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Appendix B: Countries Protecting Same-Sex Couples' Immigration Rights

Human Rights Watch and Immigration Equality have identified nineteen²³⁸ countries that recognize lesbian and gay relationships for immigration purposes. This appendix outlines how they do so.

The forms of such recognition are diverse; they belie the argument that acknowledging same-sex partnerships in the immigration system is necessarily a first step toward equality in civil marriage.

- Some countries—such as South Africa or Spain—have indeed revised their immigration policies in the process of instituting marriage equality.
- Some—such as Germany or the Scandinavian nations—have created a special legal status for lesbian and gay partnerships and recognized that status in immigration.
- Some—like France or New Zealand—have created a special status different from marriage which is open to both same-sex and different-sex couples and recognized that status in immigration.
- Some—like Portugal—have opened an existing legal status different from marriage (such as common-law marriage or *concubinage*) to same-sex couples, and recognized that status in immigration.
- Still others—such as Israel or Brazil—have recognized same-sex relationships in the immigration system alone, without giving them broader status in national law.

In rare instances, the change has been mandated by the courts. More often, a legislative majority mandated it—or even, as in Switzerland, a national referendum. In some cases, immigration authorities themselves brought about policy reform.

For the most part, these changes have been uncontroversial—even in places like Australia, where anti-immigrant sentiment runs strong. Reports do not indicate floods of new applicants or increasing fraud. What these national experiences do suggest is an increased and necessary sensitivity to the diversity of human relationships and families.²³⁹ Expanding existing categories, and developing new ones, both answer the felt need for an extended and nuanced legal vocabulary to describe those families.²⁴⁰

Australia

Since 1995, Australia has provided immigration rights to binational same-sex couples through an “interdependency visa.”²⁴¹ This allows residency to a foreign national in a lesbian or gay relationship with an Australian citizen or permanent resident (or eligible New Zealand citizen²⁴²). An interdependent relationship is one “in which a couple have a mutual commitment to a shared life to the exclusion of all others. The relationship between them is genuine and continuing, and they live together, or do not live separately and apart on a permanent basis. This is usually a same-sex partner relationship.”²⁴³ To be eligible for an interdependency visa, one must:

- Be sponsored by a partner who is citizen or permanent resident;
- Be at least eighteen;
- Not be a close relative;
- Demonstrate a “genuine and continuing” relationship;
- Show the partners have been in an interdependent relationship for at least twelve months;
- Show they are living together or only temporarily separated;
- Meet health and character requirements.²⁴⁴

The foreign partner applies for a temporary and permanent visa at the same time. The temporary independency visa is granted if all criteria are met; it also allows a work permit. Two years later, the permanent interdependency visa application is decided. If the couple has already been living together for five years or more, a permanent visa may be granted immediately; if the couple has a dependent child, the waiting period may be reduced.

This effectively grants lesbian and gay couples the same immigration rights Australia extends to “*de facto*” couples—that is, heterosexual common-law spouses (who apply under a “spousal visa”). Heterosexual married couples also apply for a spousal visa, but they do not have to show a twelve-month relationship to receive it.²⁴⁵

Belgium

Belgium has recognized same-sex relationships for immigration purposes since 1997. A partner in a “stable relationship” with a person residing legally in Belgium may apply for a Type D visa, which allows an extended (longer than ninety days) stay in the country. The application procedure is identical for same-sex and opposite-sex relationships. The foreign partner must present:

- Proof that the other partner is a lawful Belgian resident or citizen;
- Documents proving that neither of the parties is married to someone else;
- A birth certificate;
- Evidence of the stability of the relationship;
- Evidence that the partner living in Belgium has sufficient means of support;
- A declaration of financial responsibility for the cohabiting partner signed by the partner living in Belgium;
- A certificate of good conduct;
- A medical certificate.²⁴⁶

Belgium recognizes marriages and partnerships legally performed in other countries and valid at the national level there. Persons in such partnerships are eligible for a Family Members/Unification Visa and must submit:

- A certified copy of the marriage or partnership certificate;
- A recent certificate of good conduct;
- Evidence that the spouse is a legal resident of Belgium.²⁴⁷

In 2003, Belgium became the second country in the contemporary world, after the Netherlands, to extend legal marriage to same-sex couples. Originally, this was only available to binational couples if the non-Belgian partner came from a country that also recognized such marriages. However, the law was later changed to allow any same-sex couple to marry in Belgium so long as one of the spouses had lived there for three months.²⁴⁸ This opened new immigration alternatives:

- A Belgian national or resident may bring a same-sex spouse into Belgium under provisions allowing family members of foreign nationality to immigrate.²⁴⁹
- A foreign national can apply for a Type C visa, or “Visa With a View to Marry,” which allows entry after certifying the Belgian national or resident’s intent to marry them.²⁵⁰

Brazil

Brazil offers no comprehensive national-level legal acknowledgement of lesbian and gay relationships—though the federal government does recognize such partners’ rights to inherit each other’s pension and social security benefits, and several local jurisdictions have passed domestic-partnership laws. However, a December 3, 2003 decree by the National Immigration Council allows temporary or permanent visas to be given to same-sex partners of Brazilian citizens who have any of the following:

- A “certificate of concubinage” issued by a governmental office in Brazil or abroad;
- Proof of “stable partnership issued by a Family Court Judge or corresponding authority in Brazil or abroad”;
- Proof of mutual dependency issued by a government body in Brazil or abroad;

- Certification “or similar document, issued by a civil registry authority or the equivalent abroad, of cohabitation for more than five consecutive years”;
- Proof of “a common dependent child.”²⁵¹

In effect, this means that couples with children and couples who have legally formalized their partnership anywhere—including a city or county registry, within or outside Brazil—can enjoy immigration rights similar to married couples. Same-sex couples unable to meet these criteria, like unmarried opposite-sex couples, can apply for a so-called “concubine visa,” granted on a discretionary basis.

Canada

Canada provides extremely broad immigration rights to lesbian and gay couples through three instruments: the Immigration and Refugee Protection Act;²⁵² the corresponding Immigration and Refugee Protection Regulations;²⁵³ and—most recently—the Civil Marriage Act,²⁵⁴ which Parliament amended in 2005 to allow couples to marry regardless of gender. Through these provisions, a same-sex couple may immigrate to Canada in the same ways as opposite-sex couples.

