

Parliamentary Brief



The Law Society

Civil Partnership Bill

House of Commons – Second Reading

12 October 2004

The Law Society supports the Government's introduction of the Civil Partnership Bill. The Bill as originally drafted offers a system of registration to same sex couples which gives them public recognition of their relationship and the rights and responsibilities previously only offered to opposite sex couples on marriage. The Society has long campaigned for a change in the law to offer such a system of registration to same sex couples.

The provisions of the Bill appear as far as possible to mirror the words of current statutes relating to marriage and divorce. Although this means that some of the wording of the Bill might not be ideal, we believe it is appropriate that the two schemes – registration and marriage – should be consistent. The Government may well wish to re-examine provisions relating to family law in the future and any amendments to this Bill should be considered in the context of an overarching review of all law relating to relationship and relationship breakdown.

This Bill provides a legal framework in the event of a breakdown in a registered partnership. This will be a considerable improvement on the current situation, which relies on complex trust and property law provisions. The result will be quicker, cheaper and easier to understand.

Widening the scope of the Bill.

There was much debate in the Lords about widening the scope of the Bill to include both heterosexual couples and family members and carers. Following that debate an opposition amendment extending the scheme to close relatives over the age of 30 who have been living together for 12 years was passed at Report. The Society believes, however, that the remit of the Bill should not be altered in this way. The purpose of the Bill is to give to gay and lesbian couples the same rights and responsibilities available to heterosexual couples who choose to marry. Extending the Bill in the way suggested in the Lords undermines this purpose and only serves to cloud an important issue.

i) Opposite sex couples

Opposite sex couples should not be included because they have the option of a civil registration of marriage ceremony which provides the same rights and responsibilities. There is therefore no point in extending the provision to such couples.

ii) Co-dependents

The Society fully recognises the difficulties carers, elderly siblings or friends living together can face, particularly in retaining their homes following the death of their companions or relative. However, we think that it would be inappropriate to include them as categories of civil partnership because -

- a) One of the household might be married, and would need to divorce in order to register a partnership;
- b) There might be more than two people living under the same roof and it would prove impossible for all three to register jointly;
- c) If registration of households were allowed and one of the registered household's members wished to marry they would have to 'de-register' in order to do so, even if they remained in the same home;
- d) Many of the rights and obligations contained in the Bill (e.g. amalgamation of benefit rights) would be unhelpful to such households and might actually cause them to suffer financial loss.

We sympathise with the view that there is a need to consider the position of carers and others in households bound by ties other than partnership. However, we think that the attempts proposed in the amendments to use this Bill to give rights to people living in such households is at best unhelpful and at worst could harm their position. We believe they would be better served by legislation designed specifically to protect their position.

We therefore believe that the Lords amendment should be overturned in the Commons and the Bill returned to its original wording and intention.

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