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Subject: CIVIL PARTNERSHIPS REGISTRATION

Please see attached submission followed by annex A and annex B.

✓ 67 pages.
Not printed out ✓

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CONTENTS

PART A - GENERAL ISSUES

	Page
Gay Marriage	1
Churches and Registrars	2
Opposite Sex Couples/Cohabitation Rights/Siblings	3-4
Costs	5
Timetable and responses	6
Role of the NI Assembly	7
Wider sexual orientation issues	8-9
Research and statistics	10

PART B - DETAILED PROPOSALS - LINES TO TAKE

	Page
IN THE CONSULTATION PAPER	
DETAILS ABOUT THE SCHEME (Q&A)	11-12
RIGHTS AND RESPONSIBILITIES DURING THE RELATIONSHIP:	
Immigration	13

CIVIL PARTNERSHIP REGISTRATION

Q & A Briefing based on Consultation Paper 'Civil Partnership:
A Legal Status for Committed Same-Sex Couples in Northern
Ireland'

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CONTENTS

PART A - GENERAL ISSUES

	Page
Gay Marriage	1
Churches and Registrars	2
Opposite Sex Couples/Cohabitation Rights/Siblings	3 - 4
Costs	5
Timetable and responses	6
Role of the NI Assembly	7
Wider sexual orientation issues	8 - 9
Research and statistics	10

PART B - DETAILED PROPOSALS - LINES TO TAKE

	Page
Registering the Death of a Partner	20
Post Mortems and Organ Retention	20
Bereavement Benefits	20 - 21
Survivor Pensions - Private Pension Schemes	21
<u>IN THE CONSULTATION PAPER</u>	
Details about the Scheme (Q&A)	11 - 12
Immigration	13

Elections	13
Giving Evidence in Court	13 - 14
Making Financial Decisions on Behalf of Adults with Mental Incapacity	14
Prison Visiting	14
Protection from Domestic Violence	14
Adoption	14 - 15
Parental Responsibility	15
Hospital Visiting and Medical Treatment	15
Income-related Benefits	16
Dependency Increases	16
State Pensions	
Life Insurance (+ link to mortgages)	16 - 17

RIGHTS AND RESPONSIBILITIES WHEN A PARTNERSHIP IS DISSOLVED:

Children - Residence and Contact	18
Child Support	18
Maintenance for Partners and for Children of the Family	18
Property Division on Dissolution of a Civil Partnership	18
Public Funding for Dissolution	19

RIGHTS AND RESPONSIBILITIES WHEN ONE PARTNER DIES:

Registering the Death of a Partner	20
Inquests and Burial	20
Post Mortems and Organ Retention	20
Bereavement Benefits	20
Survivor Pensions - Private Pension Schemes	20 - 21
Survivor Pensions - Public Service Pension Schemes	21
Injury Benefits	21
Fatal Accidents Compensation	22
Criminal Injuries Compensation	22
Intestacy	23
Inheritance	23

NOT IN THE CONSULTATION PAPER

Tax	24 - 29
Other general - why is something excluded?	30
Wills	30
Nationality - British Citizenship	30
Fertility Treatment	30 - 31
MOD Service Personnel	31
Bankruptcy / insolvency	31
Company Law	31

GAY MARRIAGE

Q. Is this gay marriage by another name?

A. The Government has no plans to allow same-sex couples to marry. Marriage remains the union of one man and one woman. These proposals are for an entirely new legal status of registered partnership. Civil partnership registration and marriage are recognised as different - partnership registration schemes already operate alongside marriage in many EU countries and in several US states.

Example - Sweden has a civil partnership registration scheme for same-sex couples and marriage for opposite-sex couples.

Q. Doesn't this undermine the status of marriage/role of the family?

A. Marriage remains the choice of the majority of people seeking to build stable relationships. The Government continues to support this choice for men and women. But committed same-sex couples deserve recognition in law and that is why we see a case for civil partnership registration.

Q. Gay men / lesbians don't form such stable relationships as opposite sex couples.

A. There is no evidence to support that assertion. Important to remember that we are talking about a self-selected group of people who are committed to each other and want to formalise that commitment. Government is keen to support couples seeking to build stable relationships whether they are same-sex or opposite-sex.

CHURCHES AND REGISTRARS

Q. Will the Government force churches to perform partnership registration ceremonies / blessings?

A. No. Civil partnership registration will be an entirely civil process. It will not interfere in any way with the policies followed by churches or any other religious body. That is a matter for the Church to determine, not for Government to dictate. In any event, this proposal is not registration only. A ceremony will not form part of the registration process.

Q. Why are Registrars being asked to do Civil Partnership Registration?

A. Those effecting Civil Partnership are entering into an arrangement from which rights and responsibilities flow. It is thus important that the registration should be undertaken to the highest possible standards. In the GB consultations it was proposed that this work should be undertaken by registrars and District Registrars here also have the professional expertise and experience to do such work. Registrars in District Registration Offices can also provide a local service in the same way as they do for those registering other events.

Q. Will there be a ceremony?

A. Couples who want to register a partnership would be required to register with the local registration office. Registrars would attend to the formalities of registering the partnership, they would not provide a ceremony.

IF PRESSED ON CEREMONIES:

Couples who wish to follow their registration with some celebratory event could arrange that themselves, but a ceremony would not form part of the formal registration procedure.