Under Canadian law, a Canadian citizen or permanent resident may sponsor his or her partner for immigration purposes in three ways: as a *spouse*, as a *common law partner* or as a *conjugal partner*.²⁵⁵

A citizen or permanent resident can sponsor a partner (either same-sex or opposite-sex) as a *spouse* if the couple is married and standard additional criteria are met (for instance, the foreign national is sixteen or older).²⁵⁶ For opposite-sex couples, a marriage that occurs outside of Canada is valid as long as it is valid both in the jurisdiction where it took place and under Canadian law.²⁵⁷ However, for same-sex couples, Citizenship and Immigration Canada (CIC), the Canadian government agency in charge of immigration, has developed an “interim policy” which requires same-sex couples to marry in Canada.²⁵⁸ A Canadian citizen or permanent resident who legally married his/her same-sex partner in Belgium, for example, would not appear to be able to sponsor the partner as a spouse unless they also married in Canada. This is one of the few distinctions between same-sex and opposite-sex couples under Canadian immigration law.²⁵⁹

To qualify as *common-law partners*, a couple must have cohabitated in a conjugal relationship continuously for at least one year.²⁶⁰ Some of the evidence that CIC considers in determining cohabitation includes: joint bank accounts, joint ownership of home, a joint lease, and/or joint management of household expenses.²⁶¹

The third way that a Canadian citizen or permanent resident can sponsor a partner (either same-sex or opposite-sex) is as a “conjugal partner.” Canadian law defines a conjugal partner as a foreign national residing outside of Canada who is in a conjugal relationship (but not cohabiting) with the Canadian sponsor for a period of at least one year.²⁶² CIC defines a conjugal relationship as “more than a physical relationship. It is a mutually dependant relationship, and it has some permanence and the same level of commitment as a marriage or a common-law union.”²⁶³

Two distinctions between a conjugal partner and a spouse or common-law partner are important: first, a conjugal partner must reside outside of Canada; second, CIC allows immigration under this category only when “exceptional circumstances” prevent the couple from living together. The couple must prove such an impediment, such as an immigration barrier or a marriage to someone else living in a country where divorce is not possible. The CIC expressly recognizes a same-sex relationship in a place where same-sex marriage is not permitted as a basis for claiming conjugal status.

Applicants for permanent residence as spouses or partners can generally also apply for work permits. CIC recently announced a new policy that allows both common-law partners and spouses to remain in Canada while applying for permanent residence, regardless of their immigration status.²⁶⁴ For example, even if a common-law partner does not have a valid temporary immigration status, he or she may remain in Canada during the application process. However, it appears these applicants may apply for a work permit only after they receive approval in principle.²⁶⁵

Denmark

Danish nationals and permanent residents can sponsor foreign same-sex partners as part of a broader

partnership recognition policy dating back to 1989, when Denmark became the first country to register lesbian and gay partnerships.²⁶⁶ The same general immigration requirements apply to registered partners and married couples.

In addition, a foreign partner who is neither legally registered nor married to a resident in Denmark also may apply for residence as a “cohabitating companion,” so long as the couple meets the same requirements as legally recognized couples and can, in addition, demonstrate that their relationship has been a regular, long-term one (e.g., eighteen to twenty-four months at a shared address).²⁶⁷

Usually, residence permits should be applied for in the foreign partner’s country of origin or domicile, but if the partner is legally in Denmark in another immigration category, he or she can apply there. Immigration requirements for spouses, registered partners and cohabitating companions include:

- That they be at least twenty-four years old;
- That the partners have a greater attachment to Denmark than to another country;
- That the partner already resident in Denmark must own or rent reasonable accommodation;
- That the partner already resident in Denmark must be able to support his/her partner.²⁶⁸

Finland

Since 2001, Finland has granted immigration benefits to same-sex couples as part of a broader partnership recognition policy.²⁶⁹ The spouse (a term used whether the relationship is a marriage or registered partnership) or cohabitant (defined as living together for at least two years or having joint custody of a child) of a Finnish citizen or permanent resident may apply for a residence permit on the basis of family ties.²⁷⁰ The partners’ genders are irrelevant. Only spouses, cohabitants, and unmarried children under the age of eighteen whose guardian is living in Finland qualify as family members for immigration purposes.²⁷¹

The spouse or cohabitant of a foreign national living in Finland must apply for a residence permit before coming to Finland and must remain abroad while waiting for a decision, unless granted a visa for a visit. However, the spouse or cohabitant of a Finnish citizen may come to Finland without getting a residence permit in advance and may stay in Finland until the application is decided.²⁷²

A decision on a residence application is typically reached in four to six months. The application must be supported by appropriate documentation (proof of marriage, registered partnership, or cohabitation).

France

The “Pacte Civil de Solidarité” law (“PACS,” or Civil Solidarity Pact), was passed by the French National Assembly in 1999. It offers all unmarried couples, same-sex and opposite-sex, a legal status carrying some but not all of the benefits of marriage.²⁷³ The act defines the PACS as “a contract concluded between two physical persons who have reached the age of majority, of different or the same gender, for the purposes of organizing their life in common.”²⁷⁴

A foreign partner in a PACS with a French citizen can obtain a temporary residence permit (“*permit de sejour*”) after a one-year waiting period. It is subject to annual renewal through the local mayor’s office. After five years, a *permit de sejour* holder is eligible to apply for permanent residency (which in France means a ten-year permit).²⁷⁵ Article 12 of the PACS law states that in considering the grant of permanent residency to a foreign partner, the existence of a Pact is “one of the elements for assessing personal connections in France.”

The Ministry of the Interior has said that a PACS has to be at least three years old to be considered a defining factor for a permanent residency application. A PACS less than three years old can still be a contributing factor, but the weight attached to it will be at the discretion of authorities in the local area (*Département*).²⁷⁶

Germany

In a 1996 decision, the Higher Administrative Court in Münster, which has sole jurisdiction in Germany over visa appeals, ruled that the European Convention on Human Rights required that the same-sex foreign partner of a German national be granted a residence permit. The government was thus obliged to give a

visa to a Romanian citizen so that he could join his German partner. However, the decision was disregarded in many *Länder* (provinces), which have broad authority in Germany's federal system.²⁷⁷

The Lifetime Partnership Act, passed by the Federal Parliament, entered into force on August 1, 2001. It allowed same-sex couples throughout Germany to enter a new legal status (*Eingetragene Lebenspartnerschaft*, "registered life partnership") carrying most of the rights enjoyed by married heterosexual couples.²⁷⁸

In particular, the law opened equal immigration rights to same-sex couples. The foreign partner of a German national or resident can apply for a "long-stay visa" at a German consulate in their country, showing their partner's sponsorship and the intention of registering their partnership after arriving in Germany. Foreign partners already in Germany, as temporary residents or visitors, can change their status to permanent resident once the partnership is registered.

