

Testator's civil partner to pay reduced stamp duty for entering ownership of inherited property on land register 3/6/24



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The Ministry of Justice has come up with proposals for amending the Cabinet of Ministers' Rule No. 1250 of 27 October 2009, "Stamp duty for entering ownership and mortgage rights on the land register", which could take effect on 1 July 2024. The proposals are designed to enforce the Constitutional Court's ruling No. 2022-03-01, which provides for extending social and economic protections to individuals who have duly entered into a civil partnership. The proposals have been sent to the Ministry of Finance for approval by 8 February 2024.

On 9 November 2023 Parliament passed amendments to the Notaries Act which provide for the legal protection of a close personal relationship between two adults by making a notarial act on a civil partnership. In addition, amendments to the Rights of Patients Act, to the State Pensions Act and to the Prevention of Conflicts of Interest in Public Office Act have introduced new rights and conditions relating to the concept of civil partnership. There are also plans to change the associated legislation on taxes and duties. For example, the current rules do not prescribe a different rate of stamp duty payable by the testator's civil partner to register real estate (RE) ownership for heirs under an inheritance certificate issued by a notary when a deed of last will or a contract of inheritance takes effect. Stamp duty for the testator's civil partner is currently charged at a rate of 7.5% of the value of inherited RE according to paragraph 13.2.3 of Rule No. 1250.

For this reason the Ministry of Justice proposes to amend Rule No. 1250. The proposals prescribe a rate of stamp duty that is different from the general rules for registering ownership under an inheritance certificate in cases concerning the legal effect of a deed of last will or a contract of inheritance for the testator's civil partner: 1.5% of the value of inherited RE if it exceeds ten minimum monthly salaries. The current rules require a spouse to pay stamp duty at a rate of 0.125% of the value of RE inherited under a deed of last will or a contract of inheritance, and at a rate of 0.25% of the value of RE inherited without a deed of last will or a contract of inheritance. We can see that the proposed stamp duty for the testator's civil partner in cases concerning the legal effect of a deed of last will or a contract of inheritance is higher than the stamp duty for the spouse.

To charge a reduced stamp duty for registering ownership under an inheritance certificate in cases concerning the legal effect of a deed of last will or a contract of inheritance, the Register of Individuals must contain information on the legatee (the testator's civil partner) prescribed by subsection 11(1), paragraph 36 of the Register of Individuals Act, i.e. details of their civil partnership. This paragraph will not take effect until 1 July 2024 in line with amendments to this Act passed by Parliament on 9 November 2023.