

The States of Jersey approves Civil Partnership

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On Tuesday 12 July 2011, the States of Jersey approved the Civil Partnership (Jersey) 201- Law ('the Law'). This new legal relationship in Jersey will, so far as is possible, give same-sex couples the same rights and responsibilities as married couples. Previously, The Marriage and Civil Status (Jersey) Law 2001 provided that a marriage is to be declared void if the parties to the marriage are 'not respectively male and female'.

The Law provided that a civil partnership can only be a civil, not a religious, procedure and cannot take place on religious premises. On the 12 July 2011 however, the States of Jersey simultaneously approved an amendment to the Law, allowing churches and other religious organisations to decide whether to allow ceremonies in their churches and religious building, effectively giving them the ability to 'opt in' if they wish to, but without imposing an obligation on them to do so. This amendment followed the change made to the UK Civil Partnership Act by the Equality Act 2010 section 202 which allows civil partnerships in the UK to be registered on religious premises, where religious organisations permit it.

Denmark became the first country in Europe to grant same-sex couples the same rights as married couples in 1989. On the 5 December 2005, the UK Civil Partnership Act came into force meaning that for the first time ever in the UK, same-sex couples were able to claim the same rights as married couples. Other European countries that award equal rights to same-sex couples include Belgium, Finland, France, Germany, Iceland, Luxembourg, Norway, Spain and Sweden.

Jersey is an independently administered jurisdiction and a possession of the British Crown, though not part of the United Kingdom or the European Union, so it was for Jersey's own legislature, with the assent of the Crown, to pass this legislation for a change to come about.

It took over two years from the in-principle agreement to ratification. On 20 October 2009, 48 of the 53 members of the States of Jersey agreed, in principle, to the Chief Minister's proposition 'that same-sex couples should be permitted to enter into a Civil Partnership ...', with 1 member voting against and 4 members abstaining.

There are five parts to the Law. Part 1 contains definitions of expressions used in the law. Part 2 describes how a civil partnership is formed. Part 3 makes provision for the dissolution of a civil partnership, annulment and other proceedings, makes provision for property and financial arrangements and covers issues relating to children. Part 4 makes provision for the recognition of dissolution or annulment of civil partnerships or separation of civil partners in other jurisdictions. Part 5 covers powers of the Minister for Home Affairs to amend other enactments and to make further provision in connection with civil partnerships.

There are four schedules to the Law. Schedule 1 outlines those relationships in other jurisdictions which will be recognised as civil partnerships. Schedule 2 sets out

the prohibited degrees of relationship between two people which prevents a civil partnership being formed. Schedule 3 relates to the requirement for a minor to gain adult consent before entering into a civil partnership. Schedule 4 lists all the amendments to existing laws which follow the introduction of the Law. This includes changes to the existing Wills and Successions (Jersey) Law 1993. Amendments will be required to bring the civil partnership home into the definition of a matrimonial home. In addition, the Legislation Advisory Panel has recommended to the Chief Minister that viduité is abolished and that widowers, instead, are given a right of douaire. A short amendment is being prepared by the Law Draftsman and should be adopted before the Law is enacted.

According to a poll by the radio station Channel 103, two-thirds of Jersey people support civil partnerships. Applying estimates from the UK Regulatory Framework and The Office for National Statistics to the Jersey population, suggest that there could be between 40 and 120 people entering into a civil partnership in Jersey.

This is the second significant change to the Wills and Successions (Jersey) Law 1993, the first being in 2010 by the Wills and Successions (Jersey) (Amendment) Law 2010, which for the first time, abolished the distinction between a man's legitimate and illegitimate children, by granting succession rights to a man's illegitimate children in line with the rights granted to his legitimate children.

There is a third potential change to the Wills and Successions (Jersey) Law 1993 on the horizon with respect to Jersey's forced heirship laws. If these are abolished, then in a jurisdiction where the customary law of forced heirship has been firmly in place for centuries, this would surely signify Jersey's law moving closer to English legal thinking.

With two significant amendments in as many years, and a third potentially on the way, the Wills and Successions (Jersey) Law 1993 is going through an intense period of review. These are interesting times.