

Income, troubles and legal family formats in the UK: Northern Ireland

by Brian Sloan ¹

The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples

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Based on the [LawsAndFamilies questionnaire](#) on legal family formats for same-sex and/or different-sex couples (Section 2 – Income and troubles)

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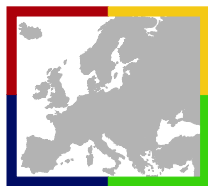


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FamiliesAndSocieties

Disclaimer

This paper and this database contain information with a scientific aim. Nothing in this paper and in this database should be seen as legal advice. Not all nuances and exceptions are included, and there may be errors and further legal developments. The experts, the authors, the editors, the Institut national d'études démographiques and Leiden University cannot be held liable for any inaccurate or incomplete information in this paper or in this database. More particularly, they cannot be held liable for any damage or consequences from the direct or indirect use of contents of this paper or database.

The six sections of the questionnaire

The interactive LawsAndFamilies Database is based on the [LawsAndFamilies questionnaire](#), which consists of six sections:

- Section 1 – Formalisation
- Section 2 – Income and troubles
- Section 3 – Parenting
- Section 4 – Migration
- Section 5 – Splitting up
- Section 6 – Death

Papers and an interactive database

For each jurisdiction there are therefore six papers like this one. And each of these papers contains the full answers, references and explanations (given by

a legal expert for the jurisdiction concerned) to the questions in one of these six sections. All these papers can be found in open access at www.LawsAndFamilies.eu. There the user also has access to the [interactive part of the LawsAndFamilies Database](#), which can be used to search the whole database and to create comparative overviews for different questions, different years, different countries and/or different legal family formats.

This website also contains references to publications analysing the results of the project, and to some other legal, sociological and statistical publications about same-sex and different-sex families. And it gives information about the methodology used for this questionnaire and database.

About the questionnaire

The [full text of the questionnaire](#) can be found in the paper: K. Waaldijk, J.M. Lorenzo Villaverde, N. Nikolina & G. Zago, 'The LawsAndFamilies questionnaire on legal family formats for same-sex and/or different-sex couples: Text of the questions and of the accompanying guidance document', *FamiliesAndSocieties Working Paper* 64(2016), www.familiesandsocieties.eu.

The [Guidance document](#) contained in that paper, asked the experts answering the questionnaire to make several assumptions. These included the assumption that the partners have been living together as a couple already for at least two years. Plus the assumption (except for certain questions in Section 4 – Migration) that both partners have the citizenship of the country where they are now both lawfully and habitually residing, and that this is also the country where their relationship would have been formalised and where it would be dissolved.

About the answers

This paper contains the answers, references and explanations – for one jurisdiction – to all questions in one of the six sections of the questionnaire. The answers are presented in columns. Each column is a coloured timeline, representing legal developments for one question for one legal family format.

The year at the top of each coloured timeline is the most recent year for which a question was answered by the author. In the timelines the years given above and below an answer indicate that the answer applied between a certain day in the lower year and a certain day in the higher year. The year "0000" means that the answer applied since an unknown year before 1965. See further the [Guidance document](#).

The following **answer codes and colours** have been used:

Yes	Yes, this is so in the law of this country/jurisdiction, although possibly with a qualifying period of 24 months or less.
Yes, but	Yes, but with exceptions or restrictions, for example a qualifying period of 25 months or more, or only in most parts of the country/jurisdiction, or this is mostly a “dead letter”.
No, but	No, but it may be so exceptionally, or in a very limited way, or in a few parts of the country/jurisdiction, or indirectly, or by using a different legal instrument, or legislation says no while some courts might say yes.
No	No, this is not so in the law of this country/jurisdiction.
Doubt	The law is unclear (the law does not “know” the answer).
?	No information was available.
N/A	Not applicable (for example because this family format is not available in this jurisdiction, or not for same-sex or different-sex couples).
X	This question was not asked for this legal family format.
Open question	Question without answer codes like Yes and No.
Empty cell	For this year the question was not asked or not answered.

