

Final Regulatory Impact Assessment: Civil Partnership Act 2004

This regulatory impact assessment has been prepared by the Department of Trade and Industry and supports the Civil Partnership Act

This regulatory impact assessment (RIA) has been prepared on the basis of the Civil Partnership Act 2004 which received Royal Assent on 18 November 2004.

Executive Summary

The Civil Partnership Act creates an entirely new legal relationship of civil partner, giving same-sex couples in the UK the opportunity of gaining legal recognition for their relationships. Couples who register as civil partners of each other will gain a package of rights and responsibilities.

Overall the costs identified in this RIA are justified by the social policy reasons for introducing a civil partnership scheme for same-sex couples.

There will be costs and substantial benefits for the individuals who chose to form a civil partnership.

The overall impact on business will be low; there will be a minor cost increase for defined-benefit occupational pension providers. It is also expected that there will be a small increase in demand for the hospitality industry.

There will be no direct impact on charities and voluntary organisations other than their own responsibilities as employers.

The greatest impact of the proposals would be on central and local Government. The total annual costs to Government are summarised in Table 1 below, excluding the costs of public service pension schemes, which are summarised in Table 2. In addition to the annual costs of public service pension schemes, for the rights accrued from 1988 (as is the position for widowers in the contracting-out rules) there are additional costs to Government of between £60m and £125m depending on the take up of civil partnership

Table 1 - Total Annual Costs to Government (£m)

| | <i>Year</i> | <i>State Pension and Bereavement Benefits¹</i> | <i>Public Funding for Dissolution</i> | <i>TOTAL</i> |
|-----------------------|-------------|---|---------------------------------------|--------------|
| High Take-Up Scenario | 2010 | 2 | 1.0 | 3.0 |
| | 2020 | 6 | 1.7 | 7.7 |
| | 2030 | 9 | 2.4 | 11.4 |
| | 2040 | 12 | 2.8 | 16.8 |

¹ Costings are based on rights derived from Bereavement Benefits (from lump sum Bereavement Payment and from Bereavement Allowance paid for up to 52 weeks) and Retirement Pension (inherited rights from Additional Pension or State Second Pension). Figures are in 2003/4 prices.

| | | | | |
|----------------------|------|----|-----|------|
| | 2050 | 19 | 3.2 | 22.2 |
| Low Take-Up Scenario | 2010 | 1 | 0.5 | 1.5 |
| | 2020 | 3 | 1.0 | 4.0 |
| | 2030 | 4 | 1.2 | 5.2 |
| | 2040 | 6 | 1.4 | 7.4 |
| | 2050 | 10 | 1.6 | 11.6 |

Table 2 - Total Annual Costs To Public Service Employers

| | <i>Annual increase in liabilities as % of pensionable payroll</i> | <i>Annual increase (£m) pa</i> |
|---------------------|---|--------------------------------|
| <i>High take-up</i> | 0.016 | 14.0 |
| <i>Low take-up</i> | 0.008 | 7.0 |

There will also be a number of one-off administrative costs to Government totalling approximately £20m, Table 3 below summarises these.

Table 3 - One off Administrative Costs to Government

| <i>Issue</i> | <i>Estimated Cost (£m)</i> |
|--|----------------------------|
| Registration Service Set-up Costs | 0.50 |
| Court Service 'FamilyMan' IT System | 1.00 |
| Administrative changes for the Court Service | 0.38 |
| Administrative changes to Public Service Pension Schemes | 5.00 |
| Non-IT operational and administrative costs for changes to state pensions and benefits | 6.40 |
| IT systems for changes to state pensions and benefits | 5.50 |
| Public awareness raising (of legal rights and responsibilities) | 0.10 |
| Judicial training | 0.79 |
| Inland Revenue IT and Administrative changes | 0.10 |
| <i>Total</i> | 19.77 |

Costs to Private Sector Employers

Total annual costs to private sector employers are summarised in Table 4 below. In addition to these annual costs there will be a one-off cost of between £20m and £40 (depending on the take-up rate of civil partnership) to meet the costs of providing survivor benefits on the basis of service from 1988 up to the introduction of civil partnership. These one off costs could be spread over a number of years rather than met in totality when civil partnership is implemented (with costs of between £2m to £4m a year over fifteen years). The estimated one-off administrative costs are around £7m.

Table 4 - Annual Costs² To Private Pension Defined Benefit Schemes of Private Sector Employers (Benefits accrue from date of implementation)

| | <i>Annual cost increase as % of contributions</i> | <i>Annual Increase (£m) pa</i> |
|---------------------------------|---|--------------------------------|
| <i>High take-up³</i> | 0.016% | 2.5 |
| <i>Low take-up</i> | 0.008% | 1.25 |

2 Data from the Government Actuary's Department s suggest that usually at trustees' discretion, around $\frac{3}{4}$ of members of private sector defined benefit schemes are already in schemes which pay survivor benefits to unmarried couples, including those of the same sex.

3 Under the high take-up scenario, the Government Actuary's Department assumes that, by 2050, 6% of the lesbian, gay and bisexual population aged around 70 who are retired with occupational pensions will be in civil partnerships (the proportions around age 70 being a key driver in determining the cost of benefits to spouses/partners on death). This figure is broadly consistent with the assumption that, overall, around 3.3% of the lesbian, gay and bisexual population aged 16 and over will be in registered civil partnerships, as compared to around 33% of the heterosexual population aged 16 and over who will be married.

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A Note on Scope

The Act applies to England, Wales, Northern Ireland and Scotland. In relation to devolved matters, the Scottish Parliament has approved a suitable motion, which was placed before it by the Executive.

The UK Government has prepared this RIA with contributions from the Scottish Executive, Northern Ireland Departments and the National Assembly for Wales as appropriate. It should be assumed that unless otherwise stated the application and costs given apply to the United Kingdom.

1. Title of the proposal

Civil Partnership Act 2004

The Civil Partnership Act 2004 gives same-sex couples in the United Kingdom the opportunity of gaining legal recognition for their relationships through forming a civil partnership and gaining rights and responsibilities attached to that legal relationship.

2. Purpose and Intended Effect

2.1 Purpose

To give same-sex couples in the United Kingdom the opportunity of gaining legal recognition for their relationships through forming a civil partnership and gaining rights and responsibilities attached to that legal relationship.

2.2 Intended Effect

Couples who form a civil partnership will gain a package of rights and responsibilities.

Civil partnership is an important equality measure for same-sex couples who are unable to marry. It provides for the legal recognition of same-sex partners who wish to enter into interdependent, same-sex couple relationships that are intended to be permanent. Civil partnership provides a framework whereby same-sex couples could acknowledge their mutual responsibilities, manage their financial arrangements and achieve legal recognition as civil partners.

Same-sex couples face occasions in their joint lives where duties, obligations and protections available to spouses are unavailable to them. The rights that follow the formation of a civil partnership apply not only during a relationship, but also on the break-up of a relationship or, the death of a partner.

The current unavailability of these legal rights can lead to difficulties in a variety of instances. Same-sex couples do not have the same protections as spouses when a long-term relationship comes to an end and where one partner might reasonably expect to share in any division of property or to apply for maintenance from their former partner. This is particularly difficult if, as the Government has heard, one partner has sacrificed their own career in order to support their partner's. Respondents to the consultation on civil partnership (see Section 5.2 for further details) also highlighted from their own personal experience the problems that arise when a UK national wishing to live with his or her same-sex partner who is not a UK national can be treated very differently to a UK national wishing to live with their spouse. Unable to meet the residency requirements, they can often be forced to live apart for long periods of time.

Bereaved same-sex partners have in the past found themselves unable to achieve full recognition for the purposes of fatal accidents compensation and if a person dies without leaving a will same-sex partners do not have any rights under the intestacy rules.

Civil partnership will address all these areas and provide rights and responsibilities for those same-sex couples who formed a civil partnership.

The Act applies to England, Wales, Northern Ireland and Scotland. In relation to devolved matters, the Scottish Parliament has approved a suitable motion, placed before it by the Executive.

3. Risks – Reasons for taking action

While it is possible to identify a number of risks related to specific scenarios, these all relate to the lack of legal recognition available to same-sex couples.