If the sponsor is a German citizen or permanent resident, their partner has a legal right to a residence permit. If the sponsor is a citizen of another European Union country working in Germany with a temporary "EU residence permit," granting residence to the partner remains discretionary. All sponsoring partners have to show:

- That he or she is financially able to support both partners;
- That he or she is not receiving social assistance.²⁷⁹

Iceland

In 1996, Iceland created the status of registered partnerships for same-sex couples.²⁸⁰ Since then, Iceland has recognized immigration rights for the foreign same-sex partners of its citizens and long-term residents. Article 13 of the Act on Foreigners includes not only a person in a registered partnership but also a cohabiting partner as among the "closest family members" entitled to reside in Iceland under a "Permit to Stay."²⁸¹

Iceland's Regulation on Foreigners codifies these immigration rights. It stipulates that both registered partners and cohabiting partners must:

- Be eighteen;
- "Be able to demonstrate that they have lived together in registered cohabitation or cohabitation otherwise confirmed for at least two years, and intend to continue their cohabitation."²⁸²

The two-year requirement does not apply to married couples. In other respects, however, foreign registered partners and cohabiting partners enjoy essentially the same immigration rights as married spouses, including the right to turn a Permit to Stay into permanent residence.²⁸³ To obtain a Permit to Stay, any foreigner must show:

- A source of financial support;
- Secure lodging;
- Adequate medical insurance.

Israel

Israel offers no national-level legal status for same-sex relationships. Nonetheless, in 2000 the Ministry of Interior moved to recognize unmarried relationships—both heterosexual and homosexual—for immigration purposes.²⁸⁴ The policy has undergone several minor alterations since. In its present form,²⁸⁵ the couple must satisfy ministry officials that their relationship is genuine or "sincere" and that they are running a home together; the foreign national is then granted a one-year work permit. After a year and after a re-examination, the foreign national can receive temporary resident status. This status is renewed yearly. After seven years, the foreign national can become a permanent resident.

This differs from the procedure for a foreign national in a heterosexual marriage to an Israel citizen or resident, who can receive a temporary resident visa after six months and is eligible to become for full citizenship four years later.

While married binational couples' immigration rights are specified as an entitlement in the Citizenship Law of 1952, the allowance for unmarried couples arises from the discretionary powers given the Ministry of Interior in the Law of Entry into Israel of 1952. As a result, courts have been reluctant to override the Ministry's judgment in particular cases. Activists have complained that the Ministry has never put forward criteria for the "sincerity" of an unmarried relationship, whether opposite-sex or same-sex, leaving the decision to the whims of individual officials. A case now before the Supreme Court would require the Ministry to stipulate what evidence a couple must present to prove their relationship is genuine.²⁸⁶

Netherlands

Dutch law, much like Canada's, extends broad and equal immigration rights to same-sex binational couples.²⁸⁷ Same-sex and opposite-sex couples have the same three options for legal recognition of their relationship: civil marriage, registered partnership, or a cohabitation agreement.²⁸⁸

Under Dutch law, the foreign spouse, registered partner, or unmarried or unregistered partner of a resident of the Netherlands is entitled to a Provisional Residence Permit, as the first step toward a full residence permit. The application can be made in the Netherlands or at a consulate abroad. The couple must show that they:

- Intend to live together in a joint household in the Netherlands;
- Are both at least eighteen;
- Are both unmarried to anyone else.

The Dutch resident sponsor:

- Must have a long-term job;
- Must earn at least the family minimum wage set by the National Assistance Act.²⁸⁹

For two foreigners to marry or form a registered partnership (either same-sex or opposite-sex), one of them must either have a permanent residence permit or obtain a statement from the Aliens Police specifying his or her status under the Aliens Act.²⁹⁰ Thus, under Dutch law, it is unlikely that two foreigners could immigrate together to the Netherlands as a couple unless one of them already legally lived there.²⁹¹

New Zealand

New Zealand allows eligible citizens and residents to sponsor a foreign partner's residency application. The 1999 Immigration Regulations define "partner" as "the civil union partner or *de facto* partner of the applicant."²⁹² (In 2004, Parliament voted to create the status of civil unions for both same-sex and opposite-sex couples, giving the same rights as marriage under a different name.) Evidence of the partnership can include:

- A marriage or civil union certificate;
- Evidence of exclusivity and emotional commitment, such as joint decision-making, sharing of household duties, or parental responsibilities;
- Financial dependence or interdependence, such as shared income, bank accounts, money transfers to and from one another's accounts;
- Evidence of communication if significant time was spent apart;
- Evidence of the duration of the relationship;
- Photographs together, or evidence of public or family recognition of the relationship;
- Proof of shared residence.

To apply, the couple must:

- Be living together for at least one year in a genuine and committed relationship;
- Be eighteen or over, or between sixteen and eighteen if they have the legal consent of parents or guardians;
- Have met before the residence application was made;
- Not be relatives.²⁹³

Immigration authorities must be satisfied that the relationship is “genuine and stable” and that the partners intend “to remain in it long-term and to be exclusive to each other [and] that the relationship is likely to last.”²⁹⁴

The couple can live together in New Zealand while awaiting a residence visa, and officials may give the immigrating partner a work visa or work permit before issuing the residence visa, so that the couple can fulfill the twelve-month cohabitation requirement.²⁹⁵

An eligible sponsor must be a citizen or resident of New Zealand and must not have been “the perpetrator of an incident of domestic violence which resulted in the grant of permanent residence to a person under [the asylum] policy for victims of domestic violence.”²⁹⁶ If that citizen partner has already sponsored someone for immigration, they cannot sponsor another person for five years.

Once granted a residence visa, the foreign partner can then apply for a residence permit, which allows him or her to live, work, and study in New Zealand indefinitely.

Norway

In 1993, through the Registered Partnership Act, Norway provided legal recognition to same-sex couples.²⁹⁷ A registered partnership has most of the legal rights of a heterosexual marriage.²⁹⁸ Provisions of Norwegian legislation dealing with marriage and spouses apply equally to registered partners.

