



# Civil Partnership Act 2004

## 2004 CHAPTER 33

### PART 2

#### CIVIL PARTNERSHIP: ENGLAND AND WALES

### CHAPTER 2

#### DISSOLUTION, NULLITY AND OTHER PROCEEDINGS

##### *Introduction*

#### **40 Proceedings before order has been made final**

- (1) This section applies if—
  - (a) a conditional order has been made, and
  - (b) the Queen's Proctor, or any person who has not been a party to proceedings in which the order was made, shows cause why the order should not be made final on the ground that material facts have not been brought before the court.
- (2) This section also applies if—
  - (a) a conditional order has been made,
  - (b) 3 months have elapsed since the earliest date on which an application could have been made for the order to be made final,
  - (c) no such application has been made by the civil partner who applied for the conditional order, and
  - (d) the other civil partner makes an application to the court under this subsection.
- (3) The court may—
  - (a) make the order final,
  - (b) rescind the order,
  - (c) require further inquiry, or
  - (d) otherwise deal with the case as it thinks fit.

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**Changes to legislation:** Civil Partnership Act 2004, Section 40 is up to date with all changes known to be in force on or before 21 April 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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(4) Subsection (3)(a)—

- (a) applies despite [<sup>F1</sup>sections 37A(1) and 38(A1)] (period before conditional orders may be made final), but
- (b) is subject to section 48(4) (protection for respondent <sup>F2</sup> ...) <sup>F3</sup> ....

#### Textual Amendments

- F1** Words in s. 40(4)(a) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 35\(a\)](#) (with s. 8(7)); S.I. 2022/283, reg. 2
- F2** Words in s. 40(4)(b) omitted (6.4.2022) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 35\(b\)](#) (with s. 8(7)); S.I. 2022/283, reg. 2
- F3** Words in s. 40(4)(b) omitted (22.4.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), [ss. 17\(6\)](#), 139(6); S.I. 2014/793, art. 2 (with transitional provisions in S.I. 2014/1042, arts. 5, 11)

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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\(2\)](#)