

**Law on Registered Civil Partnerships
(amended versions, in force from 1 January 2008 and 1 January 2009)**

**Chapter 1
Conclusion of the civil partnership**

Section 1. Form and prerequisites

(1) Two persons of the same sex conclude a civil partnership by declaring reciprocally, personally, and in the presence of the other partner their will to enter into a partnership for life. The declaration cannot be subject to any condition or time limitation. The declaration becomes effective when made before the competent authority.

(2) A valid civil partnership cannot be concluded

1. with a minor, a married person or a person who is already in another civil partnership;
2. by persons who are descendants in the direct line;
3. by full or half siblings;
4. if the civil partners, at the time the civil partnership is entered into, agree that they do not want to enter any obligation according to section 2.

(3) The conclusion of a civil partnership cannot be sued for on the ground of breach of promise to enter into such a partnership. Section 1297 paragraph 2 and sections 1298 to 1302 German Civil Code shall apply accordingly.

Amended Version of Section 1, in force from 1 January 2009

(1) Two persons of the same sex declaring personally, and in the presence of the other partner before a registrar (Standesbeamter) their will to enter into a partnership for life, enter into a civil partnership. The declaration cannot be subject to any condition or time limitation.

(2) The registrar shall ask the civil partners individually if they want to enter into a civil partnership. If the civil partners affirm, the registrar shall declare the conclusion of the civil partnership. The conclusion of the civil partnership can take place in the presence of up to two witnesses.

The former paragraphs 2 and 3 become paragraphs 3 and 4.

**Chapter 2
Legal effects of the civil partnership**

Section 2. Community of life

Civil partners are obliged to care for and support the other civil partner as well as make a life in common. The civil partners bear mutual responsibility for each other.

Section 3. Civil partnership surname

(1) Civil partners can choose a common surname (civil partnership surname). The surname at birth of one of the partners, or the surname he or she has before the declaration, is eligible as the civil partnership surname, which has to be declared. The declaration of the choice of the civil partnership surname is to be made when entering into the civil partnership. Declarations become effective when made before the competent authority. A later declaration is valid when publicly recorded.

(2) The civil partner whose surname at birth has not been chosen as the civil partnership surname is entitled by declaration to add his or her surname at birth or the surname he or she has at the time of the declaration of the civil partnership surname before or after the chosen

civil partnership surname. This is not possible if the civil partnership surname consists of more than one surname. If the surname of one civil partner consists of more than one surname, only one of these surnames is eligible to be added before or after the civil partnership surname. The declaration becomes effective when made before the competent authority. The declaration can be revoked; in this case a further declaration as described in sentence 1 is not permitted. The revocation becomes effective when made before the competent authority. The declaration and the revocation must be publicly recorded.

(3) A civil partner keeps the civil partnership surname even after termination of the civil partnership. He or she can choose to again adopt his or her surname at birth or the surname he or she had before the declaration of the civil partnership surname, or he or she can choose to add his or her surname at birth before or after the civil partnership surname. Paragraph 2 shall apply accordingly.

(4) The surname at birth is the surname that appears on the birth certificate of a civil partner at the time of the declaration as described in paragraphs 1 to 3.

(5) Civil partners who concluded a civil partnership before 12 February 2005 are subject to chapter 249 section 13 Introductory Law to the German Civil Code (Einführungsgesetz zum Bürgerlichen Gesetzbuch) and have to declare before the authority accorded the relevant competence by law of the respective German Land (state).

Amended version of Section 3, in force from 1 January 2009

(1) Civil partners can choose a common surname (civil partnership surname). The surname at birth of one of the partners, or the surname he or she has before the declaration, is eligible as the civil partnership surname, which has to be declared at the registry office (Standesamt). The declaration of the choice of the civil partnership surname should be made when entering into the civil partnership. Later declarations are to be publicly recorded.

