

COMPARISON OF CIVIL PARTNERSHIP AND MARRIAGE FOR SAME SEX COUPLES

Note: this table sets out the similarities and differences between civil partnership, which is available only to same sex couples, and marriage as it applies to same sex couples. There are some differences between how marriage applies to opposite sex and same sex couples, which are not covered.

LEGAL PROVISION	
Marriage	Civil Partnership
Separate legal regime from civil partnership. Provisions set out in the Marriage Act 1949, Matrimonial Causes Act 1973 and Marriage (Same Sex Couples) Act 2013 (the 2013 Act).	Separate legal regime from marriage. Provisions set out in the Civil Partnership Act 2004.
Married couples cannot call themselves civil partners for legal purposes.	Civil partners cannot call themselves married for legal purposes.

FORMATION	
Marriage	Civil Partnership
Marriages are solemnized by saying a prescribed form of words.	Civil partnerships are registered by signing the civil partnership document, with no words required to be spoken.
Marriages can be conducted through either a civil ceremony, or a religious ceremony if the religious organisation has agreed to solemnize marriages of same sex couples according to its rites.	The formation of a civil partnership is an entirely civil event. Civil partners can choose to add a ceremony to follow the formation of their civil partnership but this does not form part of the formation. Where the civil partnership is formed on religious premises (where the religious organisation agrees to host it), the ceremony may be religious, as long as the actual formation remains secular.

ADMINISTRATIVE PROCESS¹	
Marriage	Civil Partnership
Notice of marriage is given by each party in the registration district(s) in which he/she has lived for the previous 7 days.	Notice of civil partnership is given by each partner anywhere within the local authority in which he/she has lived for the previous 7 days.
Marriage notices display the name, date of birth, gender, condition, occupation, address and period of residence, place of marriage, nationality and district of residence of both parties.	Civil partnership notices display the name, date of birth, gender, condition, occupation, period of residence, place of civil partnership formation, nationality and Registration Authority of residence of both parties (not their addresses).
Marriages are registered on paper, in a hard copy register.	The details of civil partnerships are recorded in an electronic register.

CERTIFICATES²	
Marriage	Civil Partnership
Marriage certificates include the names of only the fathers of the parties.	Civil partnership certificates include the names of both parents of the parties.
Marriage certificates are available to anyone to purchase provided they can identify the entry.	Civil partnership certificates are available to anyone to purchase provided they can identify the entry. The address will only be shown on the certificate if it is provided by the applicant.

¹ Based on current position. There may be some changes as part of the implementation of the 2013 Act.

² See footnote 1.

ANNULMENT

Marriage	Civil Partnership
A marriage can be annulled for the following reasons:	A civil partnership can be annulled for the following reasons:
If either party did not validly consent to the marriage.	If either party did not validly consent to the civil partnership formation.
If either party was suffering from a mental disorder of such a kind as to render them unfit for marriage.	If either party was suffering from a mental disorder of such a kind as to render them unfit for civil partnership.
If at the time of the marriage the respondent was suffering from a venereal disease in a communicable form.	This is not a ground for annulling a civil partnership.
If the respondent was pregnant at the time of the marriage by some person other than the petitioner.	If the respondent was pregnant at the time of the civil partnership formation by some person other than the applicant.
If an interim gender recognition certificate has been issued to either party after the marriage.	If an interim gender recognition certificate has been issued to either party after the formation of the civil partnership.
If a full gender recognition certificate has been issued as at the date of the marriage to the respondent.	If a full gender recognition certificate has been issued as at the date of the civil partnership to the respondent.

DIVORCE / DISSOLUTION	
Marriage	Civil Partnership
Marriage is ended by divorce, by obtaining a decree absolute. Some effects of marriage of the couple end on the issue of the decree nisi.	Civil partnerships are ended by a dissolution order. Some effects of civil partnership of the couple are ended on the issue of an interim order of dissolution.
A marriage can be ended on the ground that the marriage has broken down irretrievably, relying on one or more of the following facts:	A civil partnership can be dissolved on the ground that the partnership has broken down irretrievably, relying on one or more of the following facts:
Adultery and the petitioner finds it intolerable to live with the respondent. The definition of adultery is sexual intercourse with someone of the opposite sex outside of marriage.	This is not a fact which could be relied on for ending a civil partnership.
Unreasonable behaviour.	Unreasonable behaviour.
Desertion for 2 years	Desertion for 2 years.
Separation for 2 years (with the respondent's consent to the divorce).	Separation for 2 years (with the respondent's consent to the dissolution).
Separation for 5 years (no consent required).	Separation for 5 years (no consent required).

STATE PENSIONS	
Marriage	Civil Partnership
<p>Under the 2013 Act, married same sex couples are treated the same as men married to women, irrespective of their gender. They may be entitled to a lower-rate basic pension based on their spouse's National Insurance record only where the spouse was born after 5 April 1950.</p> <p>A married woman whose spouse changes legal gender from male to female during the marriage may qualify for a lower-rate basic pension based on her spouse's National Insurance record regardless of her spouse's date of birth. This is the same treatment as if her spouse had not changed their legal gender.</p>	Civil partners are treated the same as men married to women, irrespective of their gender. They may be entitled to a lower-rate basic pension based on their civil partner's National Insurance record only where the civil partner was born after 5 April 1950.

**STATE PENSIONS FOR WIDOWS, WIDOWERS
AND SURVIVING CIVIL PARTNERS**

Marriage	Civil Partnership
Under the 2013 Act, married same sex couples are treated in the same way as men whose wives have died, irrespective of their gender. Where the surviving spouse is over state pension age and the late spouse died while under state pension age, the survivor can inherit earnings-related state pension only if he or she reaches state pension age after 5 April 2010.	Surviving civil partners are treated the same as men whose wives have died, irrespective of their gender. Where the surviving civil partner is over state pension age and the late civil partner died while under state pension age, the survivor can inherit earnings-related state pension only if he or she reaches state pension age after 5 April 2010.

SURVIVOR BENEFITS – OCCUPATIONAL PENSION SCHEMES

Marriage	Civil Partnership
Where an occupational pension scheme provides discretionary survivor benefits, schemes are permitted to only take into account the rights accrued from the date the Civil Partnership Act came into force (5 December 2005). Where an occupational scheme is contracted out ³ , schemes are required to pay surviving spouses of either gender half of the Guaranteed Minimum Pension (GMP) accrued based on the member's accruals back to April 1988.	Where an occupational pension scheme provides survivor benefits, schemes are permitted to only take into account the rights accrued from the date the Civil Partnership Act came into force (5 December 2005). Where an occupational scheme is contracted out ⁴ , schemes are required to pay surviving civil partners of either gender half of the Guaranteed Minimum Pension (GMP) accrued based on the member's accruals back to April 1988.

SURVIVOR BENEFITS – PUBLIC SERVICE PENSIONS

Marriage	Civil Partnership
Survivor benefits in public service pensions are, in most cases, in line with those for civil partners and widowers of a marriage between an opposite sex couple. This means that in most cases, in addition to the GMP, they take account of service accrued since 1988.	Survivor benefits in public service pensions are, in most cases, in line with those for survivors of a marriage of a same sex couple, and widowers of a marriage of an opposite sex couple. This means that in most cases, in addition to the GMP, they take account of service accrued since 1988.

³ An individual can contract out of (leave) the additional state pension (ASP) if their employer runs a contracted out pension scheme. A member of such a scheme does not contribute to the ASP for the time they belong to the scheme. When they retire they won't get any ASP or it might be reduced. They should receive a pension from their employer.

⁴ See footnote 3.