The foreign spouse or registered partner of a Norwegian citizen need merely prove that the citizen partner lives or intends to live in Norway. The foreign partner of a non-Norwegian national who has Norwegian residency must also prove that the two have been married or in a registered partnership for at least three years.²⁹⁹ Additional requirements include that both partners were over eighteen when they entered into the marriage/partnership and that the sponsoring spouse/partner show sufficient income to support them.³⁰⁰

Immigration rights are also available to foreign unmarried and unregistered “cohabitating partners” of Norwegian citizens or residents. They must show that they have “lived together in a permanent and established relationship as cohabitants for at least two years and intend to continue their cohabitation.” Exceptions are possible where, “because of work or other practical reasons,” they have been unable to live together; partners can “document contact on a regular basis” along with “concrete plans to move together to a joint residence.”³⁰¹

The Registered Partnership Act limits two foreign nationals’ ability to enter into a registered partnership with each other. For example, at least one of the parties must have been a resident of Norway for two years prior to registration.³⁰² While both foreign nationals must be “lawfully resident” in the country,³⁰³ this can include residence on temporary or visitors’ visas.³⁰⁴

Portugal

In 2001, Portugal’s Parliament passed a “Law on the Protection of *De Facto* Unions,” which extended the legal status of *de facto* couples, or common-law spouses, to any couple “independent of sex” who could show that they had cohabited for more than two years. The benefits accorded such couples were substantially less than those of heterosexual marriage but included inheritance, pension, insurance and tax rights.³⁰⁵

The government recognized these relationships for immigration purposes by extending “authorization for residence” to same-sex partners in a *de facto* union with Portuguese citizens or permanent residents.³⁰⁶ Applicants must provide:

- Proof of unmarried status;
- Other documents proving common-law partnership for at least two years,” including “joint bank accounts, joint individual tax return and other relevant means of proof”;
- Proof of accommodation in Portugal;
- Proof of means of subsistence in Portugal;
- Any criminal records.³⁰⁷

At first, the partner will receive a temporary authorization for residence, valid for two years and renewable for successive periods of three years. After either five years (for citizens of lusophone countries) or eight years (for other nationals), the partner is eligible for a permanent residence authorization.³⁰⁸

In 2004, Portugal amended its constitution to include “sexual orientation” as a status protected against discrimination.

South Africa

On December 2, 1999, South Africa’s Constitutional Court held that a foreign partner in a same-sex relationship with a citizen or permanent resident must be afforded the same immigration rights as a married person. Relying on sweeping constitutional protections, the court held that denying those rights discriminated unfairly against lesbians and gays on the grounds of sexual orientation and marital status and seriously limited their equality rights and their right to dignity.³⁰⁹

The decision took effect immediately and with little fanfare, but Parliament later amended the immigration laws. The Immigration Act of 2002 provided that “the Department [of Home Affairs] shall issue a permanent residence permit to a foreigner who...is the spouse of a citizen or resident.” It defined “spouse” as “a person who is party to a marriage, or a customary union, or to a permanent homosexual or heterosexual relationship which calls for cohabitation and mutual financial and emotional support, and is proven by a prescribed affidavit substantiated by a notarial contract.”³¹⁰ Provisions in the Immigration Act of (?) 2002 about obtaining permits for employment³¹¹ also extended equally to same-sex partners.

In 2005, the Constitutional Court decided that the full title and rights of marriage enjoyed by heterosexual couples could not be denied to lesbian and gay couples.³¹² It gave Parliament one year to amend legislation accordingly. Since same-sex partners already enjoyed parity with opposite-sex couples under South African immigration law, the decision did not extend their immigration rights.

Spain

An amendment to the Civil Marriage Code in Spain to allow equality in civil marriage for same-sex couples took effect on July 3, 2005.³¹³

Implementation of the amended Code is in its earliest stages. Only days after it became law, officials in Catalonia denied a marriage license to a Spanish national and his Indian partner on the grounds that India did not permit same-sex marriage.³¹⁴ However, on July 27, 2005, the *Junta de Fiscales de Sala*, a body of attorneys advising the *Fiscal General del Estado* (the national attorney general’s office), handed down an official opinion, published in the state bulletin, that the right of Spanish nationals to marry foreign same-sex partners could not depend on foreign legislation. The opinion held that “a marriage between a Spaniard and a foreigner, or between foreigners of the same sex resident in Spain, shall be valid as a result of applying Spanish material law, even if the foreigner’s national legislation does not allow or recognize the validity of such marriages.”³¹⁵

Sweden

Sweden provides immigration rights to binational same-sex couples as part of a broader policy recognizing same-sex relationships. Sweden created the category of registered partnerships for such relationships in 1994.³¹⁶ In addition, in 2003 a gender-neutral act on cohabitation gave same-sex cohabiting couples who have not entered a registered partnership the same rights and responsibilities as their unmarried opposite-sex counterparts. A foreigner may obtain a residence permit on the basis of family ties if he or she is or plans to be *married* to, entering a *registered partnership* with, or *cohabiting* with a Swedish national or resident.³¹⁷ Partners in same-sex or opposite-sex relationships are subject to the same immigration requirements.

The partner seeking a residence permit must normally apply to a Swedish consulate in their country of residence. The consulate will interview the applicant and review documentation—letters, photographs, a marriage or registered-partnership certificate, or evidence of cohabitation—proving the relationship to the person in Sweden. The consulate then will forward the application to the Migration Board in Sweden.³¹⁸

Residence permits are normally granted on a yearly basis for the first two years. After that, if the

Migration Board decides the relationship is still a serious one, the foreign partner can be granted a permanent residence permit. If the partners—whether married, registered, or cohabiting—have lived together for at least two years before the move to Sweden, the foreign partner may receive a permanent residence permit immediately.³¹⁹

Switzerland

In 2003, after two cantons (Geneva and Zurich) had passed bills giving registered-partners status to lesbian and gay couples, the Swiss federal government began opening immigration rights to foreign same-sex partners of Swiss nationals and residents, provided they could prove a stable and committed relationship of at least one year.³²⁰

However, in 2004, the federal parliament passed a bill creating registered partnerships for same-sex couples at the national level. This status gave most of the rights of marriage to those partners, excepting adoption and access to reproductive technologies. The bill amended immigration law to extend the same rights to registered partners as to heterosexual spouses and mandated that marriages and civil partnerships between people of the same sex validly entered into in other countries would be recognized in Switzerland.³²¹

Opponents forced a national referendum on the law; on June 5, 2005, voters approved it with a 58% majority. It will take effect in 2007.

A Swiss national or resident's foreign same-sex partner, if living outside the country, will be able to apply for a three-month visa to visit Switzerland and conclude a registered partnership. After the partnership is registered, the foreign partner is eligible for a Type B residence permit, which allows work and provides exemption from all labor market restrictions applying to foreign nationals. It is annually renewable provided the partnership is not dissolved, and can be converted into a Type C permanent residence permit after five years.

