



## Older same-sex couples and benefits (December 2005)

Ref IS/27

If you live in Scotland, Wales or Northern Ireland you may wish to contact:

Age Concern Scotland, Causewayside House, 160 Causewayside,  
Edinburgh EH9 1PR, tel: 0845 125 9732 (local call rate), website:  
[www.ageconcernscotland.org.uk](http://www.ageconcernscotland.org.uk);

Age Concern Cymru, Units 13 & 14 Neptune Court, Vanguard Way, Cardiff  
CF24 5PJ, tel: 029 2043 1555 (national call rate); website:  
[www.accymru.org.uk](http://www.accymru.org.uk);

Age Concern Northern Ireland, 3 Lower Crescent, Belfast BT7 1NR, tel:  
028 9032 5055 (national call rate) Monday to Friday 9.30am - 1pm.

On 5 December 2005, a new law (The Civil Partnership Act 2004) came into force. If you are in a gay or lesbian relationship you will now be able to get legal recognition for this relationship by registering a **civil partnership**. This gives same-sex couples the same rights and benefits as opposite-sex couples. The benefit rules have never before recognised same sex relationships but this has changed now that the new law has been implemented. This change has many advantages but may have some disadvantages for people who are living with their partner.

This information sheet gives a brief explanation of the effect on pensions and benefits. It is aimed at people who are aged 60 or over although some information is included which might be useful if you have a partner who is

under 60. We do not provide information about benefits for dependent children.

For certain benefits from 5 December 2005, same-sex couples who live together will be treated as a couple and no longer as two single people.

**This will be the case whether you register as civil partners or not.** See below for information about this rule.

## Couples and benefits

In the social security system, some benefits are paid to you because of your individual circumstances. These are **non means-tested** benefits and they will not be reduced if you are treated as a member of a couple rather than a single person. If you enter into a civil partnership you may even be able to claim an extra adult dependent addition for your partner if their income is below certain levels.

Non means-tested benefits include the following:

- State retirement pension\*
- Attendance allowance
- Disability living allowance
- Carer's allowance\*
- Industrial injuries disablement benefit
- Incapacity benefit\*
- Severe disablement allowance\*
- Contribution-based jobseeker's allowance

*\*can include an adult dependent addition.*

There are quite complex rules about adult dependent's additions. These may be age rules, earning rules, type of benefit involved etc. Seek advice if you have a dependent civil partner and are claiming any of the above starred benefits

More information about some of these benefits is detailed in Age Concern's factsheets and information sheets. For information about benefits for people under 60 contact a local advice agency such as a Citizens Advice Bureau.

## State Pensions

The law has been changed to extend state pension rights to civil partners.

This is the situation for married people, and eventually for civil partners, who do not have enough National Insurance contributions in their own right to qualify for a basic state pension. Currently, a married woman (but not a married man) can use her husband's National Insurance contribution record to qualify for a basic state pension when they have both reached state pension age. Civil partners (and married men) will be able to qualify for these pensions when their civil partners who were born on or after 6 April 1950 reach state pension age. Because of the present difference in state pension age (60 for women and 65 for men) female civil partners will qualify from 2010 onwards and male civil partners from 2015 onwards.

Pension age will eventually equalise at 65; gradually being phased in between 2010 and 2020 – this change will not affect women born before 6 April 1950.

If your civil partner dies you may be able to qualify for a state pension based on your deceased partner's contribution record. You may also be entitled to some Graduated or Additional Pension. **Until 2010 you will only be able to receive these pensions if both of you are over state pension age when your partner dies.** But civil partners who reach pension age on or after 6 April 2010 will be able to qualify regardless of the age at which their partner dies.

## Survivor benefits in occupational and personal pension schemes

Civil partners will be entitled to a survivor's pension from their civil partner's contracted out occupational or personal pension scheme, public service pension scheme or non-contracted out scheme which currently pays survivor benefits to widows and widowers. Contact your pension scheme provider or the Pension Service on 0845 6060265 for more information.

## Bereavement Payment

This is a one-off £2,000 payment. It is based on the National Insurance contribution record of the person who has died and is paid to their

surviving husband or wife and from 5 December 2005 to their civil partner. It is normally only paid to people under pension age. But if you are over pension age when your civil partner dies you may still qualify for a payment if s/he was not entitled to a state pension when s/he died.

## **Bereavement allowance**

This can be paid to people under state pension age whose wife, husband and, from 5 December 2005, civil partner has died. It is normally paid for 52 weeks but will stop sooner if you are already getting it and you:

- form a new civil partnership
- remarry
- start living together as a civil partner, husband or wife with a new person

Some women receive a widow's pension (this was paid to women whose husbands died before 9 April 2001). This will also stop if a civil partnership is entered into.

## **Income Tax**

Civil partners born before 5 April 1935 will be able to claim the married couples tax allowance (the name of this allowance may change but at the time of writing we have no further information). Civil partners will also be able to save tax by transfer savings to a partner who pays no tax or tax at a lower rate.

In the same way as married couples, civil partners will be able to inherit money and property from their partner without paying Inheritance Tax.