(2) The civil partner whose surname at birth has not been chosen as the civil partnership surname is entitled by declaration to add his or her surname at birth or the surname he or she has at the time of the declaration of the civil partnership surname before or after the chosen civil partnership surname. This is not possible if the civil partnership surname consists of more than one surname. If the surname of one civil partner consists of more than one surname, only one of these surnames is eligible to be added before or after the civil partnership surname. The declaration can be revoked at the registry office; in this case a further declaration as described in sentence 1 is not permitted. The declaration and the revocation must be publicly recorded.

(3) A civil partner keeps the civil partnership surname even after termination of the civil partnership. He or she can choose to again adopt his or her surname at birth or the surname he or she had before the declaration of the civil partnership surname, or he or she can choose to add his or her surname at birth before or after the civil partnership surname. Paragraph 2 shall apply accordingly.

(4) The surname at birth is the surname that appears on the birth certificate of one of the civil partners at the moment of the declaration at the registry office.

Section 4. Duty of care

The liability of the civil partners for the violation of duties arising from the civil partnership is limited to the diligence which they generally exercise in their own affairs.

Section 5. Obligation of maintenance

The civil partners are mutually obliged to provide equitable maintenance for the civil partnership contributing their work and their assets. Section 1360 sentence 2, sections 1360a and 1360b and section 1609 German Civil Code shall apply accordingly.

Section 6. Property regime

The property regime concluded by the civil partners is a community of accrued gain, unless the civil partners regulate otherwise by civil partnership contract (section 7). Section 1363 paragraph 2 and sections 1364 to 1390 German Civil Code shall apply accordingly.

Section 7. Civil partnership contract

Civil partners can regulate their property regime by contract (civil partnership contract). Sections 1409 to 1563 German Civil Code shall apply accordingly.

Section 8. Other legal effects concerning property

- (1) For the benefit of the creditor of one of the civil partners, it shall be presumed that movables in possession of one or both of the civil partners belong to the debtor. Besides, section 1362 paragraph 1 sentence 2 and 3, and paragraph 2 German Civil Code shall apply accordingly.
- (2) Section 1357 German Civil Code shall apply accordingly.

Section 9. Parental responsibility of the civil partner

- (1) If one civil partner has the sole custody of his or her child, he or she can arrange with his or her civil partner a right of co-decision concerning matters of the child's daily life. Section 1692 paragraph 2 sentence 1 German Civil Code shall apply accordingly.
- (2) In cases of clear and present danger to the child the civil partner has the right to take all relevant legal decisions that are necessary for the child's well-being; the civil partner who has the sole custody of the child is to be informed without delay.
- (3) The Family Court can restrict or exclude the rights as described in paragraph 1 if this is essential for the child's well-being.
- (4) The rights as described in paragraph 1 are excluded if the civil partners live permanently separated.
- (5) The civil partner who has the custody of his or her unmarried child solely or together with the other parent, and the other civil partner may give their civil partnership surname to the child living in their common household by declaration before the competent authority. Section 1618 sentences 2 to 6 German Civil Law shall apply accordingly.
- (6) If one civil partner adopts a child solely, consent of the other civil partner is necessary. Section 1749 paragraph 1 sentences 2 and 3 and paragraph 3 German Civil Code shall apply accordingly.
- (7) A civil partner may adopt a child of his or her civil partner solely. In this case sections 1743 sentence 1, 1751 paragraphs 2 and 4 sentence 2, 1754 paragraphs 1 and 3, 1755 paragraph 2, 1756 paragraph 2, 1757 paragraph 2 sentence 1 and 1772 paragraph 1 sentence 1 letter c German Civil Code shall apply accordingly.

Please note: The phrase "by declaration before the competent authority" in section 9 paragraph 5 sentence 1 will be replaced by "by declaration at the registry office" from 1 January 2009.