United Kingdom

The United Kingdom began providing limited immigration rights to binational lesbian and gay couples in 1997, when the government announced the "Concession Outside the Immigration Rules for Unmarried Partners."³²² (A concession is a policy decision which, while not written in the Immigration Rules, must be implemented by immigration officers.) The Unmarried Partners Concession made it possible for U.K. residents to apply for their foreign same-sex partner to enter the country—if they had already lived together for four years. This requirement posed a heavy burden. The Home Minister himself admitted that the criteria were "strict—and much tighter than for those who can marry."³²³ In 1999, the required cohabitation period was reduced to two years. In October 2000, the Unmarried Partners Concession was made into an Immigration Rule, giving it statutory force.³²⁴

On December 5, 2005, the inequality ended when the Civil Partnership Act ("CPA") became U.K. law. It legally recognizes same-sex couples in a committed relationship—and provides binational same-sex couples with immigration rights equal to those enjoyed by opposite-sex couples. Immigration laws were amended to include references to civil partnerships wherever spouses were mentioned.³²⁵

A civil partnership can be formed by two people of the same sex, over sixteen years old, who are not already in such a partnership with, or married to, others. It can be created in the U.K. through a registration ceremony, but comparable relationships formalized in other countries (not just at the federal level in countries such as Sweden or South Africa, but in states such as California or Vermont) can also be recognized as civil partnerships.³²⁶

The foreign civil partner of a British national or permanent resident is thus eligible for U.K. immigration on the same terms as a heterosexual spouse. An entry clearance for a "proposed civil partner" (similar to a fiancé/e) allows him or her to come to the U.K. in order to register the partnership, before switching into the "civil partner" immigration category. Such couples are not required to have resided together, but entry clearance officers must be satisfied that the relationship is genuine and ongoing, and that the foreign national will not have recourse to public funds before or after the ceremony.³²⁷

After registering the civil partnership, the applicant partner will be granted residence for up to two years.³²⁸ After that, if the partnership continues, he or she can apply for Indefinite Leave to Remain (permanent residence).³²⁹ Finally, civil partners of people who have temporary leave in the U.K., such as foreign students and work permit holders, can apply for permanent residence along with their civil partners.³³⁰

[238] In addition, Ireland is now considering a civil partnership bill which would also give immigration recognition to same-sex partners: Civil Partnership Bill 2004, at <http://www.oireachtas.ie/documents/bills28/bills/2004/5404/b5404s.pdf> (retrieved December 18, 2005).

[239] It is also true, however, that from the welter of categories comes confusion. States which do not extend full marriage rights, but recognize other legal statuses into which same-sex couples can enter, place differing definitions and criteria on “civil partnerships,” “registered partnerships,” or “*de facto* unions.” Some can be formalized by a civil ceremony; some require proofs of extended cohabitation which are not required of heterosexual married couples. As a result, states may not recognize legally valid partnerships acknowledged or concluded elsewhere. (Even the Scandinavian countries, which have closely comparable versions of registered partnership, only achieved cross-recognition through a special treaty.) Britain, for example, honors civil partnerships or marriage legally formalized by same-sex couples elsewhere, as comparable to their own recognition of such relationships; Britain even offers a roster of jurisdictions whose solemnities it will accept—and Portugal, which recognizes same-sex relationships as unceremonialized common-law unions, is not on it. A Portuguese-recognized union might be accepted for British immigration purposes on a discretionary basis (and a British citizen’s Portuguese partner could in any case gain entry to the U.K. under the equivalent of a fiance/e visa to conclude a civil partnership); but it is not clear whether a U.K. partnership would be recognized by Portugal, as a substitute for its own immigration requirement that partners must have cohabited for two years.

[240] An especially thoughtful discussion of this need can be found in the Law Commission of Canada’s report *Beyond Conjuality: Recognizing and Supporting Personal Adult Relationships* (2001), which argues that “governments have tended to rely too heavily on conjugal relationships in accomplishing what are otherwise important state objectives. Focusing only on spousal or conjugal relationships is simply not the best way to promote the state’s interests in close personal relationships since it excludes other relationships that are also important. But, instead of simply arguing that some relationships that are currently excluded (such as non-conjugal relationships) should be included, the Law Commission is of the view that it is time for governments to re-evaluate the way in which personal adult relationships are regulated.” Online at <http://www.lcc.gc.ca/en/themes/pr/cpra/report.asp>.

[241] The visa was actually created by an Immigration Ministry change to the Migration Regulations in 1991, but its use by lesbian and gay couples was not made explicit until 1995. See “Gay Migration Rules Are Eased” at <http://www.qrd.org/qrd/world/immigration/au-qj> (retrieved January 25, 2006).

[242] The 1973 Trans-Tasman Travel Arrangement allows New Zealand and Australian citizens to visit, live, and work in one another’s countries.

[243] Australian Government Department of Immigration and Multicultural and Indigenous Affairs, *Partner Migration Booklet*, 2005, p. 4, online at <http://www.immi.gov.au/allforms/booklets/1127.pdf> (retrieved January 4, 2006).

[244] *Ibid.*, pp. 34-39. Tuberculosis is a reason for health exclusion, but not HIV.

[245] However, Australia does not recognize same-sex marriages performed in countries where they are legal. In early 2006, the government blocked an Australian citizen’s attempt to marry his Austrian partner in the Netherlands, by refusing to issue a certificate that he was not already married, required by Dutch law. The embassy told him that “Following the advice of the Australian Attorney-General’s Department ... Australian law does not allow the issue of a Certificate of No Impediment to Marriage to persons wishing to enter into a same-sex marriage.” “Govt defends block to same sex marriage,” *The Age* (Australia), January 18, 2006.

[246] See <http://www.diplomatie.be/en/travel/visaLangdetail.asp?TEXTID=22047> (retrieved January 10, 2006).

[247] *Ibid.*

[248] See “Belgium Offers Legal Marriage,” Partners Task Force for Gay and Lesbian Couples, at <http://buddybuddy.com/mar-belg.html> (retrieved December 12, 2005).

[249] See <http://www.diplomatie.be/en/travel/visaLangdetail.asp?TEXTID=22019> (retrieved January 27, 2006).

[250] See <http://www.diplomatie.be/en/travel/visaLangdetail.asp?TEXTID=22047> (retrieved January 27, 2006).

[251] Ministry of Work and Employment, National Immigration Council, “Administrative Resolution No. 3,” December 3, 2003.

[252] Immigration and Refugee Protection Act, 2001 S.C., ch. 27 (Can.), at <http://laws.justice.gc.ca/en/I-2.5/text.html> (retrieved December 16, 2005) [Exhibit 13].