3.1 Lack of legal recognition for same-sex couples

Same-sex couples currently have no way of gaining a legally recognised status for their relationships. The current lack of legal recognition for same-sex couples means that they are denied access to most of the rights or responsibilities that are given to married couples to reflect the commitment they have made to each other. Some rights do extend to unmarried couples, both same-sex and opposite-sex, but where rights are made available only on the basis of marriage there is currently no means for a same-sex couple to access these since the parties are not lawfully able to marry one another. For a same-sex couple, the denial of the opportunity to have their relationship recognised provides a number of day-to-day challenges when they attempt to organise their joint lives.

As well as the problems outlined in Section 2.2 there are many difficulties that arise from the law's failure to fully recognise committed same-sex relationships.

Take, for example, the position of same-sex couples when a partner falls ill or dies. Currently same-sex partners cannot access criminal injuries compensation in the same way that spouses are able to do. Same-sex partners are unable to register the death of their partners as widowed spouses can and are treated differently for the purposes of inquests and the jurisdiction of the coroner's court.

Although not a matter of law, but in practice just as tangible, same-sex couples can also find themselves facing other more personal difficulties at times of great distress. For example some partners have been refused a hospital visit to see their seriously ill partner (even when guidance has been issued to stop these situations arising), and same-sex partners have been refused their rightful place at their partner's funeral.

In many areas, as far as the law is concerned, same-sex relationships do not exist. The Government does not believe that this inequality is acceptable. A new legal relationship would of itself promote culture change that could make a real and positive difference to same-sex partners.

4. Options for action

4.1 Option 1 - no action

This option would fail to address any of the problems described above in Section 3.

There would be no costs associated with taking no action and equally there would be no benefits to either individuals or society as a whole. Taking no action would fail to meet the Government's policy aim of providing legal recognition for same-sex couples.

4.2 Option 2 - Tackle individual problems one by one

A second theoretical possibility would be tackling individual issues one-by-one. This would involve a range of approaches, from issuing guidance to legislative changes. However, the absence of any mechanism through which same-sex couples could obtain legal recognition as a couple in a long-term, committed relationship would mean that it would be difficult to determine which couples should be entitled to rights and responsibilities and when these should begin to accrue.

Since this approach would be based on a decision not to provide legal recognition for same-sex couples, it is likely that the new provisions would need to apply to all unmarried couples in most or all cases (that is, including opposite-sex couples who are not married). This could in turn alter the focus of the provisions away from the desire to address the inability of same-sex couples to obtain legal recognition for their relationship if they choose to do so.

There would be some risk of imposing rights and responsibilities on couples who did not want them (that is, those who prefer to arrange their lives separately and would not choose to make a formal legally-recognised commitment to each other, in a comparable way to those opposite-sex couples who choose not to marry).

Such an approach would take a long time to provide equal treatment for same-sex partners, particularly if a number of different legislative vehicles were needed.

Tackling the individual problems one by one would have costs associated with it. Without considering in detail the number, type and order in which changes might be brought in, it is not possible to accurately assess the costs. However, in order to make a fair comparison of this option with option 3 below, we would have to assume that the end situations would be comparable. In such a situation the costs would be expected to be at best the same, if not higher for the piecemeal approach as there is likely to be more repetition of costs. For example each individual change would require work to publicise it. Such a piecemeal approach could leave both individuals and employers confused about their rights and responsibilities. It is also possible that there would be some costs to individuals where rights or responsibilities are forced on them because it would not be an optional, opt-in scheme.

Dealing with issues in a piecemeal fashion would fail to provide legal recognition of same-sex relationships, which of itself can encourage wider culture change.

4.3 Option 3 – Civil Partnership

An opt-in civil partnership relationship with an attached package of rights and responsibilities would provide legal recognition for those same-sex couples who choose to make such a commitment. Couples who register as civil partners would thereby gain many of the rights and responsibilities currently denied them. The opt-in nature of the status would provide clarity about when those rights and responsibilities begin.

Civil partnership would not only bring benefits to the individuals who formed civil partnerships but would also benefit society as a whole. It would do so by underlining the inherent value of committed same-sex relationships, by supporting stable families and by valuing the diversity in our society.

A new legal relationship would, of itself, encourage wider culture change that could make a real and positive difference to same-sex partners in relation to many aspects of their lives. For example in areas such as funeral arrangements and hospital visiting same-sex partners have long suffered inadequate recognition. These issues arise at times of considerable emotional stress and the failure to acknowledge committed same-sex relationships can be both needless and humiliating.

The Government recognises that some people deliberately choose to avoid formal commitments to each other, or to limit their liabilities in respect of each other. An opt-in status enables individual choices, and so will not impose responsibilities on those who do not want them. Equally, those who do not register will not benefit from the rights that may be attached to a civil partnership scheme. There will be legal certainty about who has opted in and who has not and when the legal relationship begins and ends. This level of certainty enables an assessment of when liabilities accrue and cease. Clear rights and obligations will be created between civil partners.

On 30 June 2003, Deputy Minister for Women and Equality, Jacqui Smith MP launched the Government's consultation paper, "Civil Partnership: a framework for the legal recognition of same-sex couples". This consultation paper contained the Government's proposals for a civil partnership scheme for same-sex couples in England and Wales and sought the views on the proposals. Overall 83% of respondents supported the principle of a civil partnership scheme.

The Government announced its intention to take forward legislation in the Queen's Speech on 26 November 2003.

On 10 September 2003 the Scottish Executive announced its intention to introduce civil partnership in Scotland in the event that a scheme was introduced in England and Wales. It also announced its intention to seek the Scottish Parliament's agreement to include provisions for Scotland in any forthcoming Westminster Bill.

Overall 279 respondents (86% of all responses) agreed in principle with the proposed reform.

The Scottish Executive announced its intention to seek the Scottish Parliament's agreement to include Scottish provisions in any forthcoming Westminster Civil Partnership Bill on 5 February 2004⁴.

On 19 December 2003 a Consultation Paper was issued in Northern Ireland seeking views on the establishment of a civil partnership registration scheme in Northern Ireland along the lines of that proposed for England and Wales and Scotland. The consultation period closed on 5 March 2004. The Secretary of State for Northern Ireland has approved the establishment of such a scheme in Northern Ireland. A formal response document, 'Civil Partnership - A Legal Status for Committed Same-Sex Couples in Northern Ireland: Analysis of Responses', was published on 10 May 2004 by the Department of Finance and Personnel.

Further details of the consultation responses are outlined in Section 5.

⁴ News release on 5 February 2004: <http://www.scotland.gov.uk/pages/news/2004/02/SEjd408.aspx>

5. Consultation

5.1 Within Government

Between November 2001 and June 2003, a major review of the policy and cost implications of a civil partnership scheme was carried out across Government, supported by the Women and Equality Unit in the Department of Trade and Industry. This culminated in the publication of a public consultation paper in June 2003 – the outcome of this consultation is summarised below in Section 5.2.

Work has continued across Government, led by the Department of Trade and Industry, with groups set up to oversee work in preparing the civil partnership legislation and the resulting implementation issues.

The following Departments and public bodies have provided input into the work surrounding civil partnership:

| | |
|--|-------------------------------------|
| Department for Culture, Media and Sport | Foreign and Commonwealth Office |
| Department for Education and Skills | Health and Safety Executive |
| Department for Environment, Food and Rural Affairs | HM Customs and Excise |
| Department for International Development | HM Prison Service |
| Department for Transport | HM Treasury |
| Department for Constitutional Affairs | Home Office |
| Department of Health | Inland Revenue |
| Department of Trade and Industry | Ministry of Defence |
| Department for Work and Pensions | Office for National Statistics |
| Food Standards Agency | Office of the Deputy Prime Minister |
| | National Assembly for Wales |
| | Small Business Service |

The Scottish Executive and the Office of Law Reform in Northern Ireland have completed similar work.

The Scottish Executive and the Office of Law Reform in Northern Ireland have also carried out consultation exercises on civil partnership. Further information about these consultation exercises is below in Section 5.3 and 5.4.

5.2 Public Consultation on Civil Partnership in England and Wales

On the 30th June 2003, the Deputy Minister for Women and Equality, Jacqui Smith MP launched the Government's consultation paper, "Civil Partnership: a framework for the legal recognition of same-sex couples"⁵. This consultation paper contained the

⁵ The consultation document - "Civil Partnership: a framework for the legal recognition of same-sex couples" is available from www.womenandequalityunit.gov.uk

Government’s proposals for a civil partnership scheme for same-sex couples in England and Wales and sought views on the proposals.

