

Asylum Support Policy Bulletin 87

THE CIVIL PARTNERSHIP ACT 2004

1. SCOPE OF THE DOCUMENT

- 1.1 This bulletin gives guidance to asylum support caseworkers on dealing with asylum seekers who enter into a civil partnership in the UK or who are in an existing civil partnership undertaken in a country whose jurisdiction to conduct a civil partnership ceremony is recognised by the United Kingdom.
- 1.2 The bulletin also gives guidance on same sex couples who, although not civil partners are living together as if they were.

2. LEGISLATION

- 2.1 The Civil Partnership Act 2004, which came into force on 5 December 2005, gave same-sex couples the opportunity to enter into a legal relationship termed a civil partnership.
- 2.2 The Civil Partnership Act 2004 (Amendments to Subordinate Legislation) Order 2005 (SI 2114) which also came into force on 5 December 2005 amended various legislative provisions. Annex A is the part of the Order relevant to asylum support caseworkers. It details the amendments made to the Asylum Support (Interim Provisions) Regulations 1999, the Asylum Support Regulations 2000 and the Withholding and Withdrawal of Support (Travel and Assistance and Temporary Accommodation) Regulations 2002.

3. OVERVIEW

- 3.1 Civil partners have parity of treatment with those who enter into a marriage in a wide range of matters including recognition for immigration and nationality purposes. In effect, this means that existing provisions for spouses have been extended to civil partners who have registered their partnership in the UK or in countries specified under the 2004 Act. The Immigration Rules have been amended to include provision for civil partners. Details about the introduction of the Act were included in a Global e-mail issued on 11 November 2005. Guidance was issued in March 2006 and is available within the Immigration Directorate Instructions (Chapter 8 Family Members, paragraph 2 Civil Partners and paragraph 3 Fiancé(e)s and Proposed Civil Partners.)
- 3.2 Annex B lists the rights and responsibilities of civil partners.

- 3.3 It is envisaged that the cases that asylum support caseworkers are most likely to encounter are those where two people of the same sex are cohabiting and, although not civil partners, are living together as if they were. As with opposite-sex couples, if they have been living together for at least two of the last three years and qualify for asylum support it will be paid to them as a qualifying couple.

4. THE PROCESS

- 4.1 Caseworkers should treat an application for support from a couple in a civil partnership in the same way as an application from a married couple. Where applicable, support should be payable as a qualifying couple. If the couple are living together as if in a civil partnership caseworkers will need to establish whether they have been living together for at least two of the last three years before agreeing payment as a qualifying couple.
- 4.2 If an asylum seeker is in a civil partnership - or is living with their same-sex partner as if in a civil partnership - is part of a household where the partner is in receipt of funds other than asylum support, the case should be dealt with in line with Policy Bulletin 11 (Mixed Households.) The applicant should be treated in line with the policy for dealing with spouses.
- 4.3 An asylum seeker who:
- enters into a civil partnership;
 - starts living with a person as if a civil partner of that person;
 - becomes a former civil partner on the dissolution of his civil partnership; or
 - separates from his civil partner or from the person with whom he has been living as if a civil partner of that person

whilst receiving support must, without delay, notify the Secretary of State of the change of circumstances This is a legal requirement set out in paragraph 15 of the Asylum Support Regulations 2000.

Contact:

David Ridgway

ASYLUM SUPPORT POLICY

**7th Floor East,
Whitgift Block B
Croydon**

Tel 020 8604 6851

ANNEX A

SCHEDULE 1 Article 2(13) AMENDMENTS TO SUBORDINATE LEGISLATION RELATING TO IMMIGRATION AND NATIONALITY

PART 1 IMMIGRATION

Asylum Support (Interim Provisions) Regulations 1999

1. In regulation 2 of the Asylum Support (Interim Provisions) Regulations 1999⁽¹⁾—
- (a) in paragraph (1)(a), after “is his spouse” insert “or civil partner”;
 - (b) in paragraph (1)(b), after “or of his spouse” insert “or civil partner”;
 - (c) in paragraph (1)(c), after “or his spouse’s” insert “or civil partner’s”; and
 - (d) after paragraph (1)(f) insert—
 “(ff) had been living with him as a member of a same-sex couple for at least two of the three years before the day on which his claim for support was made;”.

Asylum Support Regulations 2000

- 2.—(1) Amend the Asylum Support Regulations 2000⁽²⁾ as follows.
- (2) In regulation 2(1)—
- (a) after the definition of “asylum support” insert ““civil partnership couple” means two people of the same sex who are civil partners of each other and who are members of the same household;”; and
 - (b) after the definition of “married couple” insert ““same-sex couple” means two people of the same sex who, though not civil partners of each other, are living together as if they are;”.
- (3) In regulation 2(4)—
- (a) in sub-paragraph (a), after “is his spouse” insert “or civil partner”;
 - (b) in sub-paragraph (b), after “is a child of his or of his spouse” insert “or civil partner”;
 - (c) in sub-paragraph (c), after “his spouse’s” insert “or civil partner’s”; and
 - (d) after sub-paragraph (f) insert—
 “(ff) had been living with him as a member of a same-sex couple for at least two of the three years before the relevant time;”.
- (4) In regulation 10(4)—
- (a) for sub-paragraph (a) substitute—

(1) S.I. 1999/3056, to which there are amendments not relevant to this Order.

(2) S.I. 2000/704, to which there are amendments not relevant to this Order.

- “(a) “qualifying couple” means a married couple, an unmarried couple, a civil partnership couple or a same-sex couple, at least one of whom is aged 18 or over and neither of whom is aged under 16;” and
- (b) for sub-paragraph (b) substitute—
 - “(b) “lone parent” means a parent who is not a member of a married couple, an unmarried couple, a civil partnership couple or a same-sex couple;”
- (5) In regulation 15(2)—
 - (a) after sub-paragraph (f) insert:
 - “(ff) forms a civil partnership;”;
 - (b) after sub-paragraph (g) insert:
 - “(gg) starts living with a person as if a civil partner of that person;”;
 - (c) after sub-paragraph (h) insert:
 - “(hh) becomes a former civil partner on the dissolution of his civil partnership;” and
 - (d) after sub-paragraph (i) insert:
 - “(ii) separates from his civil partner or from the person with whom he has been living as if a civil partner of that person;”.

Withholding and Withdrawal of Support (Travel Assistance and Temporary Accommodation) Regulations 2002

3. In regulation 2 of the Withholding and Withdrawal of Support (Travel Assistance and Temporary Accommodation) Regulations 2002**(3)**—

- (a) in paragraph (2)(a), after “his spouse” insert “or his civil partner”;
- (b) in paragraph (2)(b), after “his spouse” insert “or of his civil partner”;
- (c) in paragraph (2)(c), after “his spouse’s” insert “or his civil partner’s”;
- (d) in paragraph (2)(f), for “an unmarried couple” substitute “a couple”; and
- (e) in paragraph (3), for the definition of “unmarried couple” substitute—
 - ““couple” means a man and woman who are not married to each other but are living together as if they are, or, two people of the same sex who are not civil partners of each other but are living together as if they are.”.

(3) S.I. 2002/3078.

ANNEX B

The rights and responsibilities of civil partners include:

- A duty to provide reasonable maintenance for the civil partner and any children of the family;
- Ability to apply for parental responsibility for the civil partner's child;
- Equitable treatment for the purposes of assessment for child support; life assurance; tax, including inheritance tax; employment and pensions benefits; inheritance of a tenancy agreement;
- Recognition under intestacy rules;
- Access to fatal accidents compensation;
- Protection from domestic violence; and
- Recognition for immigration and nationality purposes.