[253] “Immigration and Refugee Protection Regulations,” SOR/2002-227 (Can.), at <http://laws.justice.gc.ca/en/I-2.5/SOR-2002-227/text.html> (retrieved December 16, 2005) [Exhibit 14].

[254] Civil Marriage Act, 2005, S.C. ch. 33, para. 2. (defining “marriage” in Canada as “the lawful union of two persons to the exclusion of all others.”), at http://www.parl.gc.ca/38/1/parlbus/chambus/house/bills/government/C-38/C-38_4/C-38-3E.html (retrieved December

16, 2005).

[255] Unlike many countries, Canada allows citizens or permanent residents to sponsor partners regardless of their income level. Specifically, Canadian law exempts a sponsor from any income requirements as long as the sponsor is reasonably unencumbered by dependents and is not receiving social assistance for a reason other than disability (“Immigration and Refugee Protection Regulations,” para. 133).

[256] “Immigration and Refugee Protection Regulations,” para. 5.

[257] “Immigration and Refugee Protection Regulations,” para. 2: “definition of ‘marriage.’”

[258] CIC, “Spouse, Common-Law Partners and Conjugal Partners,” pp. 1-2, at <http://www.cic.gc.ca/english/sponsor/familymembers.html> (retrieved December 16, 2005).

[259] Robert Hughes, “December 2004 Update on Same-Sex Marriage and Immigration,” (Jan. 3, 2005), at <http://www.smith-hughes.com/same-sex-marriage.html> (retrieved December 16, 2005).

[260] Immigration and Refugee Regulations, para. 1; see also CIC, “Spouse, Common-Law Partners and Conjugal Partners,” p. 2.

[261] CIC, “Spouse, Common-Law Partners and Conjugal Partners,” p. 2.

[262] “Immigration and Refugee Protection Regulations,” para. 2.

[263] CIC, “Spouse, Common-Law Partners and Conjugal Partners,” p. 3.

[264] CIC, “Change in Policy: Sponsorship of Spouses and Common-Law Partners from within Canada,” at <http://www.cic.gc.ca/english/sponsor/faq-spouse.html> (retrieved December 16, 2005).

[265] CIC, “Change in Policy: Sponsorship of Spouses and Common-Law Partners from within Canada.”

[266] The Danish Registered Partnership Act, D/341 - H- ML Act No. 372 of June 1, 1989, at <http://users.cybercity.dk/~dko12530/s2.htm> (retrieved December 14, 2005).

[267] Danish Immigration Services, “Spouses and Cohabiting Companions,” <http://www.udlst.dk/english/Family+Reunification/Spouses/Default.htm> (retrieved December 12, 2005).

[268] Ibid; see also Aliens (Consolidation) Act No. 685 of 24 July 2003, § 9, [http://www.inm.dk/imagesUpload/dokument/Aliens%20\(Consolidation\)%20Act%20685.pdf](http://www.inm.dk/imagesUpload/dokument/Aliens%20(Consolidation)%20Act%20685.pdf) (retrieved December 12, 2005) (English version does not reflect recent updates to the Act).

[269] Act on Registered Partnerships, Law No. 950/2001.

[270] Aliens Act, 301/2004, § 37; Directorate of Immigration, “Perheenjäsenet,” <http://www.uvi.fi/netcomm/content.asp?path=8,2472,2491> (retrieved December 13, 2005).

[271] Ibid. However, for an EU citizen living in Finland, the definition of family members is broader. See Directorate of Immigration, “EU-kansalaisten perheenjäsenten oleskeluoikeus Suomessa,” at <http://www.uvi.fi/netcomm/content.asp?path=8,2472,2492> (retrieved December 13, 2005).

[272] Directorate of Immigration, “Oleskeluluvan hakeminen perhesiteen perusteella: Miten oleskelulupaa haetaan?” at <http://www.uvi.fi/netcomm/content.asp?path=8,2472,2491,2496> (retrieved December 13, 2005).

[273] For example, couples in a PACS are taxed jointly, but only after a three-year waiting period. They cannot adopt jointly (though single-parent adoption is possible).

[274] Frédéric Martel, “The PACS—A Civil Solidarity Pact” (July 2001), at <http://www.ambafrance-us.org/atoz/pacs.asp> (retrieved December 14, 2005), distributed by the French Embassy in the United States.

[275] “Europe—residency requirements,” U.K. Lesbian and Gay Immigration Group, at <http://www.uklgig.org.uk/Europe-Residency.htm> (retrieved February 7, 2006).

[276] Ibid.

[277] Equality for Lesbians and Gay Men: A Relevant Issue in the Civil and Social Dialogue, ILGA-Europe (the European Region of the International Lesbian and Gay Association), 1998, at http://www.ilga-europe.org/europe/publications/non_periodical/equality_for_lesbians_and_gay_men_a_relevant_issue_in_the_civil_and_political_dialogue_1998 (retrieved February 7, 2006).

[278] Russel Miler & Volker Röben, “Constitutional Court Upholds Lifetime Partnership Act,” *German Law Journal*, vol. 3, no. (2002), at <http://www.germanlawjournal.com/print.php?id=176> (retrieved December 7, 2005). In 2004 the Federal Parliament amended the act to increase the rights accorded registered life partnerships, but still retaining special tax and other benefits for heterosexual marriage.

[279] “Europe--residency requirements,” U.K. Lesbian and Gay Immigration Group, at <http://www.uklgig.org.uk/Europe-Residency.htm> (retrieved February 7, 2006).

[280] Act on Registered Partnership, No. 87 (June 12, 1996), at <http://eng.domsmalaraduneyti.is/laws-and-regulations/nr/117> (retrieved December 8, 2005).

[281] Generally, people may reside in Iceland under either Permits to Stay or Residence Permits. Permits to Stay are granted first; then after one has resided in Iceland for three years and completed the required language course, one may apply for a Residence Permit, giving the right to stay indefinitely. Including of cohabiting partners in the Act is significant because registered partnerships are only open to couples where one partner is an Icelandic national; adding cohabiting partners in principle extends immigration opportunities to the foreign partners of permanent residents in Iceland. However, it is not clear whether the Icelandic term *óvígð sambúð*--cohabiting partner--which is usually used for opposite-sex couples, in actual legal practice covers lesbian and gay couples. See Hrefna Fridriksdóttir and Kees Waaldijk, "Major legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners in Iceland," in Kees Waaldijk, ed., *More or Less Together: Levels of legal consequences of marriage, cohabitation and registered partnerships for different-sex and same-sex partners: A comparative study of nine European countries*, Documents de travail n°125, Ined. (2005), at http://www-same-sex.ined.fr/publica_doc125.htm (retrieved February 8, 2006). See also Act on Foreigners, No. 96 (May 15, 2002), at <http://eng.domsmalaraduneyti.is/laws-and-regulations/nr/105> (retrieved February 8, 2006).