The rate of response to the paper was very high for a Government consultation. The Women and Equality Unit in the Department of Trade and Industry and the Equality Unit in the National Assembly of Wales received 3,167 responses. Lesbian, gay and bisexual groups, voluntary organisations, local authorities, businesses, equality practitioners and religious groups all contributed to the consultation process and hundreds of individuals sent in their comments through letters, e-mails, postcards, petitions and posters.

Throughout the three months of consultation various campaigns were run both in support of and in opposition to the Government’s overall proposal. The two largest, and most statistically significant, were those run by Stonewall in support of civil partnership and by the Christian Institute in opposition to the proposal.

Overall 83% of respondents supported the principle of a civil partnership scheme. The response is summarised in Table 5 below.

Table 5 - Overarching Responses to Consultation

| | <i>Individuals</i> | <i>Organisations</i> | <i>Overall</i> |
|---|--------------------|----------------------|----------------|
| <i>Supported the principle of a civil partnership scheme</i> | 84% | 74% | 83% |
| <i>Opposed, or did not offer an opinion on, the principle of a civil partnership scheme</i> | 16% | 26% | 17% |

Of those Lesbian, Gay and Bisexual organisations that responded⁶:

95% (35 responses) supported the Government’s proposal;
5% (2 responses) opposed, or did not offer an opinion on, the principle of a civil partnership scheme.

Of those representing the Public Sector:

85% (70 responses) supported the principle of a civil partnership scheme;
15% (12 responses) opposed, or did not offer an opinion on, the principle of a civil partnership scheme.

Of those representing the Private Sector:

⁶ Many of these groups also represented the interests of the transgender community.

42% (5 responses) actively supported the principle of a civil partnership scheme;
58% (7 responses) did not offer an opinion on the principle of the scheme⁷ and none opposed the principle of a civil partnership scheme.

Of those representing the Voluntary Sector:

77% (10 responses) supported the principle of a civil partnership scheme;
23% (3 responses) opposed, or did not offer an opinion on, the principle of a civil partnership scheme.

Of those representing Trade Unions:

91% (10 responses) supported the principle of a civil partnership scheme;
9% (1 response) opposed the principle of a civil partnership scheme;

Of those representing nationally-based religious groups⁸ :

53% (9 responses) supported the principle of a civil partnership scheme;
47% (8 responses) opposed, or did not offer an opinion on, the principle of a civil partnership scheme;

Of those representing individual religious groups and congregations⁹:

15% (3 responses) supported the principle of a civil partnership scheme;
85% (17 responses) opposed the principle of a civil partnership scheme.

A report summarising the findings of the consultation 'Responses to Civil Partnership' was published in November 2003. In the report the Government announced its intention to introduce legislation for a civil partnership scheme as soon as parliamentary time allowed.

Further information and the relevant papers are also available at www.womenandequalityunit.gov.uk.

5.3 Public Consultation on Civil Partnership in Scotland

On 10 September 2003 the Scottish Executive announced its intention to introduce civil partnership registration in Scotland in the event that a scheme was introduced in England and Wales. It also announced its intention to seek the Scottish Parliament's agreement to include provisions for a scheme in any forthcoming Westminster Bill.

⁷ 58% did not offer an opinion on the principle of a civil partnership scheme. These responses dwelt on the technicalities of the proposed scheme.

⁸ For example, the Church of England, the Catholic Bishops Conference, the Salvation Army, the Methodist Church and others.

⁹ These were largely Baptist, Evangelical, Free and Congregational churches.

On 30 September the Scottish Executive published a consultation paper providing more detail on its proposals¹⁰, for comment by 5 December 2003. In addition, Scottish Executive officials met with key stakeholders to discuss the proposals.

The responses to the consultation were analysed independently and a report of the analysis published on 5 February 2004¹¹. The main points coming from the consultation analysis are detailed below:

323 responses were received, including 222 from individuals and 101 from organizations, including lesbian, gay and bisexual organisations, religious organisations, local authorities, registrars, legal sector, NHS bodies and others.

279 respondents (86% of all responses) agreed in principle with the proposed reform. Several felt it did not go far enough. It was seen as promoting equality through parity of esteem for same-sex couples and the reduction of disadvantage. It was also thought to promote long-term, stable relationships. Opponents, beyond the scope of civil partnership registration, expressed general concern about the expression of gay and lesbian sexuality.

74% of identifiable responses agreed to the proposal to introduce a Sewel motion. Respondents' support for this approach is based on pragmatism and speed of legislation, while those opposing it emphasise the need for detailed scrutiny and debate of the proposed legislation in the Scottish Parliament. Some disappointment at the shifting of responsibility to Westminster was expressed by supporters and opponents of the proposals.

Over 80% agreed that couples should be able to register as civil partners of each other in Scotland, and that there should be mutual recognition of partnerships throughout the UK. Devolved aspects should be based on Scots law. Many felt that the appropriate comparison was with married couples in Scotland, not same-sex couples in England.

Following publication of the analysis, the Scottish Executive announced its intention to seek the Scottish Parliament's agreement to include Scottish provisions in any forthcoming Westminster Civil Partnership Bill¹².

5.4 Public Consultation on Civil Partnership in Northern Ireland

A public consultation on a proposal to establish a civil partnership scheme in Northern Ireland ran from 19 December 2003 to 5 March 2004. The consultation paper, "Civil Partnership: A Legal Status for Committed Same-sex Couples in Northern Ireland" was distributed to over 500 individuals and organisations across Northern Ireland, including all political parties, church and faith groups, the voluntary sector and other bodies with a strong interest in equality and human rights issues.

¹⁰ "Civil Partnership Registration: A legal status for committed same-sex couples in Scotland."
<http://www.scotland.gov.uk/consultations/justice/cprs-00.asp>

¹¹ "The consultation on Civil Partnership Registration: analysis of responses."
<http://www.scotland.gov.uk/library5/social/cprar-00.asp>

¹² News release on 5 February 2004: <http://www.scotland.gov.uk/pages/news/2004/02/SEjd408.aspx>

The majority of responses came from individuals who were opposed to the consultation proposal on religious grounds. A formal response document – ‘Civil Partnership - A Legal Status for Committed Same-Sex Couples in Northern Ireland: Analysis of Responses’ was published on 10 May 2004 by the Department of Finance and Personnel¹³.

5.5 The way forward

The Government proposed to introduce a new legal relationship of civil partnership through a Civil Partnership Bill. This would overcome the problems faced by many same-sex couples caused by the absence of legal recognition of their relationship.

In the Queen’s Speech on 26 November 2003 the Government announced its intention to bring forward legislation in the present session of Parliament.

On 5 February 2004, the Scottish Executive announced their intention to include provisions relating to Scotland in the Westminster Bill.

An announcement was made on 30 March 2004, to include provisions relating to Northern Ireland in the Civil Partnership Bill

On 18 November 2004 the Civil Partnership Bill received Royal Assent.

¹³ ‘Civil Partnership - A Legal Status for Committed Same-Sex Couples in Northern Ireland: Analysis of Responses’ is available from: www.olrni.gov.uk

6. Who would be affected?

6.1 Users of the registration scheme

Those most directly affected by the introduction of a civil partnership relationship would be the potential users - same-sex couples who wish to enter into a legally binding commitment to one another in the form of civil partnership.

Whilst no specific data is available, a wide range of research suggests that a lesbian, gay and bisexual people constitute 5-7%¹⁴ of the total adult population. The total England and Wales adult population in 2002¹⁵ was approximately 42.1 million; therefore a 5-7% range would mean that the LGB population would be 2.10 million to 2.95 million people.

Scotland's total adult population in 2002 was 4.1 million; therefore a 5-7% range would mean that the LGB population would be 200,000 to 290,000 people.

Northern Ireland's total adult population in 2002 was 1.30 million; therefore a 5-7% range would mean that the LGB population be 65,000 to 90,000 people.