A. Couples who object to marriage on religious grounds already have the option of a civil marriage with no religious ceremony.

It is pointed out:

No evidence that couples who object to civil marriage would be assisted by partnership registration.

OPPOSITE SEX COUPLES / COHABITATION RIGHTS / SIBLINGS

Q. Will opposite sex couples be allowed to register?

A. This is about same-sex couples choosing to formalise their relationships and gain a legal status. Opposite-sex couples already have access to a legal status - marriage. We recognise that some opposite-sex couples don't want to get married, and that's entirely a decision for them. But they do have the option. We see no reason why couples who don't want to marry would want to make a similarly formal and binding commitment to each other by registering a partnership.

Q. Why don't you just extend rights to all unmarried couples?

A. We are talking about people making a choice whether or not to enter a formal legal status that gives rights and responsibilities. Many cohabiting couples do not want to have those imposed on them. Opposite-sex couples already have the choice to gain a formal legal status by getting married - this is about giving same-sex couples a choice too.

Q. What all the problems that unmarried couples face when they split up and find they don't have any rights - why isn't the Govt addressing those?

A. Recognise that there are popular misconceptions around the myth of common law marriage - there is no such thing - and these can lead to unmarried cohabitants being left vulnerable after the breakdown of their relationship. However, this is a different problem to the situation of same sex couples who want to formalise their relationship and can't.

If needed:

There are some areas in which people can make own arrangements if they do not want to marry - eg. they can make wills, they can draw up formal agreements for division of property if they split up, they can get parental responsibility orders.

Q. What about those opposite sex couples who don't marry because they object to marriage itself (eg on social / religious grounds)? Why won't they be allowed to register?

A. Couples who object to marriage on religious grounds already have the option of a civil marriage with no religious connotations.

If pressed:

No evidence that couples who object to civil marriage would be attracted by partnership registration.

Q. What about siblings who live together? Why give rights to two lesbians and not to two elderly sisters who lived together all their lives?

Two sisters already have a legally-recognised relationship to each other, as siblings, and rights to reflect that relationship. (If needed - eg. can inherit if one dies intestate, no confusion over next-of-kin.) But two lesbians who have shared each other's lives for years can still be treated as complete strangers by the law.

What about other home-sharers eg. two friends?

This is about recognising adult couple relationships who want not only the full range of legal protections, but also are willing to take on a full range of legal responsibilities.

Lots of people live together, in many different circumstances. Generally, they don't have the same need to be recognised as a couple, or would not be happy to share the obligations that they would have to bear as a partner - ie would two old friends really want their benefits to be judged on their joint status? - civil partnership registration wouldn't suit their needs

Cost

Q. How much is this going to cost the taxpayer?

A. Registration itself would be done on a cost-recovery basis - couples would be charged a fee to cover the costs of their registration.

There would be costs and savings associated with the rights and responsibilities that might be given to registered partners.

If pressed:

How much depends entirely on how many people register, and those people's individual circumstances, which is something that we can't predict with any certainty - there will be savings that will be offset against costs.

Q. What happens after that?

A. The Government will consider the next steps in the light of responses to the consultation paper.

Q. What happens if NI people say "No" to this?

A. This is a consultation exercise to find out what people's views are. The Government will consider carefully all the responses to the consultation. However there are strong commitments to equality and social justice here in NI and these issues involving same-sex couples are situations where we have identified inequalities and social injustice. So we will think very carefully about the responses and how to move forward. As far as the likely response to the consultation is concerned, we do not want to predict what that will be. But in England and Wales, when they consulted earlier this year, 83% of responses supported the principle of a civil partnership registration scheme.

Q. When will there be legislation / when will people be able to register?

A. Too early to say. No final decision has been made yet. Will consider the responses to the consultation exercise. At present, the proposal is to include provisions for a NI Civil Partnership Registration Scheme in the forthcoming Bill at Westminster which was announced in the Queen's Speech. There is no date fixed yet for the introduction of the Bill.

TIMETABLE AND RESPONSES

Q. Why is this being published so close to Christmas?

A. It would have been inappropriate to publish this paper earlier because of the Assembly elections and the political uncertainty surrounding that. But it is important that these proposals should be available for consultation and discussion as soon as possible so we decided to publish now even though the Christmas holiday period is coming soon.

Q. How long is the consultation period?

A. The consultation period ends on 5th March - 11 weeks' time.

Q. What happens after that?

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Q. What happens if NI people say "No" to this?

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ROLE OF NI ASSEMBLY

Q. Why do you propose introducing this by legislation at Westminster?

A. At present we are in a direct rule situation with no Assembly in operation. That means that we have to proceed by legislation at Westminster, either a Bill or an Order in Council. Our view is that it would be best to introduce civil partnership registration schemes across the UK in a co-ordinated way, with the same basic principles applying throughout the UK at the same time. Otherwise we could have problems for individuals moving from one part of the UK to another and having different rights and responsibilities at various times. So this is a rational and sensible way to proceed. It gives parity to people across the country.

Q. What if devolution is restored?

A. These proposals cover a mix of issues, some of them matters for the NI Assembly and some excepted or reserved for Westminster. When the NI Executive and Assembly are restored, then it would be a matter for discussion at that time what should be done about this issue - whether the full inclusion of NI in a Westminster Bill should go ahead or not. It would partly depend on what stage the legislative proposal had reached.

