

Assembly Section

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Mr Shane McAteer
Clerk
Committee for Finance and Personnel
Room 419
Parliament Buildings
Stormont

Our Ref: CFP 230/11-15

17 May 2013

Dear Shane,

Thank you for your letter of 1 May 2013, which set out the Committee's queries with regard to civil partnerships and the proposed arrangements for same-sex marriage.

The Committee has asked:

- What are the differences in rights, benefits or entitlements for those couples in civil partnerships and those couples who will enter into a same-sex marriage?
- What will be the impact on those differences if a couple who have entered into a same-sex marriage move to Northern Ireland?
- Has the Department sought legal advice on the issues?

Officials in the Departmental Solicitor's Office have advised that civil partnerships were designed to provide equivalent rights and responsibilities to opposite-sex marriage. There are, however, some differences in pension provision and they are assuming, therefore, that the reference to "differences in rights, benefits or entitlements" is a reference to those particular differences.

The differences are historical (they largely relate to older married women and derive from a time when less women worked). Assuming that there are no amendments to the Marriage (Same Sex Couples) Bill, they will continue to exist after the Bill is enacted.

When the new law comes into force, a civil partner and a same-sex spouse will ordinarily have the same pension rights. The one exception will be a woman who is in a same-sex marriage because her husband has changed gender. In those circumstances the rules which previously applied to that woman will continue to apply.

Given the above, the number of same-sex spouses who are likely to be adversely affected in pension terms by a move to Northern Ireland is likely to be extremely small (i.e. women born before 6 April 1950, whose husbands change gender and who consent to the marriage continuing as a same-sex marriage).

By convention, the Department does not disclose whether it has requested or received legal advice.

Yours sincerely,

A handwritten signature in cursive script that reads "Judith Finlay".

JUDITH FINLAY
Departmental Assembly Liaison Officer