It is very difficult to predict the likely take-up of civil partnership, since it would be a new institution. There are a number of partnership registration schemes in other countries that provide some basic information and have been used to inform the take-up assumptions for civil partnership, however as these schemes have not been in operation for long periods, the Government has chosen to base all estimates on two possible take-up rates¹⁶ (detailed at Annex A). The comparable schemes used to inform the assumptions are those in:

- Sweden –Registered Partnership Act, June 1994
- Norway – Act on Registered Partnerships, April 1993
- Denmark - Act on Registered Partnership 1989
- Netherlands - Registered Partnership Act 1997

14 There is very little reliable data about the size of the LGB population. This figure is based on the findings in a number of different studies. The National Survey of Sexual Attitudes and Lifestyles (NATSAL 2000) of 16-44 year olds, found that 5.4% of men and 4.9% of women had ever had a same-sex partner compared to just 2.6% of both genders who had had recent experience in Johnson et al, Sexual behaviour in Britain: Partnerships, Practices and HIV Risk Behaviours, The Lancet, Volume 358, Number 9296, Dec 1, 2001, pp 1835-42. About 5% of those questioned in exit polls identified themselves as 'gay' in US Voter News Service exit polls 1996 and 2000. Plug, E and Berkhout, P (2001) found that about 5% of their Dutch sample had gay, lesbian or bisexual sexual preferences in Effects of Sexual Preferences on Earnings in the Netherlands. About 6% of a national sample of Americans identified as gay or lesbian in Yankelovich Monitor Research (1994). Laumann et al found the incidence of homosexual desire was just over 7% of both men and women in the USA. Janus and Janus (1993) found that 9% of men and 5% of women identified as gay or lesbian. Some studies have found higher estimates, such as Kinsey (1948) and Sell et al (1995), whilst others using estimates of cohabiting same-sex couples have found much lower estimates, for example the Labour Force Survey finds just 0.2% of UK households consist of same-sex couples.

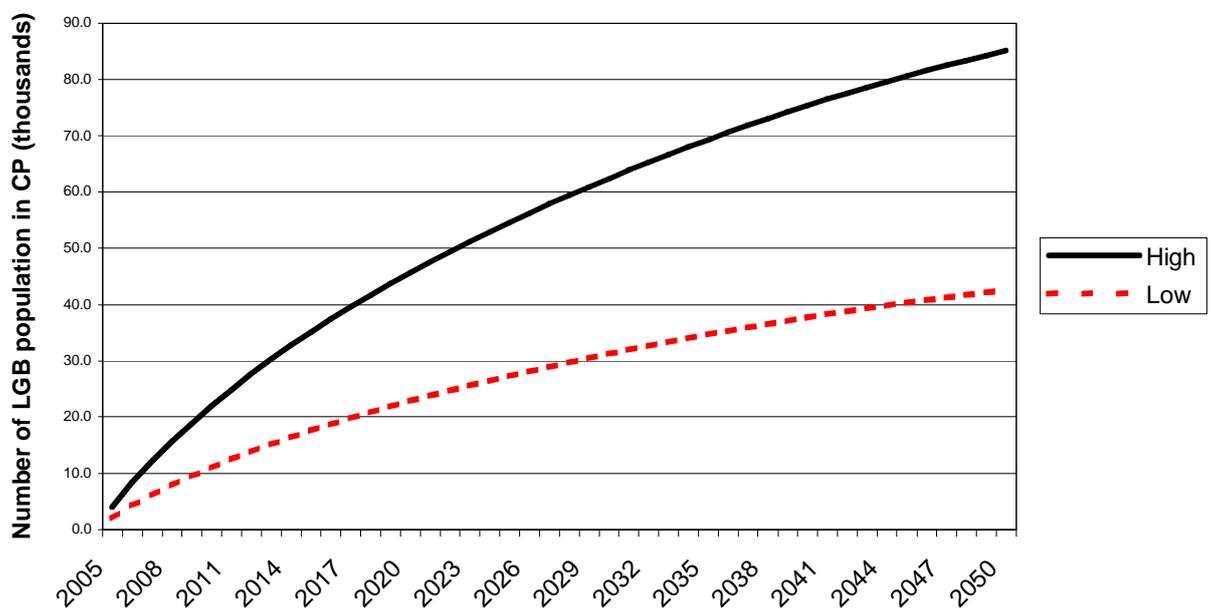
¹⁵ Population data is available from: <http://www.statistics.gov.uk>

¹⁶ The take up rates published in the initial RIA accompanying the consultation document have been revised following consideration of evidence from comparable partnership registration schemes within the EU that suggested that lower take-up rates were far more likely.

The two take up rates are illustrated in Figure 1 below. As outlined in Annex A, on the basis of the evidence from comparable schemes a model was used where an initial ‘surge’ of people form a civil partnership. This reflects the current number of LGB people who have been unable to take advantage of such an institution before. However we also recognise that initially some people would choose to wait until such a new institution was proven and well known before feeling comfortable enough with the notion of this form of permanent relationship.

We assume that it would take approximately two generations, 50 years, to reach the steady state.

Figure 1 - Numbers of People Forming a Civil Partnership Based on Low and High Take Up Assumptions



6.2 Providers of the registration service

There is an impact on the civil registration service in UK, which will operate the partnership registration system.

The costs of the registration service in England and Wales and for Scotland and Northern Ireland are explored in Section 8.

6.3 The effect on others of the new legal relationship

There will be an impact on all employers, both private and public sector, in terms of employment benefits and occupational pension rights for civil partners. The costs of such changes are considered in Sections 9 and 10.

Other Government Departments will have to make consequential changes in a number of areas to recognise the new relationship. The costs of such changes are considered in Section 11.

Changes to the tax and benefits systems will involve administrative changes for Government and Local Authorities.

All Government bodies and agencies will have to recognise the legal relationship, including, for example, the National Health Service.

The creation of the new legal relationship will affect any other area in which family status is taken into account. Organisations might need to consider changing their policies and practices, as well as any guidance and any forms on which people are asked to declare their status.

7. Benefits

This Section covers some of the social and private benefits arising from the creation of the new legal relationship itself. Financial benefits and costs arising from the additional rights and responsibilities that will be afforded to civil partners are discussed in Sections 9 to 11 below.

7.1 Benefits of stable relationships

The availability of civil partnership will encourage stable relationships, which are an important asset to the community as a whole. It will reduce the likelihood of relationship breakdown, which has a proven link to both physical and mental ill health. As the Government said in its 1998 consultation document *Supporting Families*, "Strong and stable families provide the best basis for raising children and for building strong and supportive communities". Strengthening adult couple relationships not only benefits the couples themselves, but also other relatives they support and care for, and, in particular, their children as they grow up and become the couples, parents and carers of tomorrow.

Stable relationships also benefit the economy. It is expected that civil partners will share their resources and support each other financially, reducing demand for support from the State and, overall, consuming fewer resources. Increased stability would help to reduce the burden on the State in terms of family breakdown, which cost the taxpayer an estimated £5 billion in 1999¹⁷.

The benefits arising to individuals and society of stable relationships could be quantified but these figures would be questionable and given the number of people affected, the overall financial benefit to society would amount to a relatively small sum. These benefits have therefore not been quantified.

7.2 Impact on social attitudes

A 1999 survey¹⁸ found that over two-thirds of lesbian, gay and bisexual people had been the victim of homophobic incidents such as threats, intimidation, verbal abuse or physical assault. It cannot be coincidental that for as long as society chooses to treat same-sex couples as second-class relationships such discrimination will occasionally manifest itself in such worrying ways.

The Government believes that the creation of a new legal relationship for same-sex couples will play an important role in increasing social acceptance of same-sex relationships, reducing homophobia and discrimination and building a safer and more inclusive society.

17 'The Funding of Marriage Support - a review by Sir Graham Hart' 1999

18 'Breaking the Chain of Hate: A National Survey Examining Levels of Homophobic Crime and Community Confidence towards the Police Service' – National Advisory Group (1999)

Legislation will act as an important step in publicly valuing same-sex relationships where couples have made a serious decision to seek legal recognition of their relationships. It will be much harder for people to ignore this commitment both in law and in everyday life. The Government believes that by making a public declaration of their commitment, lesbian, gay and bisexual people will feel more confident that their relationships will be respected and appreciated by society. It is not acceptable that same-sex couples still have to struggle to have their families recognised and civil partnership will be a way through which society acknowledges and values their relationships.

7.3 Financial benefits for individuals and society

These are covered in the Sections on pensions and employment.

8. Costs of registration system

This section covers the costs of setting up and running the registration system. Costs associated with the additional rights and responsibilities that will be afforded to registering couples are covered in Sections 9 and 10 below.