Of course once devolution is restored then the NI Executive and Assembly are able to decide on transferred matters so they could choose then what to do on the issues within their remit. But at present unfortunately there is no Assembly so these decisions have to be taken under direct rule.

Q. What would happen if other parts of the UK had civil partnership registration schemes and NI did not?

A. The Government view is that there are inequalities and social injustice issues here that affect everyone across the UK. So our preference is for co-ordinated schemes benefiting everyone in a comprehensive way. However, if there was no NI scheme then NI same-sex couples could not register their partnerships here. But they could - if they were able to and chose to do so - travel to England, Wales or Scotland and register there. They would have to satisfy requirements in GB and the details are not fully worked out. But if the proposals went ahead in GB, then NI couples could register there then return to NI and continue to enjoy the rights and responsibilities falling within the excepted or reserved field. That would mean things like immigration rights.

They would not have access to the full range of rights and responsibilities envisaged in the consultation paper because the matters within the remit of the NI Assembly would not be extended to them.

WIDER SEXUAL ORIENTATION ISSUES

Q. Why not open civil marriage to same-sex couples?

A. We see a case for giving same-sex couples a way of gaining legal status for their relationships. Civil partnership registration is a way to do this. Many people in the lesbian and gay community have also told us that they want civil partnership registration. But marriage remains unaffected. Marriage is a union between one man and one woman.

Q. How does this fit with the Employment (Sexual Orientation) Regulations?

A. The Sexual Orientation Regulations, for the first time, offer protection against discrimination and harassment at work across UK, as regards employment and training issues, in the public or private sector. Until the regulations came into operation, individuals had, no protection against discrimination on these grounds. The Regulations are a major step forward and should be welcomed.

However, that is a separate issue from civil partnership registration. This new scheme creates a new legal status for committed same-sex partners and gives them access to a range of rights and responsibilities. In that way it is a remedy for unfairness and social injustice.

Q. Is this a requirement under European law?

A. No. There is no European Directive that requires civil partnership registration schemes. This proposal is brought forward as part of the Government's commitment to equality and social justice.

Q. Now the Government is formally recognising same-sex partnerships, will you soon be outlawing discrimination in all areas (eg goods and services)?

A. We have implemented Article 13 of the Employment Directive, which deals with discrimination in employment and training. First priority is to get that legislation right and ensure those rights and obligations are widely understood and command general support. That's a significant undertaking, which will itself bring about a culture change with broader benefits.

This is not the end of the road in terms of the Government's commitment towards creating a fair and just society, but it is a significant development and we need to monitor its impact and the effectiveness of support and guidance.

Should have mentioned SEB.

Q. How will this work for transsexual people?

A. Legal recognition of a change in gender is a totally separate issue. A Bill has been introduced in Parliament to give transsexual people rights - the Gender Recognition Bill. That Bill will apply throughout the UK, including NI.

Q. How big is the gay, lesbian and bisexual population?

A. Stonewall estimates 5-7% of the population is lesbian, gay or bisexual. There is some reason to think it may be less in NI because historically people with lesbian, gay or bisexual preferences migrated for NI.

Q. How many of those people are cohabiting/in relationships?

A. Very difficult to say - very difficult to get reliable statistics about the lesbian and gay population because it is, to a large extent, a hidden section of the population.

If pressed: The Labour Force Survey (Autumn 2001) estimated that about 50,000 UK households consist of cohabiting same-sex couples. This is likely to be underestimated. A recent survey of the lesbian, gay and bisexual community by ID Research found 54% of respondents were currently in a relationship.

Q. How many people do we think will register here?

A. Difficult to say, because this is a new concept here. We are still in the process of assessing what the likely level of interest will be. We would welcome comments from people to help us estimate how many people would choose to register partnerships. We specifically ask for comments on that point in the paper.

RESEARCH AND STATISTICS

Q. What do other countries do?

A. 9 EU Member States already recognise same-sex partnerships (Netherlands, Denmark, Sweden, Finland, Portugal, France, Germany and Spain, Belgium), as do a number of countries outside Europe, such as Canada, and some Australian and American states.

Q. How big is the gay, lesbian and bisexual population?

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IN THE CONSULTATION PAPER

DETAILS ABOUT THE SCHEME (Q&A):

Q. What rights and responsibilities are going to be included?

A. Details are in the consultation paper. Proposals include pension rights, joint treatment for benefits and responsibility to maintain each other, inheritance rights, right to register partner's death, arrangements for division of property if the partnership is dissolved and obligations for maintenance after dissolution.

Q. Will this give people recognition as 'next of kin'?

A. There is no legislation stating who is considered your next of kin for situations like visiting a partner in hospital or making their funeral arrangements. Gay people tell us that partners can be ignored and a couple can be treated as unconnected individuals. Creating a new legal status for same-sex partners would help to address this.

Q. Will people be allowed to register more than one relationship at once?

A. No, registration would be designed for couples who want to make a commitment to each other, so it should be exclusive.

Q. Will opposite-sex couples be able to register?

A. No. Opposite-sex couples already have a way of gaining legal status for their relationship - by getting married.

Q. Will siblings or friends be able to register?

A. No. This is about recognising adult couple relationships. Siblings and friends do not have the same need for a legal status as a couple.

Q. Why are so many people included in the prohibited degrees of relationship, after all same-sex couples can't have children?