Section 10. Law of succession

- (1) The surviving civil partner of the testator is legal heir to a quarter of the estate beside the relatives of first degree, and to a half of the estate beside the relatives of second degree and grandparents. If grandparents and descendants of grandparents coincide, the civil partner receives also the part of the other half which in accordance with section 1926 German Civil Law would have gone to the descendants. In addition to that, he or she has the right to keep as an advance the objects belonging to the civil partnership household, unless they are appurtenances to land, and gifts received when concluding the civil partnership. If the surviving civil partner is

legal heir alongside relatives of first degree, he or she has the right to keep the advance only to the extent required to maintain an adequate household. The rules on legacy are applicable on the advance. If the surviving civil partner is a relative entitled to inherit, he or she also inherits as a relative. The portion of the inheritance gained due to being a relative, is to be considered a special portion of inheritance.

(2) If the deceased had neither relatives of first or second degree nor grandparents, the surviving civil partner inherits the totality of the estate. If at the time of the testator's death the civil partners maintained a property regime of separate estate, and if beside the surviving civil partner one or two children of the deceased are legal heirs, the surviving civil partner and each child inherit equal shares; section 1924 paragraph 3 German Civil Code shall apply also in this case.

(3) The surviving civil partner has no right to inherit anything if at the time of death of the testator:

1. the conditions for the termination of the civil partnership as described in section 15 paragraph 2 No. 1 or No. 2 were fulfilled and the testator had demanded or agreed with the termination or,
2. the testator had made a demand as described in section 15 paragraph 2 No. 3 and this demand was justified.

In these cases section 16 shall apply accordingly.

(4) Civil partners have the right to establish a common will. Sections 2266 to 2273 German Civil Code shall apply accordingly.

(5) Section 2077 German Civil Code shall apply accordingly to any testamentary disposition to the benefit of the civil partner.

(6) In case the testator excluded the civil partner from inheritance by way of testamentary disposition, the civil partner can demand half of the estate's value from the legal heirs as legal portion. The dispositions of the German Civil Code about the legitimate portion shall apply accordingly, the civil partner being treated as a spouse.

(7) The dispositions of the German Civil Code on the renunciation of the inheritance shall apply accordingly.

Section 11. Other legal consequences of the civil partnership

(1) One civil partner is deemed to be a member of the family of the other civil partner as long as there are no contrary dispositions.

(2) The relatives of one civil partner are deemed to be in-laws of the other civil partner. The line and degree of the relationship is to be determined by the line and degree of the relation that links them. The relationship continues even if the civil partnership on which it was based has been terminated.

Chapter 3

Separation of the civil partners

Section 12. Maintenance in case of separation

If the civil partners live separately, one can claim adequate maintenance calculated on the standard of living, and the income and property standards of the civil partners from the other. Sections 1361 and 1609 German Civil Code shall apply accordingly.

Section 13. Division of household goods

(1) If the civil partners live separately, each of them can demand the household goods owned by him or her to be returned from the other civil partner. He or she is however obliged to allow the other civil partner to use them if this is necessary for him or her in order to maintain a separate household and if this is equitable in the specific situation.

(2) Household goods which belong to both civil partners are divided equitably among them. The Court can determine an equitable payment for the use of the household goods.

(3) Property of these goods remains unaffected by the division unless the civil partners agree otherwise.

Section 14. Allocation of dwelling in case of separation

(1) If the civil partners live separately or if one of them wants to live separately, one of them may demand to use the common dwelling or part of it for his or her own use, if this is necessary with regard to the necessities of the other civil partner in order to avoid undue hardship. Undue hardship may be given if the well-being of children who live in the household is prejudiced. If one civil partner, alone or together with a third party, owns the property or has a particular property right (building lease (Erbbaurecht), usufruct), this situation has to be especially well considered; this shall also apply accordingly to other property rights (commonhold, permanent right of abode, right in rem (dingliches Wohnrecht))

(2) If one civil partner, against whom the demand is made, has wrongfully and intentionally inflicted physical injury on the other civil partner or injury on his or her health or freedom or if he or she has threatened to do so or to inflict injury on the other's life, the whole dwelling is normally to be assigned to the sole use of one partner. This right is excluded only if there is no likelihood that injuries or wrongful threats might happen again, except if common abode cannot be expected of the injured civil partner due to the seriousness of the action.

