

## **CIVIL PARTNERSHIP LAW AND CONSEQUENTIAL LAWS**

### **SUMMARY OF MAIN CHANGES AFTER CONSULTATION**

A number of representations were made during the twenty-one days consultation period. The majority of responses were either in support of, or against, the Law. Some of the more relevant drafting suggestions have been accepted and resulted in changes to some of the provisions of the Law. The following are the main changes provided in the Law.

1. The name of the legislation was changed to the “Civil Partnership Law” and the words “domestic partnership” and “domestic partner” were deleted throughout the Law and replaced by the words “civil partnership” and “civil partner” respectively. This was also done in the consequential legislation.
2. Some of the other main amendments to the Civil Partnership Law are as follows-
  - The Civil Partnership Law was amended to make it clear that where either of the parties to a civil partnership is under eighteen years of age, is not a widower or widow, and enters into a civil partnership under the Law without the consent required to enter into a civil partnership in accordance with the Law, the civil partnership shall be voidable.
  - **Part 3** deals with the notices of proposed civil partnerships and the issue of the relevant certificates or licences for such civil partnerships. Part 3 has been amended to bring the provisions closer in line with the provisions of the Marriage Law. The main changes are as follows-
    - (a) **a new section 7** was inserted which makes it clear that a civil partnership may be formalised under the authority of —
      - (i) the Registrar’s or a Civil Registrar’s certificate issued under section 9;
      - (ii) a special licence granted by the Governor under section 10;  
or
      - (iii) a licence granted by the Deputy Governor under section 33 or 34;and without any such authority in the cases provided for in section 15.
    - (b) **Section 8** is amended to provide that upon receipt of a notice of an intended civil partnership, the Registrar or Civil Registrar, on being satisfied that the notice conforms to the requirements of this section, shall —

- (i) enter the particulars set out in the notice in the Civil Partnerships Notice Book; and
  - (ii) display in a conspicuous and accessible place on a notice board in a public area in the Registrar or Civil Registrar's office, a public notice of the intended civil partnership in the form as provided by the Registrar, and shall keep the notice so displayed for seven consecutive days after it has been put up.
- **Section 18** which deals with grounds on which a civil partnership is void was amended to provide that a civil partnership is void where either party to the civil partnership did not validly consent to it, whether by consequence of fraud, duress, mistake, unsoundness of mind or otherwise.
- **In Part 7**, which deals with the registration of civil partnerships, the main difference relates to the search of the register in section 22. **Section 22** has been amended to provide that the Registrar may-
  - (a) allow a person or organisation that has an adequate reason for wanting access to the Civil Partnerships Register access to the Register; or
  - (b) provide a person or organisation that has an adequate reason for wanting information from the Civil Partnerships Register, with information extracted from the Register.

In deciding whether a person or organisation has an adequate reason for wanting access to the Civil Partnerships Register, or information extracted from the Civil Partnerships Register, the Registrar shall have regard to —

- (a) the nature of the applicant's interest;
    - (b) the sensitivity of the information;
    - (c) the use to be made of the information; and
    - (d) any other prescribed factors.
  - **Part 9** was changed to provide for the appointment of Civil Registrars instead of Deputy Registrars. Similar to the Marriage Law, under **section 29** the Governor may, from time to time, appoint and remove at pleasure such persons as the Governor thinks fit to be Civil Registrars for the purposes of the Law.
- Section 30** provides that a Civil Registrar shall, subject to the approval of the Governor, appoint in writing a fit person to act as the Civil Registrar's deputy in case of illness or absence of the Civil Registrar.
- **Part 16** of the Civil Partnership Law contains consequential and transitional provisions. **Section 48** (previously clause 46) provides that until all necessary

legislation is enacted to provide amendments consequential upon the enactment of the legislation, certain words and expressions in other legislation shall be read as the corresponding words or expressions provided in the table in that clause, unless the enactment is specifically amended.

Eleven consequential Laws are being enacted to provide for some of the most important family issues which will affect civil partnerships. Section 48 will provide transitional arrangements for other relevant laws.

**Part 18** contains final provisions. **Section 50** (previously clause 48) provides that the Governor, after consultation with the Premier, may make regulations generally for giving effect to the legislation.

3. The legislation which were published with the Domestic Partnership Bill (i.e. “consequential legislation”) and which will come into force immediately after the commencement of the Civil Partnership Law are as follows-

- Adoption of Children (Amendment) Law, 2020
- Evidence (Amendment) Law, 2020
- Health Insurance (Amendment) Law, 2020
- Immigration (Transition) (Amendment) (No.2) Law, 2020
- Mental Health (Amendment) Law, 2020
- National Pensions (Amendment) (No.2) Law, 2020
- Penal Code (Amendment) Law, 2020
- Protection from Domestic Violence (Amendment) Law, 2020.
- Public Service Pensions (Amendment) Law, 2020
- Succession (Amendment) Law, 2020
- Wills (Amendment) Law, 2020.

With the exception of the Protection from Domestic Violence (Amendment) Law, 2020, the Succession (Amendment) Law, 2020 and the Wills (Amendment) Law, 2020, the only changes which were made to the consequential Laws are amendments to align the terminology in those pieces of amending legislation with that which will be used in the Civil Partnership Law, 2020.

As it relates to the Succession (Amendment) Bill, 2020 and the Wills (Amendment) Law, 2020, a definition of “child” has been inserted. A definition of “parent” was also included in the Succession (Amendment) Law, 2020 to ensure that parents of children by virtue of a civil partnerships will be captured.

Friday, September 4, 2020