The six papers about Northern Ireland

The answers concerning Northern Ireland can be found in the [interactive database](#) and in the following six papers (all of which are published in open access in: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*, Paris: INED, 2017, www.LawsAndFamilies.eu):

Formalisation of legal family formats in the UK: Northern Ireland
by Brian Sloan (Section 1)

Income, troubles and legal family formats in the UK: Northern Ireland
by Brian Sloan (Section 2)

Parenting and legal family formats in the UK: Northern Ireland
by Brian Sloan (Section 3)

Migration and legal family formats in the UK: Northern Ireland
by Brian Sloan (Section 4)

Splitting up and legal family formats in the UK: Northern Ireland
by Brian Sloan (Section 5)

Death and legal family formats in the UK: Northern Ireland
by Brian Sloan (Section 6)

So this paper is based on **Section 2 (Income and troubles)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

- 2.1 Lower income tax
- 2.2 Social benefits
- 2.3 Health insurance
- 2.4 Care between partners
- 2.5 Care for a parent
- 2.6 Next of kin
- 2.7 Domestic violence
- 2.8 Criminal procedure
- 2.9 General background regarding income and troubles

In the following pages of this paper, first the answer to question 2.9 is presented, followed by the answers to questions 2.1 to 2.8.

2.09 - General background regarding income and troubles (Open question)

If you consider it useful to provide some general information or comments about (past, present or future) developments and trends in legal policy and case law in your country/jurisdiction, or information on other aspects (socio-legal, political, legal-cultural, family support, etc.) that may be relevant for the understanding of your answers above regarding income and troubles, then please do so here.

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Jurisdiction: **UK: Northern Ireland**

Source: **B. Sloan**, "Income, troubles and legal family formats in UK: Northern Ireland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-UK NI-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.01 - Lower income tax**

Can a relationship of this type result in lower income tax than for two individuals without a partner?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 2015	2016 N/A 0000	2016 N/A 0000	2016 Yes 2015	2016 No 0000	2016 No 0000
No, but 2000			No, but 2005		
Yes 0000			N/A 0000		
References to legal sources: Finance Act 2014, s. 11, inserting Income Tax Act 2007, sections 55A-E. Income Tax Act 2007, part 3, chapter 3. O'Halloran, K. (1997). "Family Law in Northern Ireland". Dublin: Gill & McMillan.		References to legal sources: Finance Act 2014, s. 11, inserting Income Tax Act 2007, sections 55A-E. Income Tax Act 2007, part 3, chapter 3.		References to legal sources:	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: In certain circumstances, since 2015, as a result of the Finance Act 2014, a person can choose to transfer a fixed amount of his personal allowance, on which income tax is not charged, to his spouse or civil partner (only). There is also limited tax relief available to those born before 6 April 1935 (with the married couples' allowance having been abolished for other couples since 2000). According to O'Halloran, K. (1997). "Family Law in Northern Ireland". Dublin: Gill & McMillan, 32, spouses have been taxed independently only since 1990.</p>		<p>Explanations and nuances: See under Marriage.</p>		<p>Explanations and nuances: The advantages described under Marriage do not apply to informal cohabitants.</p>	

Jurisdiction: **UK: Northern Ireland**

Source: **B. Sloan**, "Income, troubles and legal family formats in UK: Northern Ireland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-UK NI-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.02 - Social benefits**

When one partner (long-term unemployed or even never having been employed at all) would be entitled to a basic social benefit, will the income of the other partner then be taken into consideration and will it possibly result in loss or reduction of this entitlement?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 1992	2016 N/A 0000	2016 N/A 0000	2016 Yes 2005	2016 Yes 1992	2016 Yes 2005
? 0000			N/A 0000	? 0000	No 0000
References to legal sources: Social Security Contributions and Benefits (Northern Ireland) Act 1992, sections 132-133.		References to legal sources: Social Security Contributions and Benefits (Northern Ireland) Act 1992, sections 132-133, as amended by the Civil Partnership Act 2004.		References to legal sources: Social Security Contributions and Benefits (Northern Ireland) Act 1992, ss. 132-133, as amended by the Civil Partnership Act 2004.	
Explanations and nuances: According to the Citizens Advice Bureau (www.citizensadvice.org.uk/nireland/relationships/living-together-and-marriage-ni/living-together-and-marriage-legal-differences/#h-welfare-benefits-and-tax-credits): "All couples, whether married or living together are treated in the same way when they are assessed for entitlement to most welfare benefits, Working Tax Credit or Child Tax Credit. If they are claiming means-tested benefits, they will be expected to claim as a couple, and the income, savings and financial needs of both partners are taken into account."		Explanations and nuances: Since 2005, the law in this area has been essentially the same for civil partners and same-sex cohabitants as for spouses and opposite-sex cohabitants.		Explanations and nuances: See under Marriage and Registered partnership.	