8.1 Costs to civil registration service

The number of couples expected to register is relatively low (a few thousand per year) and costs will be recovered from registering couples. Therefore systems already in place for civil marriage can be adapted for civil partnership registration.

In England and Wales the changes required to the civil registration service in setting up civil partnership formation arrangements are significant. Whilst there are already systems in place for civil marriage, which can be adapted for civil partnership registration, these are currently under review and possibly subject to significant change in the near future. The arrangements for forming civil partnerships have been modelled on the proposals for marriage contained in 'Civil Registration: Delivering Vital Change' and will require the development of new IT infrastructure and software, to be made available to local authorities across England and Wales. There are 172 local authorities in England and Wales, and whilst demand will probably vary between local authorities, each and every one will need to be in a position to deal with the preliminaries to and the formation of a civil partnership, should they be asked to do so.

Training will also be required for superintendent registrars and registration authority staff to deal with the preliminaries to and the formation of civil partnerships. There will also be consequential changes to the legislation concerning the registration of births, deaths and marriages which they will need to be aware of and which will require changes to existing processes and procedures.

The estimated set-up cost, which will cover the areas mentioned above, is in the region of £0.5 million. There will be annual running costs but these will depend on take-up of the scheme.

In Scotland, a computerised system is already in place and therefore set-up costs are expected to be minimal and can be met from within existing resources. The prescribed fees discussed in Section 8.3 will meet costs to local registration authorities.

The impact on the Northern Ireland Civil Registration Service of setting up a civil partnership formation scheme is low. Systems already in place for civil marriage can be adapted for civil partnership formation, although registrars may need some additional training to deal with the preliminaries to and the formation of a civil partnership and raise their awareness and sensitivity to lesbian, gay and bisexual issues. Any set up or annual recurring costs will be catered for within existing budgets. The number of couples expected to register is expected to be less than 100 per year and costs would be recovered from fees charged to registering couples.

8.2 Costs to the Court Service

The numbers of civil partnership dissolutions taken through the courts are likely to be small even at the higher take-up rate; approximately 450 (individuals) per year by 2030 at the lower take-up rate and 900 (individuals) per year by 2030 at the higher take-up rate. However, there will be a significant one-off start up cost, initially estimated as around £1m, to amend the Court Service's "FamilyMan" IT system. There is also a related start-up cost of £20,000 to amend court forms. The running costs are initially estimated at £40,000 each year and arise mainly from staff costs on dissolution and ancillary relief proceedings. These figures will increase as more people enter into civil partnerships. For example, by 2030, costs are expected to increase to approximately £150,000 per annum.

In Northern Ireland, the Court Service does not envisage any significant IT or operational costs.

In Scotland, the Scottish Court Service does not envisage a major increase in costs and will meet any costs out of existing resources.

8.3 Costs to couples who form a civil partnership

In England and Wales, couples will pay a fee for giving notice of their intention to register and for the registration itself. There will also be a fee for any documents produced following the registration. These fees would be prescribed by the Registrar General and be broadly similar to those for marriage.

Local authorities will be able to set additional fees for any enhancements they provide e.g. registration on Sunday, registration at an outside venue. These will be set at a level to recover costs.

The fees for formation of a Civil Partnership in Scotland will be prescribed by the Registrar General for Scotland – as currently happens for marriage. It is envisaged that the fees for civil partnership will be broadly similar to those for marriage.

The fees for formation of a Civil Partnership in Northern Ireland will be prescribed by the Registrar General for Northern Ireland – as currently happens for marriage. The fees for a basic civil partnership formation will match those for a basic marriage; notice, registration and certificate.

There will also be costs associated with dissolution. Couples might need legal advice on both registration and dissolution, which would result in costs to them – it is very difficult to meaningfully assess the likely costs to couples associated with dissolution due to a lack of appropriate information. See Section 8.4 in relation to the availability of public funding for legal services on dissolution.

8.4 Costs to the Community Legal Service Fund

Some of the couples dissolving partnerships will be eligible for public funding for legal services (formerly legal aid). Initially this cost will be very low given the few civil partnerships likely to be formed and the unlikelihood of those partnerships dissolving quickly. The long-term annual cost of public funding for dissolution is estimated to be between £1.5 million and £3.5 million. The annual costs of public funding for dissolution (in England, Wales and Northern Ireland) are summarised in Table 6 below.

Table 6 - Annual Costs to Government for Public Funding for Dissolution (£m)

| | <i>Year</i> | <i>Public Funding for Dissolution (£m)</i> |
|------------------------------|-------------|--|
| <i>High Take-Up Scenario</i> | 2010 | 1.0 |
| | 2020 | 1.7 |
| | 2030 | 2.4 |
| | 2040 | 2.8 |
| | 2050 | 3.2 |
| <i>Low Take-Up Scenario</i> | 2010 | 0.5 |
| | 2020 | 1.0 |
| | 2030 | 1.2 |
| | 2040 | 1.4 |
| | 2050 | 1.6 |

In Scotland where appropriate, legal aid should be available for dissolution in accordance with the general eligibility requirements. This will result in an increase in cost.

8.5 Equity and fairness

The costs of registration to couples will be broadly the same as those for marriage.

The registration service in England & Wales, Scotland & Northern Ireland will recover the cost of civil partnership formation through set statutory fees. This would cover the cost of giving notice to the registration officer and the registration officer's attendance at a civil partnership formation.

In England and Wales an entry of a civil partnership onto the central database is a record that a civil partnership has taken place. It does not confirm that the partnership is valid, and neither is the entry removed should the partnership turn out to be void. Similarly, a civil partnership will stay on the database even if it has ended, either by divorce or by the death of one of the partners. Events are not removed once they have ended.

The Court Service will recover the courts running costs for dissolutions of civil partnerships from people applying for dissolutions through court fees as part of the

Court Service's duty to achieve full cost recovery. Fees for dissolution are likely to be approximately £200 in order to recover costs, and fees may also be charged for court proceedings in connection with civil partnerships.

9. Impact on Employers and Employees

Employers will need to adapt their policies to recognise civil partners in some areas where they currently recognise other forms of legal status such as marriage. The key area for change would be in respect of survivor pension benefits provided by private pension schemes.

9.1 Rights and Responsibilities for individuals

Many civil partners will benefit from access to survivor pensions to which they would not previously have been entitled. Some private pension providers already pay survivor pensions to long-term partners (including same-sex partners), but this is often done on a discretionary basis and the partners may have to meet criteria such as a set period of cohabitation or proof of financial interdependence.

9.2 Benefits to business

It is hoped that businesses will see improvements in recruitment and retention from offering equal employee benefits to same-sex partners in a civil partnership. Recent research by Stonewall into the attitudes of lesbian, gay and bisexual graduates found that equality of terms, conditions and benefits was one of the key factors for organisations to focus on if they were to attract high calibre lesbian, gay and bisexual employees. The Government estimates there to be between 1.5 and 2 million lesbian, gay and bisexual people in the labour force¹⁹. Through the contribution to wider equality that civil partnership makes, businesses may therefore benefit by being able to draw from a wider pool of talent, and therefore attract and retain a higher calibre of staff from a range of backgrounds. However, the Government does not attempt to quantify these benefits.

A further benefit for business that can be expected is a small increase in demand for the hospitality industry as the result of couples forming a civil partnership choosing to hold a form of celebration in a similar vein to a wedding reception.

9.3 Costs to business

Contracted-out private pension schemes are required to pay survivor pension benefits to the spouse of a deceased scheme member. This requirement will be extended to civil partners, so that survivor pensions are based on the scheme member's pensionable service from 1988 (in line with the contracting out rules for widowers, both widows and widowers in defined contribution schemes and the changes to public service pension schemes (considered below)). The Government estimates that to

¹⁹ The total labour force is about 29.315 million. We, therefore, estimate there to be between $29.315m \times 0.05 = 1.466$ million and $29.315m \times 0.07 = 2.052$ million lesbians, gay men and bisexual people in the labour force.

provide survivor pensions for civil partners the percentage increase in annual contributions to defined benefit schemes would be between 0.008% and 0.016% depending on the take-up rate of civil partnership. This would result in total additional costs of £1.25m - £2.5m per year – summarised in Table 7 below. These are figures for the impact on employer costs; the profile of payments from schemes to beneficiaries would be different, starting from a low level and building up over time. This would be a transfer, since it would result in a benefit to individuals. In addition to these annual costs there will be a one-off cost of between £20m and £40 (depending on the take-up rate of civil partnership) to meet the costs of providing survivor benefits on the basis of service from 1988 up to the introduction of civil partnership. These one off costs could be spread over a number of years rather than met in totality when civil partnership is implemented (with costs of between £2m to £4m a year over fifteen years) (see Table 8 below).

