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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

**The Civil Partnership (Opposite-sex Couples) Regulations 2019**

**PART 4**

**Parenthood**

**Legitimacy of children of civil partners**

**12.**—(1) The Legitimacy Act 1976<sup>(1)</sup> is amended as follows.

(2) Before section 1<sup>(2)</sup> insert—

**“Legitimacy of children of civil partners**

**A1.**—(1) A child is legitimate by virtue of a civil partnership between the natural parents of the child if, had the civil partnership been a marriage (and all other circumstances were the same), the child would have been legitimate at common law by virtue of the marriage.

(2) The presumption of common law that a child born to a woman during her marriage to a man is also the natural child of her spouse applies equally in relation to a child born to a woman during her civil partnership with a man.”

(3) In section 1—

(a) in the heading, “after “void marriages” insert “and civil partnerships”;

(b) in subsection (1)—

(i) after “void marriage” insert “or a void civil partnership”;

(ii) after “celebration of the marriage” insert “, or the formation of the civil partnership,”;

(iii) after “that the marriage” insert “or civil partnership”;

(c) in subsection (3), after “marriage” insert “or civil partnership”;

(d) in subsection (4)—

(i) after “a child” insert “of a void marriage”;

(ii) after “Family Law Reform Act 1987,” insert “or a child of a void civil partnership (whenever born),”;

(iii) after “void marriage” insert “or civil partnership”;

(iv) after “celebration of the marriage” insert “, or the formation of the civil partnership,”;

(v) after “that the marriage” insert “or civil partnership”.

(4) In section 2<sup>(3)</sup>—

(a) in the heading, after “marriage” insert “or civil partnership”;

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<sup>(1)</sup> 1976 c. 31.

<sup>(2)</sup> Section 1 was amended by the Family Law Reform Act 1987 (c. 42), sections 28 and 34; and S.I. 2014/560, 3168.

<sup>(3)</sup> Section 2 was amended by S.I. 2014/560.

- (b) after “marry” insert “or become civil partners of”;
  - (c) after “marriage”, in the first place it occurs (after the heading), insert “or civil partnership”;
  - (d) after “date of marriage” insert “or the date of the formation of the civil partnership”;
  - (e) for “date of the marriage” substitute “that date”.
- (5) In section 3(4), in subsection (1)—
- (a) after “marry” insert “or become civil partners of”;
  - (b) after “marriage”, in each place it occurs, insert “or civil partnership”.
- (6) In Schedule 1—
- (a) in paragraph 4, after sub-paragraph (3) insert—
    - “(4) Section 1 does not affect any matter referred to in sub-paragraph (2) or (3) so far as it applies to a child of a void civil partnership.”;
  - (b) after paragraph 5 insert—
    - “**5A.** Nothing in this Act, except for section 2A, legitimates a person born before the date on which the Civil Partnership (Opposite-sex Couples) Regulations 2019 came into force by virtue of a civil partnership formed by the person’s parents before that date.”.

**13.—**(1) The Family Law Reform Act 1987(5) is amended as follows.

- (2) In section 1(6)—
- (a) in subsection (2), in paragraphs (a) and (b), after “married to” insert “, or civil partners of,”;
  - (b) after subsection (4) insert—
    - “(4A) Subsection (4B) applies to a person—
      - (a) who was born before the date on which the Civil Partnership (Opposite-sex Couples) Regulations 2019 came into force;
      - (b) whose parents formed a civil partnership before that date; and
      - (c) who does not fall within subsection (3)(ba) or (bb).
    - (4B) A reference falling within subsection (2)(a) or (b) above does not include or (as the case may be) exclude the person by virtue of that civil partnership.”;
  - (c) omit subsections (5) to (8).
- (3) In section 18, in subsection (2), after “married to” insert “, or civil partners of,”.
- (4) In section 21, in subsection (1)(a), after “married to” insert “, or civil partners of,”.

**14.—**(1) In section 50 of the Human Fertilisation and Embryology Act 2008(7), omit subsection (2).

(2) The repeal of that subsection does not affect the status of any person born before the date on which these Regulations come into force who was treated as legitimate by virtue of that subsection (but is not so treated by virtue of section 1 of the Legitimacy Act 1976 as amended by these Regulations).

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(4) Section 3 was amended by the Human Fertilisation and Embryology Act 2008 (c. 22), Schedule 6, paragraph 17 and S.I. 2014/560.

(5) 1987 c. 42.

(6) Section 1 was amended by the Adoption and Children Act 2002 (c. 38), Schedule 3, paragraph 51; the Human Fertilisation and Embryology Act 2008, Schedule 6, paragraph 24; and S.I. 2014/560.

(7) 2008 c. 22.