(3) If the common dwelling was assigned in totality or in part to one of the civil partners, the other civil partner has to avoid all behaviour that would aggravate or thwart the exercise of this entitlement. He or she has the right to demand equitable remuneration from the civil partner who is entitled to exercise this right.

(4) If one civil partner has moved from the common dwelling so as to live separately and if during the following six months he or she has not shown towards the other civil partner any serious intention to return, it shall be irrebuttably presumed that the remaining civil partner shall have the sole right of use of the dwelling.

Chapter 4

Termination of the civil partnership

Section 15. Termination

(1) The civil partnership can be terminated by Court order on demand of one or both civil partners.

(2) The Court terminates the civil partnership if

1. the civil partners have lived separately for 12 months and
 - a. both civil partners declare that they do not want to continue the civil partnership or the respondent accepts the declaration of the other civil partner.
 - b. it cannot be expected that the civil partnership can be re-established.
2. one civil partner has declared that he or she does not want to continue the civil partnership and 36 months have elapsed since this declaration was delivered to the other civil partner;
3. the continuation of the civil partnership would constitute unreasonable hardship to the claimant for reasons which stem from the person of the other partner.

The Court terminates the civil partnership also if one of the civil partners showed a lack of will as described in section 1314 paragraph 2 No. 1 to 4 German Civil Code; section 1316 paragraph 1 No. 2 German Civil Code shall apply accordingly.

(3) The civil partnership shall not be terminated under paragraph 2 sentence 1 although the civil partners have lived separately for more than 36 months, if and as long as the termination of the civil partnership would owing to exceptional circumstances constitute such a hardship to the adverse party that the continuation of the civil partnership, by way of an exception, seems advisable also when taking account of the interests of the claimant.

(4) The termination in accordance with paragraph 2 sentence 2 is not possible if the civil partnership is confirmed; section 1315 paragraph 1 No. 3 and 4 and section 1317 German Civil Code shall apply accordingly.

(5) Civil partners live separately if they do not live in a domestic partnership and one of the civil partners recognizably does not want to cohabit because he or she rejects the civil partnership. Section 1567 paragraph 1 sentence 2 and paragraph 2 German Civil Code shall apply accordingly.

Section 16. Maintenance after termination of the civil partnership

After termination of the civil partnership each civil partner has to maintain himself or herself. If he or she is not able to do so, he or she can demand maintenance from the other civil partner only as described in sections 1570 to 1586b and 1609 German Civil Code.

Section 17. Order of the Family Court

If after termination of the civil partnership the civil partners cannot reach agreement on who shall live in the common dwelling or to whom the movable goods and household goods are to be assigned, the Court is able to decide equitably, on demand, concerning the legal connections related to the property and the household goods. The Court has to consider the special circumstances of each case. The regulation of the connecting factors related to the property and the household goods has operative effects (**rechtsgestaltende Wirkung**).

Section 18. Decision about the common dwelling

(1) The Court can rule about the common dwelling that

1. a rental contract that both civil partners have entered into is to be continued by one life partner only or
2. one civil partner enters into a rental contract in the place of the other civil partner who initially had concluded this contract.

(2) If the common dwelling is property or co-property of one of the civil partners, the Court can rule that the other civil partner enters into a rental contract of the dwelling, if the loss of this home would constitute unreasonable hardship to him or her.

(3) Sections 3 to 7 Regulation on decisions concerning the matrimonial abode and household goods (Verordnung über die Behandlung der Ehewohnung und des Hausrats) and section 60 Condominium Act (Wohnungseigentumsgesetz) shall apply accordingly.

