



# Civil Partnership Act 2004

## 2004 CHAPTER 33

### PART 4

#### CIVIL PARTNERSHIP: NORTHERN IRELAND

### CHAPTER 2

#### DISSOLUTION, NULLITY AND OTHER PROCEEDINGS

##### *Dissolution of civil partnership*

#### **172 Proceedings before order made final: protection for respondent in separation cases**

- (1) The court may, on an application made by the respondent, rescind a conditional dissolution order if—
- (a) it made the order on the basis of a finding that the applicant was entitled to rely on the fact of 2 years' separation coupled with the respondent's consent to a dissolution order being made,
  - (b) it made no such finding as to any other fact mentioned in section 168(5), and
  - (c) it is satisfied that the applicant misled the respondent (whether intentionally or unintentionally) about any matter which the respondent took into account in deciding to give his consent.
- (2) Subsections (3) to (5) apply if—
- (a) the respondent to an application for a dissolution order in which the applicant alleged—
    - (i) 2 years' separation coupled with the respondent's consent to a dissolution order being made, or
    - (ii) 5 years' separation,has applied to the court for consideration under subsection (3) of his financial position after the dissolution of the civil partnership, and

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**Changes to legislation:** Civil Partnership Act 2004, Section 172 is up to date with all changes known to be in force on or before 21 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (b) the court—
  - (i) has made a conditional dissolution order on the basis of a finding that the applicant was entitled to rely in support of his application on the fact of 2 years' or 5 years' separation, and
  - (ii) has made no such finding as to any other fact mentioned in section 168(5).
- (3) The court hearing an application by the respondent under subsection (2) must consider all the circumstances, including—
  - (a) the age, health, conduct, earning capacity, financial resources and financial obligations of each of the parties, and
  - (b) the financial position of the respondent as, having regard to the dissolution, it is likely to be after the death of the applicant should the applicant die first.
- (4) The court must not make the order final unless it has, by order, declared that it is satisfied that—
  - (a) the applicant should not be required to make any financial provision for the respondent,
  - (b) the financial provision made by the applicant for the respondent is—
    - (i) reasonable and fair, or
    - (ii) the best that can be made in the circumstances, or
  - (c) there are circumstances making it desirable that the order should be made final without delay.
- (5) The court must not make an order declaring that it is satisfied as mentioned in subsection (4)(c) unless it has obtained a satisfactory undertaking from the applicant that he will bring the question of financial provision for the respondent before the court within a specified time.
- (6) Subsection (7) applies if, following an application under subsection (2) which is not withdrawn, the court makes the order final without making an order under subsection (4).
- (7) The final order is voidable at the instance of the respondent or of the court but no person is entitled to challenge the validity of the order after it is made final on the ground that subsections (4) and (5) were not satisfied.
- (8) If the court refuses to make an order under subsection (4), it must, on an application by the applicant, make an order declaring that it is not satisfied as mentioned in that subsection.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 103(10) inserted by [2023 asp 3 s. 56\(5\)](#)
- s. 108(5) inserted by [2023 asp 3 s. 56\(8\)](#)
- s. 213(1A) inserted by [2013 c. 30 Sch. 2 para. 5\(2\)](#)