### Parental responsibility of civil partners

15.—(1) The Children Act 1989<sup>(8)</sup> is amended as follows.

(2) In section 2<sup>(9)</sup>, in subsections (1), (2) and (3), after “married to” insert “, or civil partners of,”.

(3) In section 4, in subsection (1), in the words before paragraph (a)<sup>(10)</sup>, after “married to” insert “, or civil partners of,”.

(4) In section 105, in subsection (2), after “married to” insert “, or civil partners of,”.

### Parental status of civil partners in cases of assisted reproduction

16.—(1) The Human Fertilisation and Embryology Act 2008 is amended as follows.

(2) In section 35<sup>(11)</sup>—

(a) in the heading, after “married to” insert “, or civil partner of,”;

(b) in subsection (1)—

(i) in paragraph (a), after “marriage with a man” insert “or a civil partnership with a man”;

(ii) in paragraph (b) and in the words after that paragraph, after “marriage” insert “or civil partnership”.

(3) In section 38<sup>(2)</sup>—

(a) after “common law” insert “or section A1<sup>(2)</sup> of the Legitimacy Act 1976<sup>(12)</sup>”;

(b) after “marriage” insert “or civil partnership”.

(4) In section 40<sup>(13)</sup>—

(a) in the heading, for “husband etc” substitute “male spouse, civil partner or intended parent”;

(b) in subsection (1)—

(i) in paragraph (b), after “marriage with a man” insert “or a civil partnership with a man”;

(ii) in paragraphs (c), (d) and (e), after “marriage” insert “or civil partnership”.

(5) In section 42<sup>(1)</sup><sup>(14)</sup>, after “a civil partnership” insert “with another woman”.

(6) In section 45<sup>(2)</sup>—

(a) after “common law” insert “or section A1<sup>(2)</sup> of the Legitimacy Act 1976”;

(b) after “marriage” insert “or civil partnership”.

(7) In section 46<sup>(15)</sup>—

(a) in the heading, for “civil partner or wife or intended female parent” substitute “female spouse, civil partner or intended parent”;

(b) in subsection (1)<sup>(b)</sup>, for “or marriage with another woman” substitute “with a woman or a marriage with a woman”.

(8) In section 48<sup>(6)</sup><sup>(b)</sup>, after “party to a” insert “marriage or”.

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<sup>(8)</sup> 1989 c. 41.

<sup>(9)</sup> Section 2 was amended by the Adoption and Children Act 2002, section 111<sup>(5)</sup>; and the Human Fertilisation and Embryology Act 2008, Schedule 6, paragraph 26.

<sup>(10)</sup> Section 4<sup>(1)</sup><sup>(a)</sup> was substituted by the Adoption and Children Act 2002, section 111<sup>(2)</sup>.

<sup>(11)</sup> Section 35 was amended by the Marriage (Same Sex Couples) Act 2013, Schedule 7, paragraph 38, and by [S.I. 2014/3229](#).

<sup>(12)</sup> 1976 c. 31. Section A1 is inserted by S.I. 2019/\*\*\*\*

<sup>(13)</sup> Section 40<sup>(1)</sup> was amended by the Marriage (Same Sex Couples) Act 2013, Schedule 7, paragraph 39 and by [S.I. 2014/3229](#).

<sup>(14)</sup> Section 42<sup>(1)</sup> was amended by the Marriage (Same Sex Couples) Act 2013, Schedule 7, paragraph 40 and by [S.I. 2014/3229](#).

<sup>(15)</sup> Section 46 was amended by the Marriage (Same Sex Couples) Act 2013, Schedule 7, paragraph 41 and by [S.I. 2014/3229](#).

## Registration of birth of children of civil partners

- 17.**—(1) The Births and Deaths Registration Act 1953(**16**) is amended as follows.
- (2) In section 10(**17**)—
- in the heading, omit “where parents not married”, in the first place it occurs;
  - in subsection (1), in the words before paragraph (a), after “married to” insert “, or civil partners of,”;
  - in subsection (2), in the words before paragraph (a), after “married to” insert “, or civil partners of,”;
  - in subsection (3), after “married to” insert “, or civil partners of,”.
- (3) In section 10A(**18**), in subsection (1), in the words before paragraph (a), after “married to” insert “, or civil partners of,”.
- 18.**—(1) The Registration of Births and Deaths Regulations 1987(**19**) are amended as follows.
- (2) In regulation 9, in paragraph (7)(**20**)—
- omit sub-paragraph (a) (including the final “or”);
  - in sub-paragraph (b), after “with, the” insert “father or”.
- (3) In the heading of Part 4, after “married to” insert “, or civil partners of,”.
- (4) In regulation 19, in paragraph (b)(ii)(**21**)—
- omit “her marriage to the father, or”;
  - after “with, the” insert “father or”.
- 19.**—(1) Schedule 6 to the Welfare Reform Act 2009(**22**) (which makes amendments in relation to the registration of births that are not yet in force) is amended as follows.
- (2) In paragraph 2(**23**)—
- in sub-paragraph (2), in the substituted paragraph (aa)—
    - in sub-paragraph (i), after “married to” insert “, or civil partners of,”;
    - in sub-paragraph (ii), omit “where parents not married”;
  - in sub-paragraph (4), in the inserted subsection (4), after “married to”, in both places it occurs, insert “, or civil partners of,”.
- (3) In paragraph 3—
- in sub-paragraph (2), after “married to” insert “, or civil partners of,”;
  - in sub-paragraph (4), after “married” insert “or civil partners”.
- (4) In paragraph 4—
- in the inserted section 2A—