[282] "Regulation on Foreigners" (No. 53 of January 23, 2003 with amendments of July 8, 2003, since amended by regulation 769/2004 of September 20, 2004), article 47, at <http://eng.domsmalaraduneyti.is/laws-and-regulations/nr/860> (retrieved February 8, 2006).

[283] A foreigner married to an opposite-sex Icelandic national with whom the foreigner has lived in Iceland for three years does not need a Permit to Stay; this exemption is not available for registered or cohabiting partners.

[284] For a detailed overall discussion of the issue, see Oded Feller, Attorney, Association for Civil Rights Israel (ACRI), "The Immigration Rights of Same-Sex Couples," at <http://www.acri.org.il/english-acri/engine/story.asp?id=256> (retrieved January 24, 2006).

[285] Population Registry regulation 5.2.0009, at [http://www.moin.gov.il/Apps/PubWebSite/publications.nsf/All/9CD5C9CFC6C82B85422570AD00431263/\\$FILE/Publications.2.0009.pdf](http://www.moin.gov.il/Apps/PubWebSite/publications.nsf/All/9CD5C9CFC6C82B85422570AD00431263/$FILE/Publications.2.0009.pdf) OpenElement (retrieved January 26, 2006).

[286] Appeal in Administrative Petition 9273/05, *Louis Gonzalez Garcia v The Minister of the Interior*. In a separate case, the Supreme Court will also hear a complaint against the Ministry's requirement that an unmarried foreign-national spouse, if in Israel illegally, must leave the country during processing of the residency application—a condition not imposed on married spouses: Appeal in Administrative Petition 4614/05 *The State of Israel – The Ministry of the Interior v Avner Oren*.

[287] For Dutch immigration law information published in English by the Ministerie van Justice, Immigratie, nen Naturalisatiedienst, see generally <http://www.ind.nl/EN/algemeen/brochures/Downloaden/index.asp?subhome=&title=&origin=>. An overall guide can be found in Kees Waaldijk, "Major legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners in the Netherlands," in Kees Waaldijk, ed., *More or Less Together: Levels of legal consequences of marriage, cohabitation and registered partnerships for different-sex and same-sex partners: A comparative study of nine European countries*, Documents de travail n°125, Ined. (2005), at http://www-same-sex.ined.fr/publica_doc125.htm (retrieved February 8, 2006).

[288] "Marriage, Registered Partnership and Cohabitation," brochure published by the Dutch Ministry of Justice: http://www.justitie.nl/english/Images/marriage_registered_tcm75-28560.pdf (retrieved December 20, 2005).

[289] "Europe--residency requirements," U.K. Lesbian and Gay Immigration Group, at <http://www.uklgig.org.uk/Europe-Residency.htm> (retrieved February 7, 2006). See also *More or Less Together*, p. 146: "articles 3.13 to 3.17 of the Aliens Decree 2000 (*Vreemdelingenbesluit 2000*, *Staatsblad 497*, in force since April 1, 2001) allow for the immigration of married, registered and unmarried/unregistered partners, provided that they live together and have a joint household. One of the conditions is that the 'receiving' partner has a sufficient income, i.e. 100% of the official minimum wage ... Until April 1, 2001 the right to immigration of partners was contained in policy guidelines (*Vreemdelingencirculaire*), which since 1975 recognized informally cohabiting different-sex and same-sex partners of Dutch citizens." See also A.H.J. Swart, *De toelating en uitzetting van vreemdelingen*, (Deventer: Kluwer, 1978), pp. 165-166, and "Marriage, Registered Partnership and Cohabitation," p. 4.

[290] "Marriage, Registered Partnership and Cohabitation," pp. 4-5.

[291] See also "Residence in the Netherlands: Appendix 3: Staying with a family member," p. 18 (November 2004), available in English from the Ministerie van Justice, Immigratie - en Naturalisatiedienst at http://www.ind.nl/en/Images/Verblijf_ENG_tcm6-595.pdf (retrieved February 8, 2006).

[292] Immigration Regulations 1999, regulation 20 ("Applications Involving Family Members"), at http://www.legislation.govt.nz/browse_vw.asp?content-set=pal_regs (retrieved December 14, 2005).

[293] Additional requirements are that the applicant be "of good health" and "good character." The Immigration Service states that "Generally, we will not approve people for residence in New Zealand if they: require dialysis treatment; have active pulmonary tuberculosis (TB); have severe haemophilia; have a physical incapacity that requires full time care." It will also decline applicants if "likely to impose significant costs or demands on New Zealand's health services or special education services." HIV/AIDS is often taken to indicate this. "Good character" entails excluding serious criminal offenses. See New Zealand Immigration Service, "Can I Move to New Zealand?" at <http://www.immigration.govt.nz/migrant/stream/live/partner/canimovetonz/whatisrequired/> (retrieved February 8, 2006).

[294] New Zealand Immigration Service, "Requirements," <http://www.immigration.govt.nz/migrant/stream/live/partner/canimovetonz/whatisrequired/> and "Summary of Terms", <http://glossaryImmigration.govt.nz/Genuineandstablerelationship.htm> (retrieved December 14, 2005).

[295] New Zealand Immigration Service, "Residence," at 69-11 (December 21, 2005), at <http://www.immigration.govt.nz/NR/rdonlyres/B9297CAD-5D25-43BE-AFBC-FACA87C79884/0/Residence.pdf> (retrieved January 10, 2006), and New Zealand Department of Labour's Form NZIS 1015 which is used to obtain a permit for those who do not have permanent residence rights in New Zealand, at <http://www.immigration.govt.nz/NR/rdonlyres/EC9A6BEF-1152-482F-B39F->

B782EE7688FA/0/1015June24.pdf (retrieved January 26, 2006).

[296] New Zealand Immigration Service, "Eligible Sponsor," <http://www.immigration.govt.nz/migrant/stream/live/partner/canisponsormypartner/eligiblesponsor.htm> (retrieved December 14, 2005).

[297] Registered Partnership Act No. 40 (April 30, 1993), at <http://odin.dep.no/bfd/english/doc/handbooks/004041-120003/dok-bn.html> (retrieved December 20, 2005).

[298] Despite strengthening of the law in 2000 and 2001, inequalities in adoption and parenting rights remain. In 2004, Norway's parliament rejected a bill that would have instituted full equality in civil marriage.

