

Registered Partnership

Federal Act on Registered Partnerships between Persons of the Same Sex (Same-Sex Partnership Act)

Entry into force: 1 January 2007

A registered partnership commits partners of the same sex to lead their lives as a couple and to assume joint responsibilities. Partners must support and respect each other. They must each contribute, as far as they are able, to the upkeep of their lives together.

Conditions

To form a registered partnership, partners must meet the following legal requirements:

- Partners must be over the age of 18 years and capable of proper judgement;
- They must not already be married or already be living in a registered partnership;
- Persons subject to a guardianship order must obtain the consent of their legal guardian;
- Partners must not be directly related. No one may form a partnership with his or her brother or sister, father or mother or with a grandparent, irrespective of whether they are related by blood or by adoption.
- One of the two partners must hold Swiss nationality or be resident in Switzerland.

If neither of the partners hold Swiss nationality or reside in Switzerland, they may not form a same-sex partnership in Switzerland.

Preliminary procedure

The partners must go in person to the registry office in the place where one of them is resident and must produce the following documents:

Swiss nationals:

A personal civil status certificate and a certificate of permanent residence or certificate of domicile.

Foreign nationals:

A certificate of domicile and documents issued by their own country relating to their birth, sex, surname, parentage, civil status and nationality.

Partners previously married or living in a registered partnership:

Confirmation of the dissolution of the marriage or registered partnership.

The application form to register a partnership can be requested from the relevant registry office.

After completing and returning this form and producing the necessary documents, the partners must also declare in person to the registrar that they meet all the legal requirements.

The registrar will examine the application and inform the partners whether the partnership can be registered. The details of the registration procedure will be decided in agreement with the registry office. Registration must occur within three months of notification being given of the decision that the preliminary procedure has been successfully completed.

Swiss nationals living abroad may file their application through the relevant diplomatic or consular representation.

Formation of the partnership

The two partners make a declaration before the registrar that they wish to form a partnership. The registrar will then call on them to sign the partnership document and will issue them with a partnership certificate.

Costs

The registry office charges a fee for registering the partnership (preliminary procedure and formation of the partnership) and for the documents issued.

Recognition of same-sex partnerships formed abroad

A partnership that has been validly registered abroad will be recognised in Switzerland if it complies with Swiss legal principles.

The partnership will be recorded in the “Infostar” civil status register if one of the partners holds Swiss nationality or is resident in Switzerland. The application for recognition must be filed with the Swiss representation (embassy or consulate) together with the documents on the registered partnership.

The Swiss representation will verify the authenticity of the documents, certify them and then translate them, if necessary, into an official language of Switzerland (in return for a fee). The documents will then be sent to the civil status supervisory authority in the relevant canton. The supervisory authority of the canton of origin will be responsible for Swiss nationals.

The cantonal supervisory authority will decide whether the partnership can be recognised. If the requirements are met, it will authorise the partnership to be recorded in the registers. Based on this decision, the partnership formed abroad may therefore be recorded in the “Infostar” civil status register.

A marriage celebrated abroad between persons of the same sex will be recognised in Switzerland as a registered partnership.

New civil status

Civil status must always be indicated on official forms and in correspondence with the authorities. The official term is “in a registered partnership” or “partnership dissolved” after the legal dissolution of the partnership or the death of a partner.

Joint home

The two partners undertake, as a result of registering the partnership, to lead their lives as a couple. They decide together whether they want to live in the same home or in two or more homes. One partner cannot sell or terminate the lease for the joint home without the express consent of the other partner.

Effects of the registered partnership

Personal effects on the partners

Surname and citizenship of Swiss partners

After forming the registered partnership each partner keeps his or her previous surname; the registered partnership has no legal effect on the surname, or on the place of origin of Swiss citizens. However, in order to indicate the nature of their personal relationship, partners are permitted to have a “partnership name”, a combined surname made up of their two surnames (without a hyphen in between), entered in their passports (but not on their identity cards) in the section on “official endorsements”. This “partnership name” does not have any legal significance, however.

Foreign partners who live in Switzerland can declare to the registrar that they want their surnames to be governed by their national law (Article 37(2) of the Federal Act on Private International Law; LDIP SR 291¹). In some countries (e.g. Germany, Scandinavian countries), the national law allows partners to bear a shared surname.

Swiss citizenship for foreign partners

The Same-Sex Partnership Act does not provide for any form of simplified naturalisation for foreign partners, as is the case for foreign spouses of Swiss citizens. However, it is sufficient for naturalization if the registered partner of a Swiss citizen has been resident in Switzerland for a total of five years, whereby one year must be immediately before the application is made, provided he or she has lived in a registered partnership with the Swiss citizen for three years (Article 15 para. 5 of the Federal Act of 29 September 1952 on the Acquisition and Loss of Swiss Citizenship [Citizenship Act; SR 141.0]). In the case of a registered partnership between non-Swiss citizens, an application for naturalisation may only be made by persons who have lived in Switzerland for a total of twelve years, three of which must be in the five years prior to the application being made. In relation to the period of twelve years, any period during which the applicant was aged between 10 and 20 and living in Switzerland counts as double. If a couple registered as partners submit their applications at the same time, but only one of the partners fulfils the requirements, it is sufficient if the other partner has been resident in Switzerland for a total of five years, whereby one year must be immediately before the application is made, provided he or she has lived in a registered partnership with the Swiss citizen for three years. These periods also apply to an applicant whose registered partner has already successfully acquired Swiss citizenship (Article 15 para. 6 of the Federal Act).

Financial effects of the partnership

Each partner has a right of free disposal over his or her own property and is solely responsible for his or her debts. This system corresponds to the system of separation of assets under matrimonial law. Each partner is obliged, if requested, to inform the

¹ SR = Systematische Rechtsammlung, (Classified Compilation of Federal Legislation).

other partner about his or her income, assets and debts. On application, the courts may compel the other partner or third parties to provide the information required and to produce the necessary documents.

In order to regulate matters in the event of the partnership being dissolved, the partners may conclude a special agreement and specify, for example, that the property will be shared according to the provisions of matrimonial law on participation in the property acquired during marriage. This type of agreement will be valid only if publicly certified by an authorised person (i.e. a notary).

Each partner may have an officially certified inventory drawn up of his or her respective assets, to be produced as evidence.

In the areas of tax law and inheritance law, registered partners will be treated like married couples. If one of the partners dies, the surviving partner will be regarded as a widow or widower with regard to entitlement to old-age and survivors' pensions and occupational pensions.

Notifications

The landlord of the joint home must be informed of the partnership's registration because notice of termination of the lease by the landlord is valid only if sent separately to each of the two partners.

Partnership and children

A couple living in a registered partnership are not permitted to adopt a child or to undergo assisted reproduction procedures. Adoption of the partner's child is also not permitted.

Where a partner has children, the other partner must assist his or her partner appropriately in fulfilling the obligation of support and in exercising parental authority, and must take the place of his or her partner when circumstances require (for example in the event of illness or absence).

Dissolution of the partnership

The two partners may make a joint application to the court for the dissolution of the partnership. Either partner may also request the court to dissolve the partnership if the couple has lived separately for at least one year.

As in the case of a divorce, entitlements to occupational pension benefits are shared. After the registered partnership has been dissolved, each partner will in principle be responsible for supporting himself or herself. However, where one person has, due to the distribution of tasks during the registered partnership, limited his or her paid work or has not worked, he or she may request reasonable maintenance payments from his or her partner until he or she is able to support himself or herself by working again.