Jurisdiction: **UK: Northern Ireland**

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Section: **2 - Income and Troubles**

Question: **2.03 - Health insurance**

Is the amount of money that the two partners in this type of relationship would have to pay for (public or private) health insurance, normally smaller than what two individuals without a partner would have to pay?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 No, but 0000	2016 N/A 0000	2016 N/A 0000	2016 No, but 2005	2016 No, but 0000	2016 No, but 0000
			N/A 0000		
References to legal sources: Health and Personal Social Services (Northern Ireland) Order 1972, art. 98.		References to legal sources: Health and Personal Social Services (Northern Ireland) Order 1972, art. 98.		References to legal sources: Health and Personal Social Services (Northern Ireland) Order 1972, art. 98.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The National Health Service provides public healthcare broadly free at the point of delivery (Health and Personal Social Services (Northern Ireland) Order 1972, art. 98) and funded through taxation and national insurance contributions of the general population. Access to such healthcare is not therefore directly dependent on financial resources or relationship status.</p> <p>Private insurance companies may charge reduced premiums for couples (whatever the precise status of their relationship) taking out joint policies.</p>		<p>Explanations and nuances: See under Marriage.</p>		<p>Explanations and nuances: See under Marriage.</p>	

Jurisdiction: **UK: Northern Ireland**

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Section: **2 - Income and Troubles**

Question: **2.04 - Care between partners**

In case one partner is in need of care, does the other partner then have a statutory right to paid or unpaid leave to give that care?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 1999	2016 N/A 0000	2016 N/A 0000	2016 Yes 2005	2016 Yes 1999	2016 Yes 1999
No 0000			N/A 0000	No 0000	No 0000
<p>References to legal sources: Employment Rights (Northern Ireland) Order 1996, art. 85A, inserted by the Employment Relations (Northern Ireland) Order 1999.</p>		<p>References to legal sources: Employment Rights (Northern Ireland) Order 1996, art. 85A, inserted by the Employment Relations (Northern Ireland) Order 1999.</p>		<p>References to legal sources: Employment Rights (Northern Ireland) Order 1996, art. 85A, inserted by the Employment Relations (Northern Ireland) Order 1999.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: An employee may take a reasonable amount of time off "to provide assistance on an occasion when a dependant falls ill, gives birth or is injured or assaulted", "to make arrangements for the provision of care for a dependant who is ill or injured", or "because of the unexpected disruption or termination of arrangements for the care of a dependant" (Employment Rights (Northern Ireland) Order 1996, art. 85A(1)).</p> <p>The definition of the relevant "dependant" includes a spouse (art. 85A(3)(a)).</p>		<p>Explanations and nuances: See under Marriage.</p> <p>The definition of the relevant "dependant" includes a civil partner (art. 85A(3)(a)).</p>		<p>Explanations and nuances: See under Marriage.</p> <p>The definition of the relevant "dependant" includes "a person who lives in the same household as the employee, otherwise than by reason of being his employee, tenant, lodger or boarder" (art. 85A(3)(d)).</p>	

Jurisdiction: **UK: Northern Ireland**

Source: **B. Sloan**, "Income, troubles and legal family formats in UK: Northern Ireland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-UK NI-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.05 - Care for a parent**

In case the parent of one partner is in need of care, does the other partner then have a statutory right to paid or unpaid leave to give that care?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 No, but 1999	2016 N/A 0000	2016 N/A 0000	2016 No, but 2005	2016 No, but 1999	2016 No, but 1999
No 0000			N/A 0000	No 0000	No 0000
<p>References to legal sources: Employment Rights (Northern Ireland) Order 1996, art. 85A, inserted by the Employment Relations (Northern Ireland) Order 1999.</p>		<p>References to legal sources: Employment Rights (Northern Ireland) Order 1996, art. 85A, inserted by the Employment Relations (Northern Ireland) Order 1999.</p>		<p>References to legal sources: Employment Rights (Northern Ireland) Order 1996, art. 85A, inserted by the Employment Relations (Northern Ireland) Order 1999.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: See question 2.4.</p> <p>The parent would have to be "a person who lives in the same household as the employee, otherwise than by reason of being his employee, tenant, lodger or boarder" (art. 85A(3)(d)). The answer to this question is explained by the fact that it is statistically likely that more parents live separately from their children and partners than with them.</p>		<p>Explanations and nuances: See under Marriage.</p>		<p>Explanations and nuances: See under Marriage.</p>	

