

January 2013

**IMMIGRATION DIRECTORATE INSTRUCTIONS****Annex H****CHAPTER 8  
SECTION 2****Civil Partnerships****ELIGIBILITY, REGISTRATION, DISSOLUTION & GLOSSARY OF TERMS****1. Forming civil partnerships in the UK****1.1 Eligibility**

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 within prohibited degrees of relationship (i.e. closely related);
- They are both aged sixteen or over (and, if either of them is under eighteen, the consent of the appropriate person has been obtained);

The minimum legal age for registering a civil partnership in England and Wales is 16 but written consent may be required for anyone under 18.

**2 Civil partnership registration**

A civil partnership ceremony can take place in any register office in England or Wales, Scotland or Northern Ireland. From 5 December 2005, premises which were already registered to conduct marriages are also able to register civil partnerships. These include stately homes and other prestigious buildings, hotels, restaurants and football stadiums. The civil partnership will be legally registered once the couple have signed the civil partnership document in the presence of a registrar and two witnesses.

**3 Name changes**

After registering a civil partnership, some people might want to change their surname to that of their partner's. Or a couple may choose to hyphenate their surnames. Government departments and agencies such as the Identity and Passport Service and the DVLA will accept civil partnership certificates in the same way that they accept marriage certificates as evidence for changing surnames.

**4 Foreign civil partnerships**

Some people may have already formed a civil partnership or had a same sex marriage abroad. In certain cases this relationship will be recognised in the UK as a civil partnership and the partners will be treated as if they had formed the civil partnership in the UK. Schedule 20 to the Civil Partnership Act 2004

(updated by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 which came into effect on 31 January 2013) sets out a list of recognised foreign civil partnerships, as below:

<b>Country or Territory</b>	<b>Relationship known as</b>	<b>English translation</b>
Andorra	unió estable de parella	stable union of pairs
*Argentina	marriage	n/a
*Argentina: Autonomous City of Buenos Aires	unión civil	n/a
*Australia: Australian Capital Territory	Civil partnership	n/a
*Australia: New South Wales	A relationship registered under the Relationships Register Act 2010	n/a
*Australia: Queensland	Civil partnership	n/a
Australia: Tasmania	Significant relationship	n/a
*Australia: Victoria	Registered domestic relationship	n/a
*Austria	eingetragene Partnerschaft	n/a
Belgium	marriage	n/a
Belgium	cohabitation légale, wettelijke samenwoning, gesetzliches zusammenwohnen	statutory cohabitation
*Brazil	marriage	n/a
*Brazil	união estável	n/a
Canada	marriage	n/a
*Canada: Manitoba	The relationship referred to as common-law relationship or as union de fait	n/a
Canada: Nova Scotia	domestic partnership	n/a
Canada: Quebec	union civile, civil union	civil union
*Colombia	unión de hecho	n/a
*Czech Republic	registrované partnersví	n/a
*Denmark	Marriage	n/a
Denmark (including Greenland)	registreret partnerskab	registered partnership
*Ecuador	unión civil	n/a
Finland	rekisteröity parisuhde, registrerad partnerskap <sup>1</sup>	registered partnership
France	pacte civil de solidarité	civil solidarity

<sup>1</sup> Please note that the Swedish used in Finland is slightly different than the language used in Sweden.

		pact
Germany	Lebenspartnerschaft	Life partnership
*Greenland	the relationship referred to as nalunaarsukkamik inooqatigiinneq or as registreret partnerskab	n/a
*Hungary	bejegyzett élettársi kapcsolat	n/a
*Iceland	marriage	n/a
Iceland	stadfesta samvist	confirmed cohabitation
*Ireland	Civil partnership	n/a
*Isle of Man	Civil partnership	n/a
*Jersey	Civil partnership	n/a
*Liechtenstein	eingetragene Partnerschaft	n/a
Luxembourg	partenariat enregistré, eingetragene partnerschaft	registered partnership
*Mexico: Coahuila	pacto civil de solidaridad	n/a
*Mexico: Mexico City Federal District	Marriage	n/a
*Mexico: Mexico City Federal District	sociedad de convivencia	n/a
Netherlands	marriage	n/a
Netherlands	geregistreerd partnerschap	registered partnership
New Zealand	civil union	n/a
*Norway	Marriage	n/a
Norway	registrert partnerskap	registered partnership
*Portugal	Marriage	n/a
*Slovenia	zakon o registraciji istospolne partnerske skupnosti	n/a
*South Africa	Civil partnership	n/a
*South Africa	Marriage	n/a
Spain	marriage	n/a
*Sweden	Marriage	n/a
Sweden	registrerat partnerskap	registered partnership
*Switzerland	the relationship referred to as eingetragene Partnerschaft, as partenariat enregistré or as unione domestica registrata	n/a
USA: California	domestic partnership	n/a
*United States of America: California	Marriage	n/a
*United States of America: Colorado	the relationship between designated beneficiaries	n/a
USA: Connecticut	civil union	n/a

