

CIVIL PARTNERSHIP ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Civil Partnership: Northern Ireland

Introduction

Chapter 1 - Registration

Section 137: Formation of civil partnership by registration

256. This section provides that a civil partnership is created when both persons sign the completed civil partnership schedule before two witnesses and the registrar (all being present). The civil partnership schedule should then be signed by both witnesses and the registrar.
257. *Subsection (4)* provides that the registrar must record the civil partnership as soon as possible after the signing of the civil partnership schedule.
258. *Subsection (5)* states that no religious service is to be used when the civil partnership schedule is being signed.

Section 138: Eligibility

259. *Subsection (1)* provides that two people are not eligible to register in Northern Ireland as civil partners of each other if –
- a) they are not of the same sex,
 - b) either of them is already a civil partner or lawfully married
 - c) either of them is under 16
 - d) they are within prohibited degrees of relationship (as determined under Schedule 12 –)
 - e) either of them is incapable of understanding the nature of a civil partnership

Section 139: Notice of proposed civil partnership

260. This section provides that each party must give the registrar a notice of proposed civil partnership. The notice must be in a prescribed form and accompanied by a prescribed fee and any other information as may be prescribed. In prescribed cases the notice must be given to the registrar in person.

Section 140: Civil partnership notice book and list of intended civil partnerships

261. This section requires the registrar to record in the civil partnership notice book such particulars as may be prescribed, taken from every civil partnership notice received and the date on which each civil partnership notice is received.

*These notes refer to the Civil Partnership Act 2004 (c.33)
which received Royal Assent on 18th November 2004*

262. *Subsection (3)* requires the registrar to publicise a list containing relevant information (names of intended civil partners and date of intended signing of the civil partnership schedule) in relation to each proposed civil partnership for which the registrar has received a civil partnership notice.
263. *Subsection (5)* provides that any person claiming to have reason to object to a proposed civil partnership may inspect any entry relating to the civil partnership in the civil partnership notice book without charge.

Section 141: Power to require evidence of name etc.

264. This section provides for the registrar to request specified evidence from a proposed civil partner to verify certain information contained in a civil partnership notice. This power to request evidence is only exercisable before the civil partnership schedule has been issued.

Section 142: Objections

265. This section provides that any person may make an objection in writing to the registrar to the issue of a civil partnership schedule to prevent a civil partnership from being formed. The objection must relate to a lawful impediment.

Section 143: Civil partnership schedule

266. This section provides for the completion by the registrar of the civil partnership schedule. This may be done providing the registrar is satisfied that there is no legal impediment to the formation of the civil partnership or the Registrar General has directed him to proceed.

Section 144: Place of registration

267. This section provides that a civil partnership schedule may be signed at a registration office or at any place approved for that purpose by the local registration authority. In some cases of serious illness or disability, as supported by a medical statement, the civil partnership may be formed at the place where the person concerned is located.

Section 145: Parental etc. consent where proposed civil partner under 18

268. This section sets out the provisions for consent requirements where a person wishing to form a civil partnership is under eighteen years of age. The section gives effect to Schedule 13 which identifies the appropriate persons or bodies who may give consent and makes provision for orders dispensing with consent and for recording consents.
269. *Subsection (4)* confirms that a ward of court requires the consent of the High Court to register as a civil partner. *Subsection (5)* provides a definition of “young person” as a person who is under eighteen.

Section 146: Validity of registration

270. This section provides that once the formation of a civil partnership has been recorded, its validity must not be questioned in any legal proceedings commenced after that time on the ground of any contravention of a provision of or made under the Act.

Section 147: Corrections and cancellations

271. This section provides that regulations may make provision for the Registrar General or other registrars to make corrections to the records of the formation of a civil partnership and that the formation of a void civil partnership must be cancelled by the Registrar General or by the registrar as directed by the Registrar General.