The justifications for the prohibited degrees of relationship, in relation to marriage, have traditionally been two-fold. Firstly, to avoid genetic defects in children from a relationship arising from close consanguinity and secondly, by deterring inappropriate relationships within families.

Although the first does not apply with regard to civil partnership registration, the second clearly does.

The degrees of consanguinity ensure that the civil partnership registration is only to adult same-sex couples who are not closely related. The degrees of affinity prohibiting certain relationships arising from former marriages/registered partnerships are included to preserve the integrity of the family unit. These restrictions would act as reasonable safeguards protecting young people from inappropriate relationships where they have lived as a child of the family in relation to the older party.

Q. Will there be a ceremony?

A. Couples who want to register a partnership would be required to register with the local registration office. Registrars would attend to the formalities of registering the partnership, they would not provide a ceremony.

IF PRESSED on ceremonies:

Couples who wish to follow their registration with some celebratory event could arrange that themselves, but a ceremony would not form part of the formal registration procedure.

Q. Who would run the registration scheme?

If a civil partnership scheme were introduced, it is proposed that it is delivered by the local registration service.

The local infrastructure is already in place. Also, registration officers have the necessary experience, skills and knowledge to be able to administer the formal requirements of a partnership registration scheme.

Q. How would people get out of a partnership?

A. There would be a formal, court-based dissolution process.

RIGHTS AND RESPONSIBILITIES DURING THE RELATIONSHIP:

Immigration

- The same-sex partner of someone present and settled in the UK can already apply for leave to enter the UK and then limited leave to remain here provided that they meet certain criteria. In particular, they must have been living together in a relationship akin to marriage for at least two years.
- The requirement for two years' cohabitation prior to the application for leave to enter and limited leave to remain is designed to ensure that the partners are in a long-term, committed relationship, and that the Immigration Rules are not being abused. Married couples are not required to cohabit for two years prior to applying for leave to enter or to remain here, because their marriage is taken as evidence of the permanent nature of their relationship. The Government believes that civil partnership registration will also be evidence of the permanent nature of the relationship. Therefore, the Government proposes to remove the two-year cohabitation requirement for registered partners.
- All partners, whether married, registered or neither, will still be subject to a further two-year probationary period before they can apply for indefinite leave to remain.

Elections

- The consultation paper proposes that registered civil partners would have the same rights as husbands and wives in the electoral process. This would include a registered partner:
 - being entitled to attend the delivery of nomination papers where his/her partner was standing as a candidate;
 - assisting his/her partner who had disabilities to cast a vote;
 - acting as proxy voter to his/her partner in addition to the normal limits for acting as a proxy in an electoral area; and
 - being able to attend the counting of ballot papers at an election where his/her partner was standing as a candidate.

Giving Evidence in Court

- The law says that a spouse is competent to give evidence for the prosecution against their partner unless they are jointly charged.
- As a general rule, although competent, they are not compellable (i.e. they can refuse to give evidence against their partner). This is due to the repugnance felt at forcing a partner to give evidence in such circumstances, and the likely effect upon the marriage.
- The general rule is subject to two exceptions:

- i) Where the partner is charged with personal violence against the other partner or against a person under 17; or
 - ii) A sexual offence against a person under 17.
(The age will be changed to 16 when provisions of Criminal Evidence (NI) Order 1999 are commenced.)
- We favour extending this right, with the same exceptions, to registered partners under the scheme. The same policy considerations apply, because civil partnerships are intended to be long-term, committed relationships.

Making Financial Decisions on Behalf of Adults with Mental Incapacity

- The consultation paper contains no detailed proposals on this issue.
- This area of law is currently under review in NI. It is proposed that the new legislation will give married people and civil partners the same rights and responsibilities.

Prison Visiting

- The consultation paper contains proposals that registered partners should have the same rights as spouses with respect to prison visiting.
- Same-sex partners are already recognised within Prison Service policies on visits to prison and financial assistance for such visits

Protection from Domestic Violence

- The consultation paper contains a proposal that registered partners should have the same protection from domestic violence as married partners.
- The Government has just finished consulting on possible changes to the legislation on domestic violence in Northern Ireland.
- The Government proposes to equalize the position of unregistered same-sex couples and unmarried opposite-sex couples in terms of civil law protection from domestic violence.

Adoption

- The Government is committed to increasing the number of vulnerable children who have the opportunity, through adoption, to grow up as part of a loving, stable and permanent family.
- We believe that the needs and welfare of the child should be placed at the heart of the adoption process. No child will be adopted without rigorous assessment of the suitability of the prospective adoptive

parents, consideration by an adoption panel and ultimately consideration by a court.

- Single lesbians and gay men may already adopt children, but only married couples may apply to adopt jointly in NI.
- The Government intends to review adoption law in NI. The review will involve public consultation on the whole range of issues regarding adoption, including adoption by same-sex couples and unmarried opposite-sex couples.
- Ultimately the court will decide whether or not to make the adoption order.

Parental Responsibility

- The consultation paper proposes that registered partners should be able to gain parental responsibility for each other's children in the same way as step-parents.
- Having parental responsibility enables someone to make decisions that affect a child's life. Parents do not always have parental responsibility for a child, and people who are not parents can be given parental responsibility. Adoptive parents acquire parental responsibility when they adopt a child.