*United States of America: Connecticut	Marriage	n/a
*United States of America: Delaware	Civil union	n/a
*United States of America: District of Colombia	Marriage	n/a
*United States of America: Hawaii	Civil union	n/a
*United States of America: Hawaii	reciprocal beneficiary relationship	n/a
*United States of America: Illinois	Civil union	n/a
*United States of America: Iowa	Marriage	n/a
USA: Maine	domestic partnership	n/a
USA: Massachusetts	marriage	n/a
*United States of America: Nevada	Domestic partnership	n/a
*United States of America: New Hampshire	Marriage	n/a
*United States of America: New Jersey	Civil union	n/a
<i>USA: New Jersey</i>	domestic partnership	n/a
*United States of America: New York	Marriage	n/a
*United States of America: Oregon	Domestic partnership	n/a
*United States of America: Rhode Island	Civil union	n/a
<i>USA: Vermont</i>	civil union	n/a
*United States of America: Vermont	Marriage	n/a
*United States of America: Washington	State registered domestic partnership	n/a
*United States of America: Wisconsin	Domestic partnership	n/a
*Uruguay	unión concubinaria	n/a

If an overseas relationship is not included in the amended list above it will still be recognised here if it meets certain conditions. Section 214 of the Civil Partnership Act 2004 refers. Under the law of the country where the relationship was formed the relationship must:

- (i) be exclusive in nature,
- (ii) be indeterminate in duration; and

- (iii) result in the parties to the relationship being regarded as a couple or treated as married.

\*as amended by The Civil Partnership Act 2004 (Overseas Relationship) Order 2012

## **5 Dissolving civil partnerships**

The Civil Partnership Act states explicitly that a civil partnership ends only on the death of one of the civil partners, on the issue by a court of a dissolution order or a nullity order or, a presumption of death order.

The most common option will be for one of the civil partners to seek a dissolution order which will terminate the civil partnership and is similar to a divorce for married couples. However other options are available and if there is a material defect in the capacity (i.e. their age or mental capacity) of either party to enter into a civil partnership then a nullity order may be sought from the court. If the civil partners do not wish to terminate the partnership one of them may ask the court for a separation order.

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 civil partnership proceedings county court, although the High Court will also sometimes deal with complex cases.

An application for a dissolution cannot be made to the court before the end of the period of one year from the date of formation of the civil partnership.

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 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.

The court will be required to inquire as far as is possible into the facts alleged by the applicant and into any facts alleged by their civil partner. If the court is satisfied on the evidence that the civil partnership has broken down irretrievably, a dissolution order can be granted.

### **5.1 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.

### **5.2 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 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.

## 6. Glossary of terms

<b>Term</b>	<b>Explanation</b>	<b>Term not to be used</b>
Civil partner	The legal status of the two people who have registered as each other's civil partner- in the same way that a spouse is used to describe each member of a married couple.	Spouse
Civil partnership	The legal relationship existing between two same sex partners	Marriage
Same sex and opposite sex	Terms used to describe homosexual and heterosexual couples	Homosexual and heterosexual
To register as a civil partner of each other / to form a civil partnership	To carry out the requirements for forming a civil partnership by registration	Marry
Surviving civil partner	A person whose civil partnership has ended through the death of his / her civil partner	Widow, widower
Parties to a civil partnership agreement	A couple who have agreed to register as civil partners of each other ( or had agreed to do so, where the agreement has since been terminated)	
Proposed civil partner	A person who is going through the process of forming a civil partnership.	Fiancé(e)
Dissolution	The equivalent procedure used to dissolve a civil partnership	Divorce
Former civil partner	A person whose partnership has been dissolved	Deregistered
Civil partnership home	A home shared by or intended to be shared by a same sex couple in a civil partnership	Matrimonial home