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(16) 1953 c. 20.

(17) Section 10 was substituted by the Family Law Reform Act 1987, section 24; relevant amendments were made by the Children Act 1989, Schedule 12, paragraph 6(4); the Adoption and Children Act 2002, Schedule 3, paragraph 6(c); the Human Fertilisation and Embryology (Deceased Fathers) Act 2003 (c. 24), Schedule 1, paragraph 2; the Human Fertilisation and Embryology Act 2008, Schedule 6, paragraph 5(2); and S.I. 2014/560.

(18) Section 10A was substituted by the Family Law Reform Act 1987, section 25; subsection (1) was amended by the Human Fertilisation and Embryology Act 2008, Schedule 6, paragraph 7.

(19) S.I. 1987/2088.

(20) Regulation 9(7) was amended by S.I. 2014/107, 3061.

(21) Regulation 19(b)(ii) was amended by S.I. 2014/107.

(22) 2009 c. 24.

(23) Schedule 6, paragraph 2 was amended by S.I. 2014/560.

- (i) in the heading, after “married” insert “or civil partners”;
  - (ii) in subsection (1), in the words before paragraph (a), after “married to” insert “, or civil partners of,”;
- (b) in the inserted section 2B—
- (i) in the heading, for “unmarried mother” substitute “mother not married or a civil partner”;
  - (ii) in subsection (1), after “married” insert “or civil partners”;
- (c) in the inserted section 2D—
- (i) in subsection (1), in the words before paragraph (a), after “married to” insert “, or civil partners of,”;
  - (ii) in subsection (3), after “married to” insert “, or civil partners of,”.
- (5) In paragraph 10, in sub-paragraph (2), in the inserted subsection (3A), for “unmarried mother” substitute “mother not married or a civil partner”.
- (6) In paragraph 11—
- (a) in sub-paragraph (1)—
    - (i) omit “where parents not married”;
    - (ii) after “parents not” (in the remaining place it occurs) insert “married or”;
  - (b) in sub-paragraph (2)(a), after “married to” insert “, or civil partners of,”.
- (7) In paragraph 13—
- (a) in the inserted section 10B, in subsection (2)(a), after “married to” insert “, or civil partners of,”;
  - (b) in the inserted section 10C, in subsection (2)(a), after “married to” insert “, or civil partners of,”.
- (8) In paragraph 19, in the inserted subsection (1A), for “unmarried mother” substitute “mother not married or a civil partner”.
- 20.** In section 5 of the Registration of Births, Deaths and Marriages Act (Special Provisions) Act 1957(**24**)—
- (a) in subsection (1), in the words after paragraph (b) (but before the proviso), after “subsequent marriage” insert “or civil partnership”;
  - (b) in subsection (2), after “marriage”, in both places it occurs, insert “or formation of the civil partnership”;
  - (c) omit subsection (3)(b).
- 21.** In article 3A of the Service Departments Registers Order 1959(**25**)—
- (a) in paragraph (1), in the words before sub-paragraph (a), after “married to” insert “, or civil partners of,”;
  - (b) in paragraph (3), in the words before sub-paragraph (a), after “married to” insert “, or civil partners of,”.
  - (c) in paragraph (4), after “married to” insert “, or civil partners of,”;

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(24) 1957 c. 58. Section 5 was amended by the Armed Forces Act 2006 (c. 52), Schedule 16, paragraph 42; the Human Fertilisation and Embryology Act 2008, Schedule 6, para 12; and S.I. 2014/560.

(25) S.I. 1959/406. Article 3A was inserted by S.I. 2007/908, and amended by S.I. 2009/1736.

### **Status of male civil partners as fathers for purposes of nationality law**

**22.** In section 50(9A)(a) of the British Nationality Act 1981(26), after “husband” insert “or male civil partner”.

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(26) 1981 c. 61. Section 50(9)-(9C) was substituted by the Nationality, Immigration and Asylum Act 2002 (c. 41), section 9(1).