Hospital Visiting and Medical Treatment

- There is no legislation stating who is considered your next of kin for situations like visiting a partner in hospital or making their funeral arrangements. Partners can be ignored and a couple can be treated as unconnected individuals. Creating a new legal status for same-sex partners would help to address this.
- No other person has the right to consent to medical treatment on behalf of another adult. If the patient is not in a position to give consent to a medical intervention, married or unmarried partners, or others in a close relationship with the patient may be asked to advise but ultimately the decision rests with the doctors to act in the patient's best interests.

Income-related Benefits

- The consultation paper contains proposals that registered partners should be treated as a single family unit for income-related benefits purposes and that they should have an obligation to support each other financially.
- Unregistered same-sex couples should also be treated as a family unit, in the same way as unmarried opposite-sex couples

Dependency Increases

- The consultation paper contains a proposal that Adult Dependency Increases should be payable for registered partners in the same way as they are for spouses.

State Pensions

- The consultation paper contains a proposal that state pensions should be extended to civil partners in due course. This is an important area of policy and the Government is actively pursuing the most appropriate approach to take. The decision will be affected by the changes scheduled from 2010 when the state pension age for men and women will begin to be equalised.

Life Insurance (+ link to mortgages)

Lines to take

- The consultation paper contains a proposal that civil partners should be presumed to have an unlimited insurable interest in each other's lives.
- This would create a level playing field between married couples and registered civil partners in terms of how they are treated for life insurance purposes.
- This is of particular significance for registered partners who have (or would like to have) a joint mortgage.
- Other areas of difference in treatment in life insurance between married couples and civil partners which are identified as part of the consultation process will be considered in the course of work on any possible scheme.

Background

There has been some anecdotal evidence quoted in the press of discrimination against same sex partners in obtaining life insurance, compared to married couples.

Lord Lester attempted to address this in Clause 19 of his Civil Partnerships Bill in 2002. The discrimination arises from the Life Assurance Act 1774, which provides that no-one can obtain an insurance policy on another person's life unless the person who is intended to benefit from the policy has an insurable interest in the life insured. An 'insurable interest' has been interpreted by the courts in monetary terms (ie. as a pecuniary interest). This can be difficult to establish independently, but there is a presumption in law that married couples have an unlimited insurable interest in each other's lives. So either a husband or a wife could insure their own life for the benefit of the other and either could also insure the other's life for their own benefit.

Child Support

- The consultation paper contains a proposal that registered partners should be treated in the same way as spouses for the purposes of child support.
- Civil partnership registration would not alter the liability of parents to pay child support.

Maintenance for Partners and for Children of the Family

- The Government views the establishment of a registered civil partnership as a serious matter, which will involve significant commitments between the parties. The consultation paper therefore contains a proposal that, there should be a duty on one partner to provide reasonable maintenance for the other, and this duty should be enforceable through a court.
- The consultation paper also proposes that the courts should, while respecting arrangements made under the Child Support legislation, be able to make orders to provide reasonable maintenance for children who are treated as children of the family, and this duty should be enforceable through a court.

Property Division on Dissolution of a Civil Partnership

- The Government believes that registered partners should have the important legal protection of provisions for division of property on the dissolution of the partnership. These should take account of the needs of the partners, their children and any children who have been treated as dependants by the partners during the partnership.

WHEN A PARTNERSHIP IS DISSOLVED:

Children - Residence and Contact

- In many cases partners will have children before they enter into their partnership and these children will continue to have contact with parents outside the partnership. This will not be affected either by one of their parents entering into a registered civil partnership or by the breakdown of that partnership.
- The Government believes that wherever it is safe and in the children's best interests, children should continue to have contact with both their parents and also with former partners of their parents where they have been treated as children of the partnership. It is therefore proposed that registered partners should be able to apply to the court for a contact or a residence order under the provisions of Article 8 of the Children (NI) Order 1995.

Child Support

- The consultation paper contains a proposal that registered partners should be assessed in the same way as spouses for the purposes of child support.
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Maintenance for Partners and for Children of the Family

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Public Funding for Dissolution

- The procedures for registration of a civil partnership are unlikely to impact on public legal funding. In the longer term, there are likely to be some legal aid and court costs for dissolution of partnerships and other areas where civil partnerships are in operation.
- When Registered partners are dissolving a partnership they may need legal advice or assistance. Depending on their means and the merits of their case, people may be entitled to public legal funding for these types of court proceedings.

Inquests and Burial

- The consultation paper contains a proposal that registered partners should have the right to be notified about the inquest into the death of a partner and to question witnesses at the inquest, in person or through a legal representative. Married partners already have these rights.
- The consultation paper proposes that registered partners should have various rights provided for in coroner legislation, for example in relation to access to relevant records and documents.
- It also proposes that registered partners should have rights in relation to burial, exhumation and cremation.

Post Mortem and Organ Retention

- The DHSPS has recently published proposals for new legislation on human organs and tissue. The issue of who is the most appropriate person to give consent for post mortem and tissue and organ retention will be addressed in that context.

Survivor Benefits

- The consultation paper contains a proposal that registered partners should be entitled to survivor benefits, subject to the standard eligibility conditions, if one partner dies.

Survivor Partners - Private Pension Schemes

General

- The consultation paper contains a proposal that the conditions for exercising one of the Government's powers relating to the transfer of a pension to a registered partner should be met.

WHEN ONE PARTNER DIES:

Registering the Death of a Partner

- Registered partners should be added to the list of those who can register a death.