Table 7 - Annual Costs²⁰ To Contractd-out Defined Benefits Private Pension Schemes of Private Sector Employers

| | <i>Annual cost increase as % of contributions</i> | <i>Annual Increase (£m) pa</i> |
|----------------------------|---|--------------------------------|
| High take-up ²¹ | 0.016% | £2.5m |
| Low take-up | 0.008% | £1.25m |

Table 8 - Annual additional costs to contracted-out defined benefit pension schemes to provide for survivor benefits on the basis of service from 1988

| <i>Costs associated with providing survivor benefits on the basis of service from 1988 up to introduction of civil partnerships</i> | | | |
|---|---------------------|--|---|
| <i>Take-up</i> | <i>One-off cost</i> | <i>Annual cost if spread over 15 years</i> | |
| | | <i>Fixed annual amount</i> | <i>Increase in contributions (% points)</i> |
| <i>Low</i> | £20m | £2m | 0.002% |
| <i>High</i> | £40m | £4m | 0.004% |

Notes:

20 Data from the Government Actuary's Department suggest that, usually at trustees' discretion, around ¾ of members of private sector defined benefit schemes are already in schemes which pay survivor benefits to unmarried couples, including those of the same sex.

21 Under the high take-up scenario, the Government Actuary's Department assumes that, by 2050, 6% of the lesbian, gay and bisexual population aged around 70 who are retired with occupational pensions will be in civil partnerships (the proportions around age 70 being a key driver in determining the cost of benefits to spouses/partners on death). This figure is broadly consistent with the assumption that, overall, around 3.3% of the lesbian, gay and bisexual population aged 16 and over will be in civil partnerships, as compared to around 33% of the heterosexual population aged 16 and over who would be married.

1. The costs in the table are based on providing GMP benefits for service during the period 1988-1997 and full scheme for service from benefits from 1997.
2. The costs set out in Table 8 will also be incurred in addition to the costs in Table 7 from the date civil partnership is introduced.

Overall administrative costs across all businesses

The Government's assessment is that the administrative impact of introducing civil partnership on businesses (private pension providers) would be small.

The introduction of civil partnerships will require those schemes that currently do not offer benefits to same-sex couples to incur additional one-off administrative costs, in areas such as:

- Understanding the new legislation
- Liaising with the scheme trustees and amending the trust deeds and rules if appropriate
- Seeking actuarial advice on the possible funding implications of the change (and possibly legal advice)
- Communicating the change to scheme members
- Making minor changes to any electronic systems, to reflect the creation of the new legal relationship

The heterogeneous nature of pension scheme administration means that not all schemes will be affected to the same degree. This also makes it difficult to accurately estimate aggregate costs for these different impacts. However, using information on the unit costs associated with some of these administrative functions, and making a number of assumptions, the estimated one-off administrative costs across all schemes – and hence all businesses – are shown in Table 9 below. The impact on smaller schemes is explored in Section 12, which considers impacts on smaller businesses.

Table 9 - Estimated one-off Administrative Costs across all Private Pension Employers (£m, rounded to nearest £0.1m)²²

| <i>Administrative change</i> | <i>Cost (£m)</i> |
|--|------------------|
| Understanding new legislation, liaising with scheme trustees, amending trust deeds and rules | 1.7 |
| Seeking actuarial / legal advice | 2.3 |
| Communicating with scheme members | 2.6 |
| Making technical changes to electronic administrative systems | 0.3 |
| <i>Total</i> | <i>7.0</i> |

9.4 Costs for the Government as an employer as a result of Civil Partnership

²² Source: DWP estimates

There will be additional costs to the Government and other employers in public service pension schemes from extending survivor benefits to include civil partners as well as married partners. We estimate that the additional employer contributions required to cover the accrual of this extra provision in respect of the future service of scheme members would be between 0.008% and 0.016% of pensionable pay costs, or £7m to £14m per year, depending on take-up of registration amongst scheme members. This will be a transfer to individuals. These are figures for the impact on employer costs; the profile of payments from schemes to beneficiaries would be different, starting from a low level and building over time. The total annual costs to public service employers are summarised in Table 10 below. In addition, for the rights accrued from 1988 (in line with the position for widowers in the contracting-out rules), there are additional one off costs of between £60m and £125m depending on the take up of civil partnership

Table 10 - Total Annual Costs To Public Service Employers

| | <i>Annual increase in liabilities as % of pensionable payroll</i> | <i>Annual increase (£m) pa</i> |
|---------------------|---|--------------------------------|
| <i>High take-up</i> | 0.016 | 14.0 |
| <i>Low take-up</i> | 0.008 | 7.0 |

Assumptions and Notes – Public Service Pension Schemes

The assumptions when used in the context of pensions are subject to a high degree of uncertainty. Were there to be a similar proportion of lesbian, gay or bisexual members in public service schemes forming civil partnerships compared to the incidence of marriage among heterosexual members then the annual costs could range from £70m-£140m.

Administrative changes resulting from changes to Public Service Pension Schemes

Public service pension schemes already have systems in place to pay survivor pensions and injury benefits to married dependants of scheme members, so the administrative impact on them would be low. There will be a number of administrative changes for Departments relating to changes to public sector pension schemes, in addition to the overall costs considered above.

The costs of amending scheme rules, making changes to administrative and IT systems and communicating with scheme members in the public services are estimated at £5m.

10. Impact on state pensions and benefits

10.1 Pension and other financial benefits for individuals

Civil partners will benefit from increased financial security, through arrangements designed to reflect more accurately their situation. Civil partners will become entitled to state or occupational pension rights, as well as state bereavement benefits, based on the contributions of the other partner.

10.2 Savings to Government

There may be some savings associated with recognising same-sex partners in relation to income-related benefits. However, as there is only limited information about the population who are living together as partners in same-sex relationships and the likelihood of their stopping income-related benefits, savings are difficult to assess.

10.3 Costs to Government

Changes will result in a net increase in annual costs to Government from state pensions and bereavement benefits, set out in the Table 11 below. These include estimates for extending those State Pension rights currently available equally to married people from the date civil partnership is implemented and the remaining rights from 2010. Rights and responsibilities in the other areas shown below will be afforded to couples from the implementation date.

Table 11 - Total Annual Costs to Government of State Pension and Bereavement Benefits (£m)

| | <i>Year</i> | <i>State Pension and Bereavement Benefits²³</i> |
|------------------------------|-------------|--|
| <i>High Take-Up Scenario</i> | 2010 | 2 |
| | 2020 | 6 |
| | 2030 | 9 |
| | 2040 | 12 |
| | 2050 | 19 |
| <i>Low Take-Up Scenario</i> | 2010 | 1 |
| | 2020 | 3 |
| | 2030 | 4 |
| | 2040 | 6 |
| | 2050 | 10 |

²³ Costings are based on rights derived from Bereavement Benefits (from lump sum Bereavement Payment and from Bereavement Allowance paid for up to 52 weeks) and Retirement Pension (inherited rights from Additional Pension or State Second Pension). Figures are in 2003/4 prices.

In addition to the costs outlined above, a number of administrative and IT changes are needed. These are summarised, along with estimated costs in Table 12 below.

Table 12 - Estimated Cost of DWP Operational and Administrative Changes

| <i>Changes required</i> | <i>Estimated cost (£m)</i> |
|--|----------------------------|
| Non-IT costs: To include project staff costs, changes to processes, revision, printing and distribution of forms, leaflets, guidance and associated media, staff training and awareness, advertising and publicity. | £6.4 ²⁴ |
| Changes to 20 DWP IT systems together with associated interfaces. In addition there may be a requirement to fund changes to 400 Local Authority IT systems. | £5.5 ²⁵ |

²⁴ These costs could be spread over three years from the implementation date.

²⁵ This estimate assumes a full IT solution. [A partial IT solution would cost around £1.1m]

11. Costs to Government Departments

In addition to the costs of the registration system, the costs to the Court Service and the costs of the Government's responsibility as an employer outlined in Sections 8 to 10, a number of other changes, or steps, will need to be made by Government Departments. Those of note are addressed here.

