

CIVIL PARTNERSHIP ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Civil Partnership: England and Wales

Introduction

Chapter 6 – Miscellaneous

Section 80: False statements etc. with reference to civil partnerships

163. *Subsection (1)* makes it an offence knowingly to make certain false statements or representations. For example, a person who signs a declaration under section 8 that he is free to form a civil partnership, knowing that the declaration is false, commits an offence. A person guilty of an offence under *subsection (1)* is liable on conviction on indictment to imprisonment, for a term not exceeding 7 years, or to a fine (or both) and on summary conviction, to a fine not exceeding the statutory maximum. These provisions are similar to those in section 3(1) of the Perjury Act 1911 under which it is an offence to make false statements or representations with reference to marriage. The effect of *subsection (4)* is that all the other relevant provisions in the Perjury Act 1911 will apply, without having to replicate them in the Civil Partnership Act. So, for example, section 7(1) of the Perjury Act, which applies to people who aid, abet etc offences under that Act, would apply to a person who helps another person to commit an offence under section 80.

Section 81: Housing and tenancies

164. This section introduces Schedule 8, which makes amendments to a range of enactments relating to housing and tenancies.

Section 82: Family homes and domestic violence

165. This section introduces Schedule 9, which amends Part 4 of the Family Law Act 1996 and related enactments so that they apply in relation to civil partnerships as they apply in relation to marriages. The amendments will mean that civil partners have the same rights to occupy the civil partnership home as married persons have to occupy the matrimonial home. In addition civil partners will be able to apply for non-molestation orders and occupation orders. Occupation orders are orders regulating occupation of the home. An occupation order might, for example, exclude the respondent from the home and vicinity of the home or prohibit, terminate or restrict the exercise of the respondent's occupation rights.

Section 83: Fatal accidents claims

166. This section extends the provisions of the Fatal Accidents Act 1976 to include civil partners, so that where a person's death is caused by the wrongful act, neglect or default

of another person, a civil partner of the deceased will be able to claim compensation in the same way as a spouse.

167. *Subsections (2) and (3)* widen the definition of “dependant” for the purposes of a right of action under the 1976 Act to include a civil partner of the deceased, a person living as the civil partner of the deceased and a former civil partner of the deceased. *Subsection (4)* widens the definition of “dependant” to include any person (not being a child of the deceased) who was treated by the deceased as a child of the family, in relation to any civil partnership to which the deceased was at any time a party.
168. *Subsections (5) to (8)* make consequential provision related to these changes.

Section 84: Evidence

169. *Subsection (1)* of this section provides that enactments or rules of law applying to the giving of evidence by a spouse will apply also to the giving of evidence by a civil partner.
170. However, *subsection (2)* sets out that the general provision in *subsection (1)* is subject to any specific amendment made by or under the Act which relates to the giving of evidence by a civil partner. This takes account of the fact that in some instances it is more appropriate to amend specific provisions in other enactments or rules. A number of the amendments made by Schedule 27 relate specifically to the giving of evidence by a civil partner.
171. *Subsection (5)* provides that any rule of law which makes evidence of family tradition admissible to prove or disprove the existence of a marriage is to apply in a similar way in order to prove or disprove the existence of a civil partnership.