

## • WILLS SHOULD STILL BE ON THE AGENDA FOR SAME SEX COUPLES

Jersey's new civil partnership law will not replace the need for same sex couples to prepare wills to safeguard their inheritance.

The law, which was approved by the States on 12 July, creates a new legal relationship: that of a 'civil partner', which carries mutual rights and obligations to one's civil partner akin to marriage. This new relationship can only be created or ended by certain formalities in the same way as marriage. The law provides for such a relationship only between two people of the same sex, and therefore cannot be used by a heterosexual couple who do not wish to marry.

Apart from the creation, and therefore recognition, of this new relationship between a couple of the same sex the next most significant effect in the context of family law is that the new law provides for financial obligations between the civil partners both during and after the end of the relationship and for the support of any children of the family. Careful advice should be sought in relation to the ownership of property, financial agreements entered into in contemplation of or after entering into the partnership and in relation to making wills.

An equally important part of the new law is the protection of any children of the family, defined as "any ...child...who has been treated by both of those parties as a child of their family". Article 44 of the new law provides the court with powers identical to those on divorce relating to providing for dependent children.

The new law will also give the same inheritance rights to a civil partner to share in his or her deceased's partner's estate as currently exists between spouses. Although the law is undoubtedly a positive step towards recognising the rights of same sex couples, the benefits of preparing a will remain the same and there is a danger that same sex couples may now believe that the civil partnership now means that this is not necessary. Just as is the case for married couples, the rights of both individuals need the protection that a will offers them and makes explicit all intentions.

A will is still a necessity to ensure that an individual's estate is distributed in accordance with their wishes; to address what happens to each partner's estate in circumstances where both die in quick succession as the result of an accident or other unforeseen circumstance; to appoint an executor and, most importantly, to enable matters to be dealt with as quickly and efficiently as possible after death.

Jersey's inheritance law had not previously provided an automatic right to either unmarried partners or same sex couples to share in the estate of their partners, even those who have entered into a civil partnership in another jurisdiction. However that will change for same sex couples when the Civil Partnership (Jersey) Law comes into force.

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**FOR MORE INFORMATION,  
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