Section 19. Decision about household goods

Sections 8 to 10 Regulation on decisions concerning the matrimonial abode and household goods shall apply accordingly to the decision concerning legal connections on household goods. Movable goods that are owned by one civil partner solely or in co-property with a third party are to be assigned to the other civil partner by the Court only if the other civil partner needs to use these goods and if the continuous use is reasonable to the other civil partner

Section 20. Maintenance settlement

(1) After termination of the civil partnership, a maintenance settlement is drawn up for the civil partners if both or one of them acquired or maintained by work or with assets entitlements to provision for old age or reduced earning capacity within the duration of civil partnership. Property regime regulations do not apply to the settlement of these entitlements.

(2) The duration of civil partnership lasts from the beginning of the month within which it was concluded until the end of the month preceding the pendency of the demand for termination of the civil partnership.

(3) Civil partners can exclude maintenance settlement by express agreement in the civil partnership contract (section 7). Exclusion is void if the demand for termination is made within 12 months after conclusion of the civil partnership.

(4) In addition, sections 1587a to 1587p German Civil Code, Maintenance Settlement Hardship Act (Gesetz zur Regelung von Härten im Versorgungsausgleich) with exception of sections 4 to 6 and 8, Maintenance Settlement Expansion Act (Versorgungsausgleichs-Überleitungsgesetz) and Regulation on the Present Value (Barwert-Verordnung) shall apply accordingly.

(5) Paragraphs 1 to 4 shall not apply if the civil partnership was concluded before 1 January 2005 and civil partners did not submit a declaration as described in section 21 paragraph 4.

Chapter 5

Transitional provisions

Section 21. Transitional provision for the Civil partnership Law Revision Act (Gesetz zur Überarbeitung des Lebenspartnerschaftsrechts) [for civil partnerships concluded before 1 January 2005]

(...)

Please note: Sections 22 and 23 do not come into force until 1 January 2009.

Section 22. Transfer of procedures

The authorities which were charged with competence for conclusion of civil partnerships in accordance with the law of the respective Land before entry into force of this law shall transfer all the civil partnership procedures originated in their competence to the registry office which would have been competent to receive the declaration of the civil partners in accordance with section 17 Law on Civil Status. If more than one registry office would have been competent, documents shall be transferred to the registry office competent for the registration district where both civil partners have their registered or their habitual abode; if the civil partners do not have a common registered or habitual abode, the registry office in the district where one of the civil partners has his or her registered or habitual abode is competent. If there is still more than one registry office competent, the transferring authority can select a competent registry office. The registrar of the competent registry office shall register the data specified in section 17 in conjunction with sections 15 and 16 Law on Civil Status in a separate civil partnership register, indicating the authority where the civil partnership was concluded.

Chapter 6

Laender Regulation Clause (Länderöffnungsklausel)

Section 23. Laender regulations on competent authorities

(1) Laender regulations in force 1 January 2009 stipulating differently from sections 1, 3 and 9 that the respective declarations shall not be made before a registrar but before another certifying person or authority and already existing regulations on the certification and documentation of such declarations will remain unaffected. In these cases, federal Law on Civil Status is not applicable. Laender regulations shall ensure that certifications are documented continuously and that obligations to notify required by the Law on Civil Status are fulfilled. No transfer of procedures in accordance with section 22 is required.

(2) After 31 December 2008, each Land can stipulate differing from sections 1, 3 and 9 that the respective declaration shall be made not before a registrar but before another certifying person or authority. After entry into force of such Laender regulations, federal Law on Civil Status is no

longer applicable. Laender regulations shall ensure that a civil partnership register is established which has to be continued in accordance with sections 16 and 17 Law on Civil Status. Laender authorities can also stipulate competence for the continuation of certifications and transfer of procedures originated before entry into force of Laender regulations.

(3) The competent authorities in accordance with paragraphs 1 and 2 are entitled ex officio to transfer personal data to federal, Laender and municipal public authorities if these data are necessary for completion, correction or continuation of documents of these bodies within the margin of their duties. As far as federal Law on Civil Status after the entry into force of Laender regulations is no longer applicable as described in paragraph 2, the Federal Ministry of the Interior after consultation with the Federal Ministry of Justice and with prior consent of the Federal Council is entitled to regulate further details by statutory instrument.