Background

Currently, there are only certain categories of people who can register a death. These categories do not include 'partner' unless they are qualified in some other way, such as being present at the death.

Inquests and Burial

- The consultation paper contains a proposal that registered partners should have the right to be notified about the inquest into the death of a partner and to question witnesses at the inquest, in person or through a legal representative. Married partners already have these rights.
- The consultation paper proposes that registered partners should have various rights provided for in coroner legislation, for example in relation to access to relevant records and documents.
- It also proposes that registered partners should have rights in relation to burial, exhumation and cremation.

Post Mortems and Organ Retention

- The DHSSPS has recently published proposals for new legislation on human organs and tissue. The issue of who is the most appropriate person to give consent for post mortem and tissue and organ retention will be addressed in that context.

Bereavement Benefits

- The consultation paper contains a proposal that registered partners should be entitled to bereavement benefits, subject to the standard eligibility conditions, if one partner dies.

Survivor Pensions - Private Pension Schemes

General

- The consultation paper contains a proposal that the conditions for contracting out of the State Second Pension should be amended to include a requirement for survivor benefits to be paid to registered partners.

- The Government will decide, in the light of responses received from the consultation exercise, the way changes should be made to pensions.

Survivor Pensions - Public Service Pension Schemes

General

- Government is proposing that members of public service pension schemes should be able to earn a survivor pension for a registered partner in the same way as for a married partner.
- If civil partnership registration were introduced for same sex partners conveying responsibilities as well as rights akin to those of spouses, it would be invidious to discriminate against partnerships of that sort in public service pension scheme rules. If it were a contracting-out requirement to recognise these partnerships, the public schemes would need to do so anyway to maintain their contracted-out status.
- Costs impossible to estimate with certainty. Depends on take-up. Could be insignificant.
- To be decided whether survivor pensions would be awarded to registered partner on basis of all scheme members' service or only on service since the change were introduced. Reckoning all past service of members might produce significant cost if take-up were high, but seems more likely that take-up would be relatively low.

Unmarried / unregistered partners

- Does not affect position of partners who choose not to marry or register.
- Public service schemes will only introduce survivor pensions for unmarried/unregistered partners if members of the scheme are prepared to meet the costs - which could be very high.

Injury Benefits

- Some public service employment groups - namely the armed forces, the Civil Service, the Fire Service, Local Government, the National Health Service - have injury benefit schemes, allowing the payment of benefits to family members following death of an employee. The consultation paper contains a proposal that injury benefits should be paid to registered partners on the same basis as to married partners.
- Policy on injury benefits follows policy on public service pension schemes.

Fatal Accidents Compensation

- The Government's proposals include extending the rights of registered same sex couples under the Fatal Accidents (NI) Order 1977.
- They recommend that registered partners should be included as a specific category within the Fatal Accidents Order. This means that if one partner dies in an accident caused by another person's negligence, their registered partner would be able to claim for any financial loss suffered in the same way as a spouse could.
- It is also recommended that registered partners be able to claim bereavement damages under the Fatal Accidents Order. This would entitle them to a payment of £10,000 if their partner dies as a result of another person's negligence. (Bereavement damages constitute a token payment in acknowledgement of grief and are not intended to reflect in any way the value of the deceased's life.)
- In November 1999 the Law Commission for England and Wales produced a report on 'Claims for Wrongful Death'. This report included recommendations to extend the categories of people who could claim financial loss and bereavement damages under the Fatal Accidents Act 1976. They recommended extending to, amongst others, same sex cohabitants. The Government is considering these proposals in relation to unregistered same sex partners.

Criminal Injuries Compensation

- Under the new civil partnership scheme, the two-year cohabitation requirement would be removed for registered same-sex partners making a fatal injury application under the Criminal Injuries Compensation Scheme.
- At present, same-sex partners can only make an application if they were living together with the deceased as a partner in the same household immediately prior to the date of death and had been so living throughout the two years immediately before that date.
- Married partners only need to provide their marriage certificate as proof of their relationship to the deceased. The Government believes that the registration of a partnership would also demonstrate that the couple were in a long term, committed relationship.
- There is no simple way of estimating how many people would be eligible for compensation under the new civil partnership scheme, but many of those who register would already satisfy the current criterion.

Intestacy

- Where there is no valid will, surviving civil partners should have the same entitlements under the intestacy rules as do surviving spouses.
- The intestacy rules are designed to reflect the wishes of the average person.
- Where there is a marriage the surviving spouse is the first to benefit, followed by the deceased's children, then other relatives of the deceased.

Inheritance

- In respect of inheritance, a civil partner should have the same rights and responsibilities as a married person.
- Surviving civil partners should, in the same way that surviving spouses are, be included in the category of people entitled to make an application to the court, under the Inheritance (Provision for Family and Dependants) (NI) Order 1979, for provision out of the deceased's estate.
- Where a surviving spouse has not been sufficiently provided for he or she can make an application to the court for further provision from the deceased's estate.
- Similarly, someone who was been maintained by the deceased at the time of death can also make an application.
- It is for the court to decide on the level of provision to be made.

Tenancy Succession

- The consultation paper contains a proposal that registered partners should be given the same rights as married people in relation to tenancy, including the right to succeed to a tenancy.