11.1 Public Awareness of Civil Partnership

Work will be undertaken by Government to ensure the general public, employers and the voluntary sector are aware of the implications of civil partnership. Whilst details have yet to be finalised, this work would encompass a variety of guidance material and targeted media campaigns. A provisional estimate of the cost of this work is £100,000 this largely covers work to be undertaken in publicising legal rights and responsibilities.

11.2 Judicial Training

A number of options for judicial training will be considered, however the most expensive of these would be that all judges would need to be fully trained in advance of implementation a series of road shows would be needed. The provisional cost of such road shows is estimated at £790,000.

11.3 Adults who lack mental capacity

A number of initial costs mainly relating to the updating and amendment of various forms of guidance in relation to adults who lack mental capacity will fall to the Public Guardianship Office, the estimated costs are set out in Table 13 below.

Table 13 - Estimated Costs of Changes Relating To Adults Who Lack Mental Capacity

| <i>Change</i> | <i>Start up cost</i> |
|---------------------------------|----------------------|
| Forms | £20,000 |
| Guidance booklets | £20,000 |
| IT | £5,000 |
| Changes to rules and procedures | £10,000 |

11.4 Student Support

Changes will be needed to student support regulations to recognise civil partners. There will be minor consequential changes to guidance and application forms. This has minimal cost implications, and could also lead to savings for the Government.

11.5 Department of Health Guidance etc

The Department of Health will be making minor revisions to guidance, forms, etc in areas such as mental health, dental, pharmacy and opticians legislation to reflect the new legal relationship of civil partner. It is unlikely these changes will incur any significant costs.

11.6 Inland Revenue

Inland Revenue will be making changes in respect of tax credits, Child Benefit and Guardian's Allowance to IT systems, guidance, forms, leaflets, and learning material etc. The estimated start-up costs are £100,000.

11.7 Family Proceedings Rules

A number of changes will be required to the Family Proceedings Rules – these are the rules used by the Court Service. The Department of Constitutional Affairs has identified that Legal Staff to prepare these Rules will cost approximately £200,000. Additionally, in Northern Ireland Legal Staff will be required at a cost of £100,000 to prepare their Family Proceeding Rules.

12. Small Firms Impact Test

12.1 Consultation

A number of small business representative organisations were approached to consider the possible impacts of civil partnership. These included the Small Business Council, the CBI, IoD, Forum of Private Business and Federation of Small Businesses. The responses received raised few concerns, the main one being the impact on pensions benefits.

12.2 Possible Impacts

The impact on small businesses of the additional costs to defined benefit private pension schemes will be minimal as very few small employers operate this type of pension scheme. However, the administrative costs as a result of these changes may be more significant, and are considered in more detail below.

Appropriate steps will be taken to ensure small businesses are informed of the new legislative requirements and all effects this would have.

12.3 Administrative costs to small businesses

The total administrative costs to business discussed in Section 9 and outlined in Table 9 have been broken down to assess what the additional administrative burden for small schemes only might look like. It should be noted that not all small schemes are necessarily run by small businesses. For the purposes of this analysis 'small' is defined as running a defined benefit scheme with between 2-99 active members. Larger employers may run some small schemes. Some of the costs, such as those associated with seeking actuarial advice, are relatively independent of the number of members in a scheme, whereas others, such as communicating with scheme members, are directly related to scheme members. Given the size concentration of scheme members (with the largest 1% of defined benefit schemes accounting for around 70% of all defined benefit scheme members), this means that in some instances, small schemes make up a large share of the burden of a particular cost, whereas for others, they make up the smallest, as shown in Table 14 below.

The methodology for arriving at these estimates makes a number of assumptions in particular about the administrative impact on small schemes. It is assumed that the smallest schemes (with 2-11 active members) do not formally communicate the change to their members, and do not have electronic administrative systems for the management of the scheme that require updating.

Table 14 - Estimated one-off Administrative Costs across Small Private Pension Schemes²⁶ (£m, rounded to nearest £0.1m) ²⁷

| <i>Administrative change</i> | <i>Cost</i> | <i>Small schemes cost as % of all schemes cost</i> |
|--|-------------|--|
| Understanding new legislation, liaising with scheme trustees, amending trust deeds and rules | 1.5 | 85% |
| Seeking actuarial / legal advice | 1.1 | 50% |
| Communicating with scheme members | 0.1 | 5% |
| Making technical changes to electronic administrative systems | 0.1 | 50% |
| Total | 2.8 | 45% |

12.4 Summary

Whilst additional costs and a small increase in administrative burden would be noticed by all businesses, it is clear that this impact would be proportionate, and that the overall benefits to those individuals forming a civil partnership and to society as a whole from the wider promotion of culture change would exceed these costs. A particularly positive impact is the potential increase in the recruitment and retention of those people who had the opportunity to take advantage of the new legal status provided by civil partnership – though one impact of this would be that forward looking employers who already offer equal benefits to same-sex couples would no longer retain this advantage over their competitors.

The implementation work continuing across Government will ensure that there are no unintended impacts on small businesses as a result of civil partnership. In response to concerns raised by the Forum of Private Business, steps will be taken to ensure small businesses are aware of the new status and the associated rights and responsibilities it will bring. Because the majority of those rights and responsibilities likely to be attached to the status of civil partner are similar to those attached to marriage it should not cause employers significant difficulties in taking account of the new relationship.

The Small Business Service in the Department of Trade and Industry agreed that there were no significant implications for small business, and that a ‘stage 2’ sounding would not be necessary.

²⁶ ‘Small’ defined as running a defined benefit scheme with between 2-99 active members. Larger employers may run some small schemes.

²⁷ Source: DWP estimates

13. Competition

Whilst no market has been identified where these proposals would have an adverse impact on competition, a competition impact test was undertaken. The assessment, provided by the Office of Fair Trading (OFT), is outlined below.

The proposals will impact on a wide variety of sectors. These will create some slight costs for businesses in adapting their policies to recognise civil partners in some areas where they currently recognise other forms of legal status such as marriage. In particular, changes will be required with respect to survivor benefits provided by defined benefit occupational pension schemes. However, such costs will be low and proportionate. As such, the proposals are not expected to have a significant effect on competition.

Annex A - Projected Take-Up

There is little reliable data in relation to the lesbian, gay and bisexual population so the Government has had to make a number of assumptions in calculating the likely take-up of civil partnership registration.

Take-up is based on the assumption that 5% of the GB population over 16 is lesbian, gay or bisexual.

Initial work on possible take-up assumptions for civil partnership was undertaken for the Civil Partnership Consultation paper, which was published in June 2003²⁸. Since the publication of the consultation document, new evidence suggested that the take-up rates for civil partnerships were considerably over-estimated. Therefore the take-up assumptions have been revised. The new take-up assumptions are based on evidence from Scandinavian countries with similar schemes for same-sex couples.

The comparable schemes used to inform the assumptions are those in:

- Sweden –Registered Partnership Act, June 1994
- Norway – Act on Registered Partnerships, April 1993
- Denmark - Act on Registered Partnership 1989
- Netherlands - Registered Partnership Act 1997

Table 15 below shows the ratio of civil partnership registration as a percentage of new marriage formation in four countries with similar civil partnership schemes to that proposed in the UK. The data represents the ratio of the flow of new civil partnerships compared to the flow of new marriages each year.

Table 15 - Ratio of new civil partnerships to new marriages

| | <i>Sweden</i> | <i>Norway</i> | <i>Denmark</i> | <i>Netherlands</i> |
|------|---------------|-------------------|-------------------|--------------------|
| 1989 | | | 73% ²⁹ | |
| 1990 | | | 24% | |
| 1991 | | | 15% | |
| 1992 | | | 13% | |
| 1993 | | 30% ³⁰ | 12% | |
| 1994 | | 11% | 12% | |
| 1995 | 18% | 8% | 12% | |
| 1996 | 9% | 10% | 12% | |
| 1997 | 7% | 10% | 10% | |
| 1998 | 7% | 9% | 11% | |
| 1999 | 8% | | 16% | 37% |
| 2000 | 9% | | | 35% |
| 2001 | 9% | | | |
| 2002 | 9% | | | |

²⁸ The consultation document, "Civil Partnership: a framework for the legal recognition of same-sex couples" is available from www.womenandequalityunit.gov.uk

Table 15 shows that there appears to be a large influx of new civil partnerships immediately after the introduction of the policy (the first year of data for each country corresponds to the year of introduction of the new legislation) but then the ratio of civil partnerships to marriages declines. After that, a ratio of between 10% and 15% seems common. However we note that there are too few years of data for the Netherlands to be sure of any trend there.

