



MJ O'Connor Solicitors

Civil Partnership Bill 2009

It was expected that this Bill which was first published in June, 2009 would have been passed into law later that year. The Bill finally came before the Dail on 1st July 2010 and was passed. It has just been confirmed that the Bill has also been passed today 8th July 2010, by the Seanad.

The Bill provides for registration of 'civil partnerships' which are exclusively same sex relationships. It also provides for a 'redress scheme' which will apply to co-habiting (heterosexual and same sex) couples. The redress scheme will grant such couples possible maintenance and property rights, based on their relationship - i.e. a form of 'palimony'.

What will 'civil partnership' mean?

This will refer to the possibility of registration and then legal recognition of a same-sex couple.

Will it be the same as marriage?

Although similar in many respects, it will not be the same. There will be similar rights, obligations and protections. The legislation has been criticised by some commentators as it does not make provision for adoption of children.

What rights will civil partners have?

- protection of a 'shared home' in that a sale, transfer, mortgage, etc by one partner of a shared home may be void if the other partner's consent has not been obtained
- the right of a partner to apply to Court for a maintenance order
- the right of a partner to inherit on death of the other partner (by providing for both a minimum legal right share where there is a Will and also an intestacy entitlement where there is no Will)
- the right on dissolution for a partner to apply to Court for property adjustment orders, pension adjustment orders, etc.

What is the redress scheme?

This is a form of safety net for qualifying co-habiting couples. On the ending of a relationship either party may apply to Court for certain orders.

Who will the redress scheme apply to?

This applies to couples, both heterosexual and same sex, who are in 'an intimate and committed relationship'. A qualified co-habitant is a person who has been in such a relationship for at least 3 years or for at least 2 years if there is a child.

The scheme will apply to all relationships ending after the commencement of the Act. Any period of duration of a relationship before the Act can be counted to determine if a party is a qualified co-habitant.

What rights will co-habitants have?

An application may be made to Court for a maintenance order, property adjustment order, pension adjustment order, etc.

On death of one party, the survivor may apply to Court for an Order for provision from the estate.

Can couples agree to exclude the operation of the redress scheme?

Yes. There is specific recognition of cohabitants' agreements provided the couple receive legal advice and produce full financial disclosure.

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