people of the same-sex which:

- is formed by **registration** in England or Wales, or
- has been entered into abroad but is recognised by the CPA.

Under the CPA you and your civil partner will:

- be each other’s next-of-kin
- be able to apply for parental responsibility for each other’s children
- be treated in the same way as married couples for the purposes of life assurance
- have additional employment and pension benefits
- inherit each other’s property automatically if one partner dies without having a will
- be able to apply for fatal accidents compensation
- be able to apply for protection from domestic violence
- be recognised for immigration and nationality purposes
- have to provide reasonable maintenance for your civil partner and any children of the family if the relationship breaks down
- have similar financial obligations as opposite-sex non-resident parents for supporting children if the relationship breaks down, and
- not be compelled to testify against each

other in court (unless the case involves domestic violence or a vulnerable person such as a child).

Who can enter into a civil partnership?

You can enter into a civil partnership if you are over 18 years old (people between 16 and 18 will need their parents' permission) providing that neither you nor your partner are already in a civil partnership (nor married) nor closely related to each other. Seek legal advice if you are unsure whether you are closely related or not.

Entering into a civil partnership

Below is the standard procedure for entering into a civil partnership (where neither of you is subject to immigration control). However, if you and/or your partner are housebound, detained in prison or hospital or terminally ill there are special procedures that can be followed.

You and your partner will need to give notice in person to **the register office** for the area where you live. The area where you live is the area where you have resided for **at least seven days** (even if you have travelled to the UK from abroad to register). If you wish to enter into a partnership in a different area to where you live you should also contact the registration authority where you would like the registration to take place because you need to ensure that a **civil partnership registrar** will be available to attend the registration on the day that you want.

You will need to provide the register office with the following information:

- your name and surname
- your date of birth

- your relationship status (whether you have been single, in a civil partnership or marriage before)
- your nationality
- details of the place where you intend to register your civil partnership.

If you have been in a civil partnership or marriage before you will also need to produce documents that confirm that you are now free to register a civil partnership. These could include:

- a **decree absolute** of your divorce
- a **final order of dissolution** of a civil partnership
- a **death certificate** of your former civil partner or husband.

After notice has been given you must wait **15 days** before the civil partnership can be registered. Once the 15 days has passed you and your partner will be free to enter into a partnership at **any time over the following year**. So if you and your partner give notice on 5th March 2006 the registration can take place on or after 21st March 2006 but must be take place before 21st March 2007.

Where can we register our civil partnership?

A civil partnership can be registered at a register office or any premises that has been approved for the registration of civil partnerships. Approved premises can include hotels and restaurants, stately homes and even certain beaches or football grounds. To search for your local register office or approved premises contact the **General Register Office**.

On the day of registration both of you will sign the **civil partnership schedule** in the presence of the registration officer and

two witnesses. The registration officer and the witnesses will then also sign the civil partnership schedule. The CPA does not make provision for a ceremony so you can choose to simply sign the schedule or organise your own ceremony. The CPA forbids **any** religious service from taking place **during** the registration of a civil partnership as it is a non-religious process. If you wish you can arrange your own religious service to take place before or after the registration of your civil partnership. Once you have registered your civil partnership you will receive a **civil partnership certificate**.

Legal relationships formed outside of the UK

If you have registered a relationship outside of the UK you will be treated as having formed a civil partnership for the purposes of UK law (providing that it is not against public policy to give your relationship recognition) if your relationship was formed in one of the following places: Belgium (cohabitation légale or marriage), Canada (Nova Scotia – domestic partnership) (Quebec – civil union), Denmark (registreret partnerskab), Finland (rekisteröity parisuhde), France (PACS), Germany (Lebenspartnerschaft), Iceland (stadfesta samvist), Netherlands (geregistreerde partnerschap or marriage), Norway or Sweden (registrert partnerskap) and USA (Vermont – civil union).

Or, your relationship meets certain **general conditions**, for example, that you have entered into a legal relationship which means that you are treated as a couple.

Registering a civil partnership outside of the UK

You can enter into a civil partnership abroad in the British Embassy or High Commission of the country concerned (providing that the country does not object to the registration taking place). The procedure is the same for registering a civil partnership in the UK but in some countries you may be asked to obtain further documentation. Contact your local registration authority or the Embassy or High Commission concerned for further information.

Civil partnerships and children

For information about your rights and responsibilities in respect of each other's children please see Rights of Women's information sheets on **parental responsibility, residence, child contact and lesbian parenting**.

Family relationships

The CPA amends family law so that:

- **Child of the family** includes a child or children who you and your civil partner treat as a child of your family (with the exception of children placed with you as foster parents).
- Entering into a civil partnership has the same effect as entering into marriage on your family relationships. This means that the sister of your civil partner will become your sister-in-law and the aunt of any child of your family.