## **Means-tested benefits**

If you live with your same-sex partner and one or both of you is claiming any of the following **means-tested** benefits as a single person, you will need to claim again as a couple: This means that one of you will become the claimant for both of you, except for Working Tax credit which you should claim jointly.

Means-tested benefits include:

- Pension Credit
- Income Support
- Income-Based Jobseeker's Allowance
- Housing Benefit
- Council Tax Benefit
- Working Tax Credit

You will be treated by the benefit authorities i.e. Department for Work and Pensions (DWP), Local Authority (LA) and Her Majesty's Revenue and Customs (HMRC) as a couple, **whether or not you register as civil partners**.

When you claim again as a couple you may find that your benefit goes down or you may no longer be entitled to benefit at all. This is because you will now be treated in the same way as opposite-sex partners i.e. the income and savings of both you and your partner will be taken into account when working out your claim. Seek advice about whether there are any other benefits you could be entitled to.

Some other benefits, such as existing Social Fund budgeting loans, may be affected but at the time of writing we do not have specific information about this.

## **New claims**

From 5 December 2005 new claims for means-tested benefits by civil partners and those living together as civil partners will be treated as couple claims. One of you will be the claimant for both of you and the claim form will ask whether you have a partner. If you do not disclose that you have a civil partner or are living together as civil partners this will be viewed as a fraudulent claim and any amount overpaid will be recoverable.

## **Existing claims**

You should inform the benefit authorities if you are receiving any of the means-tested benefits listed above and if you are living together in the same household with a partner.

The DWP and local authorities have indicated that same-sex couples affected by the changes from 5 December 2005 should be given a 'reasonable' period to become aware of the change in the law. If it is

accepted that you told the benefit authorities as soon as you became aware that the new rules from 5 December 2005 affected you, then any benefit overpayment should not generally be recovered.

From 5 December 2005 there may be circumstances in some same-sex households where people are treated as cohabiting couples when they are not. For example, you could just be sharing a home or caring for someone. It is important to challenge this decision if you think it is wrong. The benefit authorities will consider the **'living together as husband and wife or civil partners' (LTAHW/CP)** test to decide whether you should be treated as a couple.

The benefit authorities should look at certain factors when making a decision about whether or not you are a couple. These include financial support arrangements, whether you have a sexual relationship, the stability of your relationship, whether you have children and how you appear in public. No one factor alone is conclusive. The relationship should be looked at as a whole. For example two women living together for mutual care, companionship and sharing of household expenses should not be considered as LTAHW/CP on this basis alone.

Seek advice if you are not living together as a cohabiting couple.

## **Other organisations**

**Stonewall**, the national organisation that campaigns for social justice for lesbians, gay men and bisexuals. Tel: 020 7881 9440, website: [www.stonewall.org.uk](http://www.stonewall.org.uk)

**Polari**, works for better services for older lesbians and gay men and bisexuals and runs an information service for LGB older people and those who support them. Tel: 020 7255 4480, email [info-polari@madasafish.com](mailto:info-polari@madasafish.com)

**Lesbian and Gay Switchboard**, 24 hour helpline tel: 020 7837 7324 or website [www.queery.org.uk](http://www.queery.org.uk)

**London Lesbian and Gay Bereavement Project**, tel: 020 7403 5969.

## Further information and advice from Age Concern

If you would like to know more about what benefits may be available to same-sex partners the following factsheets and information sheets may be useful. These will be updated for April 2006 to take full account of the changes brought about by the Civil Partnership Act. In the meantime read references to husbands and wives and opposite-sex partners as civil partners and same-sex partners.

Information sheets:

|       |   |
|-------|---|
| IS/8  | Planning for later life as a lesbian, gay man or bisexual person    |
| IS/12 | Deferring retirement pension: questions and answers                 |
| IS/14 | The Pension Credit – questions and answers                          |
| IS/15 | Carer's allowance   |
| IS/21 | Basic guide to attendance allowance and disability living allowance |
| IS/23 | Dealing with debt   |
| IS/28 | Civil partnerships and older same-sex couples                       |

Factsheets:

|              |  |
|--------------|--|
| Factsheet 15 | Income tax   |
| Factsheet 17 | Housing benefit and council tax benefit              |
| Factsheet 18 | A brief guide to money benefits                      |
| Factsheet 19 | The state pension                                    |
| Factsheet 21 | The council tax                                      |
| Factsheet 27 | Planning for a funeral                               |
| Factsheet 34 | Attendance Allowance and Disability Living Allowance |
| Factsheet 48 | Pension Credit                                       |
| Factsheet 49 | Help from the Social Fund                            |

These factsheets and information sheets are available from Age Concern's Information Line (maximum 5 copies free) on freephone 0800 00 99 66 and from Age Concern England's website, [www.ageconcern.org.uk](http://www.ageconcern.org.uk), under the section 'Information and Advice. Details of your local Age Concern are also available from the Information Line.

If you would like

- to receive this information in large print

phone 0800 00 99 66 (free call) or write to Age Concern FREEPOST (SWB 30375), Ashburton, Devon TQ13 7ZZ. Find out more about Age Concern England online at [www.ageconcern.org.uk](http://www.ageconcern.org.uk)

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