

When is a marriage not a marriage?

Answer: When it is a civil partnership.

From December 2005, couples in same sex relationships have been able to register their existence, on a formal basis, creating a package of rights and benefits which has not been available to date.

However, such relationships are not and arguably, never will be marriages, in the common everyday sense of the word. To date, only the Netherlands and Belgium have legislated for gay marriages. Perhaps, most significantly, the ceremony itself cannot take place in a building used solely or mainly for religious purposes, there are no spoken vows or pronouncement of "man and wife". The institution of marriage remains the prerogative of the heterosexual male/female union.

Nevertheless, the passing of the Civil Partnership Act 2005 certainly marks the dawning of a new legislative age and makes huge inroads into the provision of recognition and protection for same-sex couples which have not existed in this country to date.

Prior to the passing of the legislation, same-sex couples potentially ran the risk of being left homeless or destitute, many after relationships of many years.

Same-sex partners can now attend at a registration office licensed for the purpose to sign a civil partnership document in the company of each other, a registrar and two witnesses.

There are some similarities with the traditional marriage, however, in that civil partnerships cannot be ended in their first year of existence and the sole ground for dissolution is that the partnership has irretrievably broken down.

There are four facts not five on which dissolution can be based unreasonable behaviour, two years separation, desertion or a period of five years separation. Adultery cannot be used as a fact on which dissolution can be based.

Whilst together, same-sex partners will have a duty to provide reasonable maintenance for each other and any children of the family.

On dissolution, same-sex partners will be able to seek financial provision for themselves in the form of maintenance, lump sum, transfer of property and pension sharing orders.

Civil partners will be assessed in the same way as spouses for child support.

Civil partners will be treated for tax purposes as married couples, for example, transfers and gifts in life and on death between partners will qualify for the same exemptions as married couples.

Should a civil partner die without leaving a Will (as an intestate) then the surviving partner will no longer be excluded from the intestacy rules, whereby a same-sex partner of however long standing, would have been passed over in favour of any surviving parents and/or children from whom there could have been many years of estrangement.

A civil partner will no longer have to apply for permission to make applications for contact and residence, in relation to a child of the family and civil partners can make joint applications for adoption.

Overall, this has to be legislation to be applauded, in creating a non-discriminatory approach to the arrangements of everyday life which many people take for granted.

It remains now to be seen whether the present or any future government is willing to push that step further and provide for gay marriage in itself and/or whether in the spirit of non-discrimination consideration is given to the regulation of heterosexual cohabiting couples.