Financial rights given by the CPA

Welfare benefits and tax credits

From 5th December 2005 same-sex couples who live together and who are claiming welfare benefits and / or tax credits will be **treated as a couple** and not as two single people. This will apply to couples **whether they are civil partners or simply living together**. This means that if you live with your same-sex partner and one or both of you is claiming any of the following benefits as a single person, you will need to claim again as a couple:

- Income Support
- Income Based Jobseeker's Allowance
- Pension Credit
- Housing or Council Tax Benefit
- Tax Credits

When you apply for these benefits as a couple the income and savings of both you and your partner will be taken into account when working out whether you are eligible for benefit and how much you are eligible for. This means that you may no longer be entitled to benefits that you are currently receiving or that the amount you receive goes down.

However, if you get **Maternity Allowance, Incapacity Benefit, Carer's Allowance or Severe Disability Allowance**, you may be able to claim extra benefit for your civil partner. Contact your local benefits office for further information about welfare benefits and tax credits as this is a complex area.

Tax

Civil partners will be treated in the same way as married couples for all tax purposes. This will mean that you and your civil partner will be able to transfer assets to each other, such as property or shares, without having to pay Capital Gains Tax

(CGT). If one of you was born before 6th April 1935, you will be eligible for a tax allowance. If one of you dies any money or property you leave the other will be free from inheritance tax. However, on entering a civil partnership you lose your individual CGT allowance in relation to the transfer or disposal of property or assets to others.

Employment

Employers may give their employees benefits either for themselves or their spouses and partners. Some of these benefits, such as parental, adoption or carer's leave are required by law whilst others, such as travel expenses or private health insurance are discretionary.

Employment regulations forbid discrimination in the provision of employment benefits to same-sex partners in comparison with unmarried opposite-sex partners. The CPA extends this protection by forbidding discrimination in the provision of benefits to civil partners in comparison with married couples.

This means that as a civil partner you will have the same employment rights as a married person to, for example, take time off work to deal with certain emergencies involving your civil partner. Similarly, where discretionary benefits have been offered to married employees but not co-habiting couples (whether same-sex or opposite-sex) these benefits must now be offered to civil partners. This means employers cannot treat civil partners less favourably than married couples but that they can treat civil partners and married couples more favourably than co-habiting couples (whether same-sex or opposite-sex).

Pensions

As a civil partner you will have most of the same state pension rights as widowers and will be treated the same as widows and widowers after 2010 (when the state retirement age becomes the same for men and women). You will also be able to claim survivor pensions in public service schemes and contracted-out pension schemes.

As is the case with other employment benefits (see above) employment regulations and the CPA forbids discrimination between same-sex couples and unmarried opposite-sex couples and between civil partners and married partners. So, if you or your partner belongs to an occupational or private pension scheme which offers benefits to married partners (such as the payment of death in service benefits or a survivor's pension) that scheme must offer the same benefits to civil partners.

Death of a civil partner

When you register a civil partnership any will that either of you has made is automatically invalidated unless it was made with the formation of a civil partnership in mind. If your civil partner dies without having made a will you will inherit her estate. Civil partners will

inherit money and any property free from inheritance tax.

When you enter into a civil partnership you become your partner's **next-of-kin**. This means you will be able to register your partner's death and have the right to organise their funeral. If you are not in a civil partnership you will only be able to register your partner's death if you were present when they died or if you are organising the funeral.

As a civil partner you will be entitled to claim **bereavement benefits** and **fatal accidents compensation** on the same basis as widows and widowers. You will also have the same rights as widows and widowers to succeed to tenancies where you were occupying the property at the time of your partner's death and (depending on the type of tenancy involved) the property is your only or principal home.

The law relating to civil partnerships can be complex and we have provided a very basic overview of terminology, law, court practice and procedure. We would also strongly advise you to seek legal advice by either telephoning our legal advice line or a solicitor.

Please note that the law as set out in this information sheet is the law as it stood at the date of publication. The law may have changed since then and accordingly you are advised to take up-to-date legal advice. Rights of Women cannot accept responsibility for any reliance placed on the legal information contained in this information sheet. This information sheet is designed to give general information only.

For free confidential legal advice on family law including civil partnerships, lesbian parenting and financial relief call the Rights of Women Advice Line on 020 7251 6577 (telephone) or 020 7490 2562 (textphone).

Tuesday, Wednesday and Thursday 2pm – 4pm and 7pm – 9pm

Friday 12 noon – 2pm

Other useful telephone numbers

Child Support Agency	08457 133 133	www.csa.gov.uk
Community Legal Service (for finding a solicitor)	0845 345 4345	www.clsdirect.org.uk
Department of Work and Pensions		www.dwp.gov.uk
Benefit Enquiry Line	0800 882 200	
Tax Credits Helpline	0845 300 3900	
General Register Office		www.gro.gov.uk
Pink Parents	08701 273 274	www.pinkparents.org.uk
London Lesbian and Gay Switchboard	020 7837 7324	www.llgs.org.uk
Stonewall	020 7593 1850	www.stonewall.org.uk
Women and Equality Unit		www.womenandequalityunit.gov.uk

Rights of Women, 52-54 Featherstone Street, London EC1Y 8RT

Office/Admin: 020 7251 6575/6

Textphone: 020 7490 2562

Fax: 020 7490 5377

Email: info@row.org.uk

Website: www.rightsofwomen.org.uk

Industrial and Provident Society No: 23221R

