

## WHAT IS A CIVIL PARTNERSHIP?

The Civil Partnership Act came into force on 5th December 2005. A "Civil Partnership" is a relationship between two people of the same sex, which has been formed by registration in England & Wales or, alternatively, a relationship which has been formed overseas but is recognised in England & Wales.

The registration of the Civil Partnership must not be in a religious premise, which is defined as a place used solely or mainly for religious purposes, and each of the parties must give notice of the proposed partnership to an authority for registration. Once notice has been given, the parties must wait a further 15 days.

A Civil Partnership may be terminated on the following grounds:

- Nullity;
- Either party bringing an action for dissolution;
- Legal Separation; and
- Presumption of death order.

Orders for annulment, dissolution or presumption of death will be initially conditional, and may not be made final before a period of six weeks and one day from the date that the Order was made conditional.

No Application can be made for a dissolution order before a year has elapsed from the date the Civil Partnership was formed. The application is made on the grounds that the Partnership has irretrievably broken down and this ground may be proved by one of the following four facts:

- Behaviour such that the applicant cannot reasonably be expected to live with the Respondent;
- The parties have lived apart for a period of two years and the respondent consents to the dissolution;
- The parties have lived apart for five years; and
- Desertion.

Upon termination of the application, either party may make an application for financial relief. Further, the Court may make an order with regard to property where a Civil Partner has contributed to the improvement of real or personal property, or either or both of the Civil Partners have an interest in the property or the proceeds of its sale. The contribution must, however, have been substantial. The contributing partner will be treated as having acquired by virtue of the contribution a share in the property. However, this may be overwritten by an agreement either expressed or implied to the contrary.

If there is a dispute between Civil Partners regarding the title or possession of a property, an application can be made to the court by either party for determination and the court may make any such order as it deems fit. This could include an order for sale.

Where there is a Civil Partnership agreement ie. an agreement between two people to register a Civil Partnership and where that agreement has subsequently been terminated, a Civil Partner may have recourse to the provisions of the Act in relation to the property where either or both

of the parties had a beneficial interest whilst the agreement was in force. Any action must however be brought within three years of the termination of the agreement. Where there is a Pre-Partnership Agreement or a Pre-Nuptial Agreement, it is most likely that ancillary relief case law will be followed. The orders available for financial relief upon the breakdown of Civil Partnerships are as follows:

- Periodical payments for the benefit of the child of the family;
- Periodical payments to the Civil Partner;
- Payment of a lump sum to a Civil Partner;
- Payment of a lump sum to a Civil Partner or to any person for the benefit of a child of the family;
- Property adjustment;
- Variation of settlement;
- Sale of property; and
- Pension sharing.

The Court will firstly give consideration to the welfare of any child of the family and also the following factors:

- The income, earning capacity, property and other financial resources which each partner has or is likely to have in the foreseeable future;
- The financial obligations and responsibilities which each Civil Partner has or is likely to have in the foreseeable future;

- The standard of living enjoyed by the family before the breakdown of the Civil Partnership;
- The age of each Civil Partner and the duration of the Civil Partnership;
- Any subsequent or mental disability of either of the Civil Partners;
- The contribution which each of the Civil Partners have made or are likely to make in the foreseeable future;
- The conduct of each Civil Partner and;
- The value to each Civil Partner of any benefit which, because of the dissolution or annulment of the Civil Partnership, that Civil Partner will lose the chance of acquiring (including pension benefit).

The court would apply the above conditions in the same way as the current law concerning ancillary relief cases within divorce. Further it is likely that a period of cohabitation prior to entering into a Civil Partnership will be treated similarly to that in divorce.

The overriding objective of the Court is to ensure that the parties' financial dependence is terminated as soon as possible. To this end the Court must consider the most appropriate timescale for the termination of the financial obligations of the Civil Partners towards one another when making any order and must also ensure that there is no undue hardship caused to either party.

**This brief summary is merely an introduction to this new and complete area of Family Law legislation.**

**To find out how Civil Partnerships affect your personal circumstances, call us now on: 01908 577680 for a no obligation chat with one of our Family Law Team**