Jurisdiction: **UK: Northern Ireland**

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Section: **2 - Income and Troubles**

Question: **2.06 - Next of kin**

In case of accident or illness of one partner, is the other partner considered as next of kin for medical purposes (even without power of attorney)?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes, but 0000	2016 N/A 0000	2016 N/A 0000	2016 Yes, but 2005	2016 Yes, but 1999	2016 Yes, but 2005
			N/A 0000	? 0000	? 0000
References to legal sources:		References to legal sources:		References to legal sources:	
Explanations and nuances: It has been said that "the concept known as 'next-of-kin' has no legal basis" in Northern Ireland (Office of Law Reform, Department of Finance and Personnel (2004). "'Civil Partnership: A Legal Status for Committed Same-Sex Couples in Northern Ireland': Analysis of Responses". Belfast, 25). The concept does operate informally according to a hierarchy of relationships, however.		Explanations and nuances: See under Marriage.		Explanations and nuances: See under Marriage.	

Jurisdiction: **UK: Northern Ireland**

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Section: **2 - Income and Troubles**

Question: **2.07 - Domestic violence**

When one partner uses violence against the other partner, does specific statutory protection apply?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 1980	2016 N/A 0000	2016 N/A 0000	2016 Yes 2005	2016 Yes 1999	2016 Yes 2005
?			N/A 0000	No 0000	Yes, but 1999
					No 0000

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Family Homes and Domestic Violence (Northern Ireland) Order 1998, especially art. 3.</p> <p>Domestic Proceedings (Northern Ireland) Order 1980.</p>		<p>References to legal sources: Family Homes and Domestic Violence (Northern Ireland) Order 1998, especially art. 3.</p>		<p>References to legal sources: Family Homes and Domestic Violence (Northern Ireland) Order 1998, especially art. 3.</p> <p>Domestic Proceedings (Northern Ireland) Order 1980.</p> <p>F v F (Protection from Violence: Continuing Cohabitation) [1989] 2 Family Law Reports 451.</p> <p>Civil Partnership Act 2004, e.g. schedule 14.</p>	
<p>Explanations and nuances: The ability to apply for occupation orders and non-molestation orders extends to "associated persons", which includes spouses.</p>		<p>Explanations and nuances: The ability to apply for occupation orders and non-molestation orders extends to "associated persons", which includes civil partners.</p>		<p>Explanations and nuances: The ability to apply for occupation orders and non-molestation orders extends to "associated persons", which includes "cohabitantes".</p> <p>Cohabitants were excluded from protection under the Domestic Proceedings (Northern Ireland) Order 1980 (F v F (Protection from Violence: Continuing Cohabitation) [1989] 2 Family Law Reports 451).</p>	

Jurisdiction: **UK: Northern Ireland**

Source: **B. Sloan**, "Income, troubles and legal family formats in UK: Northern Ireland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-UK NI-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.08 - Criminal procedure**

In case of a criminal prosecution against one partner, can the other partner then refuse to testify against the partner who is being prosecuted?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes, but 1989	2016 N/A 0000	2016 N/A 0000	2016 Yes, but 2005	2016 No 0000	2016 No 0000
? 0000			N/A 0000		
References to legal sources: Police and Criminal Evidence (Northern Ireland) Order 1989, art. 79.		References to legal sources: Police and Criminal Evidence (Northern Ireland) Order 1989, art. 79.		References to legal sources:	
Explanations and nuances: A spouse may be compelled to give evidence for the prosecution only in respect of "specified offences", focused on certain offences committed against the spouse herself or people under 16.		Explanations and nuances: The law on civil partnership is essentially the same for civil partners as for spouses in this field.		Explanations and nuances:	