

The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 – how it affects Cohabitants and Social Welfare

Frequently asked questions - The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 - extracted from the website of the Department of Social Protection.

Q.1 When does the Act come into effect?

A. The Act will come into effect on January 1st 2011. The Social Welfare and Pensions Act, 2010 will introduce the necessary legislative changes to the social welfare code.

Q.2 Can opposite sex partners opt to register as civil partners rather than to marry?

A. Civil partnership is confined to couples of the same sex. Opposite sex couples cannot opt to register as civil partners, the option of marriage is open to them.

Q.3 What is a cohabiting relationship for the purposes of the Act?

A. A “cohabitant” is a person living in an “intimate and committed relationship” with a person who is not that person’s spouse or civil partner. Cohabitants may be of the same sex as each other or of the opposite sex, though they may not be close relatives.

Special rules apply to couples who are deemed to be “qualified cohabitants”, that is, where they have lived together for at least five years, or two years if they have had a child or children together, and the couple satisfy a range of other criteria.

Q.5 What are the implications for social welfare customers of the CPCROC Act ?

A. The main impact for customers of the Department of Social Protection is that from 1 January 2011, the social welfare code will recognise all same-sex cohabiting couples, not just those who opt to register a civil partnership.

The recognition of same-sex couples, both those in a civil partnership AND same-sex cohabitants, will have consequences for those in receipt of social welfare payments, depending on their circumstances.

Currently, when entitlement to social welfare benefits is determined, members of same-sex couples are treated as individuals. Therefore, entitlement is assessed without any reference to the claimant's partner, which, in the main, is more advantageous to the person concerned. This will no longer be the case with the introduction of Civil

Partnership. This will have implications for civil partners and cohabitants, for example, the means of both civil partners and same-sex cohabitants will be taken into account in assessing means for social assistance purposes. The rule which limits certain social assistance payments to couples will also apply. This could result in a reduction in the level of payment to one or both of the couple, for example, a reduction in Jobseeker's Allowance due to the means of a co-habiting partner.

Q.6 Will social welfare entitlements for same-sex cohabiting couples be affected immediately or only when they register as civil partners ?

A. Yes, from 1 January 2011, the Department of Social Protection will be treating cohabiting same-sex couples and civil partners in a similar manner, with the exception of survivors benefits which are only payable to those who have registered their civil partnership. This will have consequences for those in receipt of social welfare payments, depending on their circumstances - see reply to Q.5 above.

Q.8 I am receiving a social welfare payment, will I be able to claim for my partner ?

A. The civil partner or cohabitant of a same-sex social welfare claimant will be recognised as a Qualified Adult, for social welfare purposes, and social welfare benefits accordingly. A "qualified adult" now includes a spouse, a civil partner or a cohabitant who is wholly or mainly maintained by that person - subject to certain exclusions.

Q.9 Will my partner's means be taken into account when I am being assessed by the Department of Social Protection ?

A. The means of both civil partners and same-sex cohabitants will be taken into account in assessing means for social assistance purposes. The rule which limits certain social assistance payments to couples will also apply. This could result in a reduction in the level of payment to one or both of the couple, for example, a reduction in Jobseeker's Allowance due to the means of a co-habiting partner.

Q.10 Will my civil partner be able to get free travel when I am aged over 66 years ?

A. A civil partner over age 66 will be able to get a Free Travel Pass which will automatically allow their civil partner to travel free with them. This will not be automatic for cohabitants who will have to submit an additional application.

Q.11 I am in a same sex cohabiting relationship and am currently in receipt of Rent Supplement. Will the introduction of Civil Partnership affect this payment ?

A. Rent Supplement is not generally payable where the applicant or his or her spouse/civil partner/cohabitant is engaged in remunerative full - time employment, that is, employment for 30 hours per week or more. In the case of a spouse/civil

partner/cohabitant if one of the couple is in full time employment both are excluded from claiming Rent Supplement.

Q.13 I am in a same-sex cohabiting relationship and in receipt of the One-Parent Family Payment. Will the introduction of Civil Partnership affect this payment ?

A. Yes, currently one person in a same-sex cohabiting relationship can claim One-Parent Family Payment as the social welfare code does not recognise the same-sex relationship. This will no longer be the case from 1 January 2011.

Q.14 What type of relationships does the social welfare code recognise ?

A. From 1 January 2011, the social welfare code will recognise three types of relationships:

- a) Married couples - the term "spouse" will only refer to each person of a married couple,
- b) A new definition of "civil partner" will be introduced. A "civil partner" will be defined as "each person of a couple who are civil partners within the meaning of section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010" . The term 'civil partner' will only apply to a person who has registered their civil partnership; and
- c) The term 'cohabitants' will refer to couples who are living together (both the same or opposite sex). The term 'cohabitant' will be defined in the social welfare code in accordance with Section 172 (1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act, 2010, which states that "... a cohabitant is one of two adults (whether of the same or the opposite sex) who live together as a couple in an intimate and committed relationship and who are not related to each other within the prohibited degrees of relationship or married to each other or civil partners of each other"