NOT IN THE CONSULTATION PAPER

Tax

- There will be implications for the tax system from any civil partnership registration scheme - we recognise this and we believe that the tax system should adapt to reflect changes in society wherever possible. As is usual, tax policy follows social policy, and the Government will consider the tax matters as part of the Budget process.
- Recognise that inheritance tax in particular is a key issue for many same-sex couples. Of course, respondents to the consultation exercise may well have their own views on how they think the tax system should adapt, and the Budget process will take full account of their feedback.
- This is standard practice. For example, the DTI's recent consultation exercise on insolvency issues excluded the implications for the tax system, which were implemented separately in this year's Finance Bill as part of the usual Budget process.
- If needed: No, this isn't an indication that tax will be left out of the package.

[SEE NEXT 5 PAGES FOR DETAILED BRIEFING]

Q. Does the Government intend to give tax relief to civil partnerships?

A. The Government is committed to fairness in taxation and keeps all taxes under review. Any changes will be made as part of the normal Budget process.

Q. Will gay couples be able to claim tax credits?

A. Changes to tax credits will be considered at the appropriate time. But there is nothing to stop gay people claiming tax credits now, as individuals.

Q. Will the IHT exemption for married people apply for civil partnerships?

A. The Government is committed to fairness in taxation and keeps all taxes under review. Any changes will be made as part of the normal Budget process.

CIVIL PARTNERSHIPS BRIEFING - TAX ISSUES

GENERAL LINES TO TAKE

The Government recognises that there will be implications for the tax system from any civil partnership registration scheme. To ensure fairness, the Government believes that the tax system should adapt to reflect changes in society wherever possible. The details of these implications will be considered, as is usual for tax matters, in the context of the Budget process.

Respondents to the recent consultation have expressed their own views on how they think the tax system should respond, and the Budget process will take full account of their feedback.

QUESTIONS AND ANSWERS

Q. HM Treasury and Inland Revenue are not committed to Civil Partnerships?

A. Not so. The Government has said that it believes that the tax system should adapt, where possible, to reflect social changes. The appropriate place to consider the implications of those changes is in the context of the Budget process.

Q. Does the Government intend to give tax relief to civil partnerships?

A. The Government is committed to fairness in taxation and keeps all taxes under review. Any changes will be made as part of the normal Budget process.

Q. Will gay couples be able to claim tax credits?

A. Changes to tax credits will be considered at the appropriate time. But there is nothing to stop gay people claiming tax credits now, as individuals.

Q. Will the IHT exemption for married people apply for civil partnerships?

A. The Government is committed to fairness in taxation and keeps all taxes under review. Any changes will be made as part of the normal Budget process.

Q. Does the Government intend giving tax relief for gay marriage?

A. The Government is not proposing to extend marriage to same-sex couples. A civil partnership registration scheme is a different thing altogether. Decisions on changes to the tax system are for Ministers to take as part of the normal Budget process.

Q. Will tax changes extend to unmarried opposite-sex couples?

A. Opposite-sex couples have a way to get a formal, legal status for their relationship - by getting married. The usual tax implications of marriage would then apply. The tax rights of cohabiting couples who do not wish to marry is a separate issue. The Government will consider changes to the tax system as part of the normal Budget process.

CONTACTS

HM Treasury: Andrew Vereker 0207 270 4390

Inland Revenue: Mark Taylor 0207 084 5509

Q. Are there any other examples of tax issues not being included in a consultation that clearly has consequences for tax?

A. Not so. The DTI's recent consultation exercise on insolvency issues excluded the implications for the tax system, which were implemented separately in this year's Finance Bill as part of the usual Budget process.

Q. When the Paymaster General answered two Parliamentary questions in January 2003 she said that any consultation would include tax.

A. It does. The Government has stated its belief that tax changes should reflect changes in society. What those changes should be depends upon the result of the wider consultation.

CIVIL PARTNERSHIPS CONSULTATION DOCUMENT - LINES TO TAKE

Tax and Tax credits

General line to take

The Government recognises that there will be implications for the tax system from any civil partnership registration scheme and believes that the tax system should adapt to reflect changes in society wherever possible. The detail of these implications will be considered following the outcome of the consultation and, as is usual for tax matters, in the context of the Budget process. Of course, respondents to the consultation exercise may well have their own views on how they think the tax system should respond, and the Budget process will take full account of their feedback.

Defensives

Q. Why doesn't the consultation document spell out the detail on tax?

A. The Government believes that tax should adapt to reflect changes in society, not prejudice them. The consultation document covers the whole range of civil partnership issues. Most of these issues concern the integral design and operation of the registration scheme. Once these issues are settled, the tax implications of the scheme will be looked at as part of the normal Budget process.

Q. No other examples of tax issues not being included in a consultation that clearly has consequences for tax?

A. Not so. The DTI's recent consultation exercise on insolvency issues excluded the implications for the tax system, which were implemented separately in this year's Finance Bill as part of the usual Budget process.

Q. When the Paymaster General answered two Parliamentary questions in January 2003 she said that any consultation would include tax.

A. It does. The Government has stated its belief that tax changes should reflect changes in society. What those changes should be depends upon the result of the wider consultation.

Q. Other departments have put their proposals in the Condoc, why haven't the Treasury/Inland Revenue?

A. Most of the other proposals are an integral part of the scheme's design. If tax is to reflect social changes, rather than drive them, the direction of those social changes needs to be settled first.

Q. The lack of detail implies that Treasury/Revenue are not committed to Civil Partnerships/will not introduce tax measures.