As noted above, the previous take-up assumptions were based on the ratio of the stock of civil partnerships to the stock of marriages. There are several reasons to think that the ratio of stocks and flows could have quite different patterns – the rates of dissolutions or deaths could be different amongst couples in civil partnerships compared to married couples but, more importantly, much of the apparent flow of new civil partnerships could be explained by the fact that the existing stock of gay and lesbian couples are taking advantage of the new legislation. This would imply that the eventual flow of civil partnerships compared to marriages would be lower over time. Therefore, we would not want to base our assumptions only on figures for the flow of new civil partnerships compared to the flow of new marriages.

Data on stocks of civil partnerships as well as for flows is only available for Denmark. In Table 16, Column A is the entire stock of civil partnerships by the end of the year in question. Dissolution of civil partnerships, either by death or divorce, has been taken into account. Column B is the change in the stock of civil partnerships in each two-year period. Column C is the stock of people in civil partnerships as a percentage of the gay population. Note that the stock of people in civil partnerships is increasing at a steady rate of roughly 0.2% of the gay and lesbian population every two years.

Table 16 - Change in Stock of Civil Partnerships in Denmark

| | <i>A</i> | <i>B</i> | <i>C</i> |
|-----------|----------|----------|----------|
| 1989 | 640 | 640 | - |
| 1990-1991 | 1891 | 1251 | 0.71% |
| 1992-1993 | 2481 | 590 | 0.93% |
| 1994-1995 | 3011 | 530 | 1.13% |
| 1996-1997 | 3541 | 530 | 1.32% |

The stock of civil partnerships will continue to increase as long as new registrations exceed death and dissolutions. The data for Denmark shows that deaths and dissolutions were still a low fraction of new registrations 15 years after the new legislation – around 27% for 1996/7, which suggests a ‘steady state’ has not been reached.

Given the slow build-up of the stock of civil partnerships in Denmark, the assumption of a 50-year build-up in the steady state for the UK used for the Consultation Document does appear reasonable.

²⁹ The actual ratio for Denmark for 1989 was 18.25%, but since this was achieved in only the final quarter of that year, the ratio has been quadrupled.

³⁰ The actual ratio for Norway for 1993 was 12.83%, but this was achieved in only the final five months of that year. The ratio has therefore been factored up to a year (multiplied by 12/5).

A reasonable conclusion (given the arguments above) would be that the eventual ratio of the stocks might be around half the magnitude of the ratio of the flows up to now. In the cases of Sweden, Norway and Denmark, this means that the ratio of the stock, as a proportion of the LGB community, might build up eventually to around 5% of the proportion of the heterosexual population who are married in the longer run. It has therefore been assumed that that the proportion of the LGB population who are in a civil partnership in 2050 will be 5% (under the low scenario) or 10% (under the high scenario) of the proportion of the heterosexual population who are married.

Table 17 and Figure 2, below show the estimated likely take-up of civil partnerships in Great Britain.

Table 17 - Low and High Take Up Figures for Civil Partnership

| | Population aged 16+ | LGB population (5% of population aged 16+) | Low take up scenario | | High take up scenario | |
|------|---------------------|--|---|--|---|--|
| | | | Proportion of LGB population in a civil partnership | Number of LGB people in civil partnerships | Proportion of LGB population in a civil partnership | Number of LGB people in civil partnerships |
| | | | thousands | thousands | % | Thousands |
| 2010 | 47,872 | 2,394 | 0.46% | 11.0 | 0.92% | 22.0 |
| 2015 | 48,870 | 2,443 | 0.72% | 17.6 | 1.44% | 35.1 |
| 2020 | 49,606 | 2,480 | 0.92% | 22.8 | 1.84% | 45.6 |
| 2025 | 50,265 | 2,513 | 1.09% | 27.3 | 2.17% | 54.6 |
| 2030 | 50,799 | 2,540 | 1.23% | 31.2 | 2.46% | 62.4 |
| 2035 | 51,207 | 2,560 | 1.35% | 34.6 | 2.71% | 69.3 |
| 2040 | 51,441 | 2,572 | 1.46% | 37.7 | 2.93% | 75.3 |
| 2045 | 51,471 | 2,574 | 1.57% | 40.3 | 3.13% | 80.6 |
| 2050 | 51,329 | 2,566 | 1.66% | 42.6 | 3.32% | 85.1 |

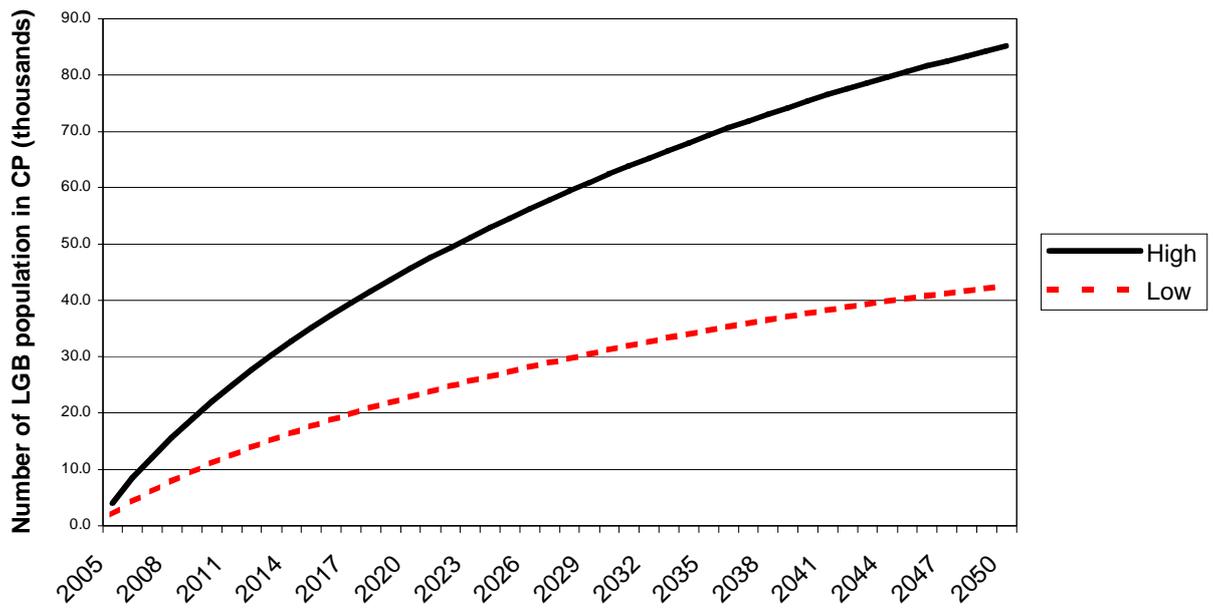
Assumptions and Notes:

Estimates are based on:

- 1) Evidence from Scandinavian countries (as above), which also suggests an initial ‘surge’ of people form a civil partnership in the first year. This reflects the current number of LGB people who have been unable to take advantage of such an institution before. However we also recognise that initially some people would choose to wait until such a new institution was proven and well known before feeling comfortable enough with the notion of this form of permanent relationship.
- 2) The assumption that, by 2050, the proportion of the heterosexual population who are married will have fallen to around one-third. (As stated in the previous Consultation Document, this is a modelling assumption and in no way reflects the Government's views or intentions with regard to marriage.). Please note that projections produced by the Government Actuary’s Department for the marriage rate in 2020 were extrapolated to 2050.

- 3) The assumption that 5% of the GB population over 16 is lesbian, gay or bisexual
- 4) The assumption that the proportion of the LGB population who are in a registered Civil Partnership in 2050 will be 5% (under the low scenario) or 10% (under the high scenario) of the proportion of the heterosexual population who are married.

Figure 2 - Numbers of People Forming a Civil Partnership Based on Low and High Take Up Assumptions



Declaration

I have read the Regulatory Impact Assessment and am satisfied that the benefits of Civil Partnership justify the costs.

Signed:

Date:

Jacqui Smith

Minister of State for Industry and the Regions and Deputy Minister for Women and Equality, Department of Trade and Industry

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