[299] *Utlendingsdirektoratet* (UDI, Norwegian Directorate of Immigration) Circular 2003-015, "Visa For Foreign Spouse, Joint Child(ren) or Registered Same-Sex Marriage Partner Applying for Family Reunification," p.2 (June 5, 2003), at <http://www.udi.no/templates/Rundskriv.aspx?id=5005> (retrieved February 8, 2006).

[300] UDI Circular 2003-015, p. 2, states that the "subsistence requirement" equals the pay grade for civil service employees grade 1: UDI Fact Sheet, "Family immigration," (Aug. 29, 2005) states that the "subsistence requirement" as of March 1, 2005 equaled NOK 169,100 annually before taxes—approximately \$25,000 US; at http://www.udi.no/upload/Faktaark/Engelsk/Familiegjenforening_engelsk.pdf (retrieved December 17, 2005).

[301] UDI Circular 89/2002, "Section 23 first paragraph (b): The requirement of a permanent and established relationship as cohabitants," at <http://www.udi.no/templates/Rundskriv.aspx?id=4600> (retrieved February 8, 2006).

[302] Registered Partnership Act, Section 2.

[303] See Ministry of Children and Family Affairs Brochure, "Registered Partnership," ap.3 (No. Q-0832 E), at <http://odin.dep.no/bfd/english/doc/handbooks/004041-120003/dok-bn.html> (retrieved December 14, 2005).

[304] *Ibid.*

[305] Lei N° 7/2001 de 11 de Maio, Adopta medidas de protecçãO das uniões de facto, at <http://portugalgay.pt/politica/parlamento03.asp> (retrieved February 8, 2006).

[306] Decree-Law No. 34/2003 of 25 February 25, 2003, "Approving the conditions for the entry, permanence, exit and removal of foreign nationals from Portugal," article 87, at the website of the *Serviço de Estrangeiros e Fronteiras* (SEF), <http://www.sef.pt/legislacao.uk.php> (retrieved February 8, 2006).

[307] SEF, "Foreign citizens living in a common law partnership with a Portuguese citizen or legal resident, as laid down by law," at <http://www.sef.pt/ajuda.uk.php> (retrieved February 8, 2006).

[308] SEF, "Types of Authorisation for Residence," at <http://www.sef.pt/ajuda.uk.php> (retrieved February 8, 2006).

[309] *National Coalition for Gay and Lesbian Equality and Others v. The Minister of Home Affairs and Others*, Constitutional Court of South Africa, CCT 10/99, at 97.

[310] Immigration Act, 2002, Act. No. 13, 2002, as published in the Government Gazette, vol. 443, no. 23478 (May 31, 2002), Section 1 (xxxvi) at 12.

[311] *Ibid.*, Section 27(a)(iv) at 42.

[312] *Minister of Home Affairs and Others v Fourie and Bonthuys and Others*, Constitutional Court of South Africa, CCT 60/04.

[313] Ley 13/2005, de 1 de julio, por la que se modifica el Código Civil en materia de derecho a contraer matrimonio, at <http://www.boe.es/boe/dias/2005/07/02/pdfs/A23632-23634.pdf> (retrieved December 18, 2005).

[314] Daniel Woolls, "Spain's Gay Marriage Law Hits Snag Over Foreigners," Associated Press, July 6, 2005.

[315] See "Spain's same-sex marriage law applies to foreigners," Associated Press, July 27, 2005, and "Fiscalía acuerda apoyar los matrimonios gays entre españoles y extranjeros," Europa Press, July 27, 2005.

[316] Registered Partnership Act, Law 1994/1117, at <http://www.france.qrd.org/texts/partnership/se/sweden-act.html> (retrieved December 7, 2005).

[317] Swedish Migration Board, "Swedish Residence Permits by Reason of Family Ties," at <http://www.migrationsverket.se/english.jsp> (retrieved December 16, 2005); see also the Alien Act (*Utlänningslagen*), Law 1989/529, at <http://www.immi.se/lagar/1989529.htm> (retrieved December 16, 2005).

[318] "Swedish Residence Permits by Reason of Family Ties."

[319] "Europe--residency requirements," U.K. Lesbian and Gay Immigration Group, at <http://www.uklgig.org.uk/Europe-Residency.htm> (retrieved February 7, 2006).

[320] Yves de Matteis, "Couples Binationaux: La Directive qui Change Tout," *360° Magazine*, July-August 2003, at http://www.360.ch/presse/2003/07/couples_binationaux_la_directive_qui_change_tout.php (retrieved February 8, 2006).

[321] Loi fédérale sur le partenariat enregistré entre personnes du même sexe

(Loi sur le partenariat; LPart) du 18 juin 2004, at <http://www.admin.ch/ch/f/ff/2004/2935.pdf> (retrieved February 8, 2006).

[322] Information on the Unmarried Partners Concession is available on the website of the U.K. Lesbian & Gay Immigration Group at <http://www.uklgig.org.uk/docs/UKLIGIG%20Information.doc> (retrieved January 10, 2006). See also Chris Duenas, "Coming to America: The Immigration Obstacle Facing Binational Same-Sex Couples," *Southern California Law Review*, vol. 73 (2000), pp. 811-841.

[323] Quoted in Duenas, "Coming to America."

[324] The Concession is codified in §§ 295D to 295F of the Immigration Rules, at http://www.ind.homeoffice.gov.uk/ind/en/home/laws___policy/immigration_rules/part_8/part_9.html (retrieved Jan. 10, 2006).

[325] The Immigration Rules were amended to include after each reference to a "spouse" the term "or civil partner"; after each reference to "marriage" the term "or civil partnership"; and after each reference to "fiancé(e)" the term "or proposed civil partner." Also included, analogous to the term "unmarried partner," is the term "same-sex partner." The relevant Immigration Rules are at http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/immigration_rules/part_8/part_9.html (retrieved December 14, 2005).

[326] The Home Office provides a non-exhaustive list of acceptable jurisdictions at http://www.ind.homeoffice.gov.uk/ind/en/home/laws___policy/policy_instructions/nis/c-d/civil_partnership.Maincontent.0002.file.tmp/Vol%202%20Sec%202.C.pdf.

[327] Immigration Rules § 281(b); see also "A Guide to Civil Partnerships," U.K. Lesbian and Gay Immigration Group, at <http://www.uklgig.org.uk/Civil%20Partnership.htm>.

[328] Immigration Rules § 282.

[329] *Ibid.*, §287(a)(i)(a).

[330] The Unmarried Partners Rule (formerly Concession), requiring two years' prior cohabitation, remains in force, providing an alternative if arduous route for couples who do not wish to register as civil partners.

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