A. Not so. The Government has said that they believe that tax should reflect social changes. The proper place to consider the impact of those changes is in the context of the Budget process.

Q. When will the tax issues be addressed?

A. Following the outcome of the consultation and in the context of the normal Budget process.

Q. Will the tax issues be addressed in the next PBR/Budget?

A. The timing depends upon the results of the consultation.

Q. Does the Government intend to give inheritance tax benefits/ tax relief on pensions/ any other tax relief to civil partnerships?

A. Cannot prejudge the issue. Decisions will be taken during the normal Budget process. But, of course, this process will take full account of anything people say about tax in their responses to the consultation.

Q. Will gay couples be able to claim tax credits?

A. Changes to both tax and tax credits will be considered at the appropriate time. Nothing to stop gay people claiming tax credits now, as individuals.

Q. Does the Government intend giving tax relief for gay marriage?

A. The consultation document is clear that the Government is not proposing gay marriage. There is no question of extending marriage to same sex couples. A civil partnership registration scheme is a different thing altogether. Decisions on what tax and tax credit changes need to be made in response to a civil partnership scheme are for Ministers to take in the context of the Budget process.

Q. Does the Government accept *in principle* that the tax treatment of civil partners should be akin to that of married couples?

A. Decisions about the tax treatment of civil registered partners will be dependent upon the outcome of the consultation.

Q. Will tax changes extend to unmarried opposite-sex couples?

A. The document is about a partnership scheme for same-sex couples only. Opposite sex couples already have a way to get a formal, legal status for their relationship - by getting married. The usual tax implications of marriage would then apply. Cohabiting couples who don't want to marry are a separate but important issue. Anyone who thinks the proposed civil partnership registration scheme should go further will want to say so in response to the consultation. Any tax changes will be considered at the appropriate time and in the light of the outcome of the consultation.

[For information only: unmarried opposite-sex couples must make joint tax credit claims and have to report their combined income when doing so.]

Q. Giving gay couples the same tax rights as married couples is wrong/undermines marriage.

A. Not so. The proposed scheme creates a new legal status for same sex couples who currently have no way of having their partnership legally recognised. This new status is designed to reflect the roles they play in each others lives. This is no way undermines marriage. Any changes to tax and tax credits will take into account the results of the consultation.

Contacts

Inland Revenue: Steve Webster 020 7438 6535

Treasury: Dan Brown 020 7270 4390

• Although not common, same-sex couples can currently obtain fertility treatment in the UK. As donor sperm, eggs or embryos would be involved, the treatment would have to take place in clinics that are licensed by the Human Fertilisation and Embryology Authority under the Human Fertilisation and Embryology Authority Act 1990.

• Where donor sperm, eggs or embryos are used in treatment, the HFE Act defines who is to be regarded as the 'father' and 'mother' of the child. This, and similar provisions in the Act, will need to be reconsidered in the light of the proposed civil partnership registration scheme. If registered partners are to be recognised in a similar way to married couples, the Act may have to be amended. For instance, it

Other general - why is something left out?

- The consultation paper contains the main rights and responsibilities that the Government proposes should flow from registering a partnership. These rights and responsibilities stretch across a very wide spectrum of areas. There may be many others that need to be considered - and consulting will help us to identify these.
- Some issues are not discussed in the consultation paper because there are no legislative changes needed for registered partners. We have mentioned a few such areas - like "next of kin" for hospital visits, where there is no legislation to change - because we know that there are a lot of misconceptions about them, but in general the consultation paper only lists proposals to change legislation.

Wills

- The law allows a person to leave his or her property on death to any one of their choosing.
- The person does this by making a valid will.
- The law governing wills made by individuals before they enter a civil partnership, or before they exit a civil partnership, should be the same as the laws governing the making of wills by individuals before they enter marriage or before they become divorced.

Nationality - British Citizenship

- Certain privileges and entitlements in nationality law, mainly relating to naturalisation, derive in part from the marital status of the applicant. The Home Office will consider, in the light of the outcome of this consultation, whether the relevant provisions should be amended.

Fertility Treatment

- Although not common, same-sex couples can currently obtain fertility treatment in the UK. As donor sperm, eggs or embryos would be involved, the treatment would have to take place in clinics that are licensed by the Human Fertilisation and Embryology Authority under the Human Fertilisation and Embryology Authority Act 1990.
- Where donor sperm, eggs or embryos are used in treatment, the HFE Act defines who is to be regarded as the 'father' and 'mother' of the child. This, and similar provisions in the Act, will need to be reconsidered in the light of the proposed civil partnership registration scheme. If registered partners are to be recognised in a similar way to married couples, the Act may have to be amended. For instance, it

may have to be amended so as to allow both couples in a same-sex relationship to be legally recognised as 'parents' where they have a child following fertility treatment.

MOD Service Personnel

- If same sex couples commit themselves to a registered partnership that is founded in statute and provides rights and obligations that are comparable to those in marriage, the MOD would expect to afford similar recognition in its own policies towards Service personnel. How this would be applied in detail would depend on the terms of the legislation.

Bankruptcy / insolvency

- The Government intends that the insolvency provisions which apply to the spouse of a bankrupt also apply to the non-bankrupt partner in a civil partnership.

Company Law

- The Government is considering how company law could be amended to extend the disclosure provisions to partners as well as spouses.