Section 148: Interpreters

272. This section provides that a registrar may use an interpreter to assist in relation to the formation of a civil partnership.
273. *Subsections (2)* provides that the interpreter must confirm his ability to act as an interpreter in the relevant language by signing a statement prior to the formation of a civil partnership and must sign a certificate after the registration to the effect that he faithfully acted as an interpreter.

Section 149: Detained persons

274. This section provides that a detained person may register as a civil partner at the place where that person is detained provided that the civil partnership notice is accompanied by a supporting statement.
275. *Subsection (2)* sets out that a supporting statement is one made in a prescribed form by a responsible authority (as defined by *subsection (3)*) identifying the establishment where the person is detained and confirming that the responsible authority has no objection to that place being specified in a notice of proposed civil partnership.
276. *Subsection (4)* sets out that the registrar must notify the Registrar General upon receipt of a civil partnership notice and supporting statement, and must not complete a civil partnership schedule until directed to do so by the Registrar General.

Section 150: Certificates of no impediment for Part 2 purposes

277. This section makes provision for a registrar in Northern Ireland to receive notice from a person living in Northern Ireland who wishes to register as a civil partner in England and Wales. Upon receipt of notice of an intended civil partnership, the registrar in Northern Ireland may issue a certificate to the person resident in Northern Ireland stating that there is no impediment under Northern Ireland law to that person registering as a civil partner. Before such a certificate is issued by the registrar any person may submit a written objection to its issue.

Section 151: Registration districts and registration authorities

278. This section provides definitions for registration districts and registration authorities in Northern Ireland. *Subsection (2)* states that local registration authorities shall exercise their powers as agents of the Department of Finance and Personnel.

Section 152: Registrars and other staff

279. This section makes provision for the appointment or removal, by a local registration authority, of a registrar, one or more deputy registrars and other staff as may be required for the signing of civil partnership documents. The powers of appointment and removal are subject to the approval of the Registrar General.

Section 153: Records and documents to be sent to Registrar General

280. This section provides that any person must comply with a request from the Registrar General to provide any record or document relating to a civil partnership.

Section 154: Annual report

281. This section provides that the Registrar General must submit to the Department of Finance and Personnel an annual report of the number of formations of civil partnership in each year. *Subsection (2)* provides that each annual report must then be laid before the Northern Ireland Assembly.

Section 155: Searches

282. This section provides that the Registrar General and other registrars must ensure that indexes to civil partnership formation records are made available for public inspection.
283. *Subsections (2) and (3)* provide that such indexes may be searched and documents relating to a civil partnership registration may be requested upon payment of a prescribed fee. *Subsections (4) and (5)* provide that any document produced by the Registrar General must be stamped with the seal of the General Register Office and judicial notice must be taken of it.

Section 156: Proof of civil partnership for purposes of certain statutory provisions

284. This section makes provision for a civil partner, upon application to the Registrar General and payment of a prescribed fee, to obtain a document proving the civil partnership formation for the purposes of any prescribed statutory provision.

Section 157: Fees

285. This section enables the Department of Finance and Personnel to make an order prescribing fees payable in relation to civil partnership registrations. The order must be approved by resolution of the Assembly.

Section 158: Offences

286. This section creates offences and associated penalties in relation to the formation of civil partnerships.
287. *Subsection (1)* creates an offence where a registrar signs the civil partnership schedule in the absence of the civil partners.
288. *Subsection (2)* makes it an offence for a person, other than a duly appointed registrar, to officiate at the signing of the civil partnership schedule by leading the civil partners to believe that he is a registrar.
289. *Subsection (3)* sets out the maximum penalty that may be imposed for these offences.
290. *Subsection (4)* specifies the time-limit (3 years) within which a prosecution may be brought.

Section 159: Regulations

291. This section provides for the Department of Finance and Personnel, by regulations, to make any necessary provision in relation to registration as civil partners in Northern Ireland.

Section 160: Interpretation

292. This section provides definitions of various terms which are used in this Chapter.