



# Civil Partnership Act 2004

## 2004 CHAPTER 33

### PART 2

#### CIVIL PARTNERSHIP: ENGLAND AND WALES

### CHAPTER 5

#### CHILDREN

#### **75 Parental responsibility, children of the family and relatives**

- (1) Amend the Children Act 1989 (c. 41) (“the 1989 Act”) as follows.
- (2) In section 4A(1) (acquisition of parental responsibility by step-parent) after “is married to” insert “, or a civil partner of,”.
- (3) In section 105(1) (interpretation), for the definition of “child of the family” (in relation to the parties to a marriage) substitute—

““child of the family”, in relation to parties to a marriage, or to two people who are civil partners of each other, means—

  - (a) a child of both of them, and
  - (b) any other child, other than a child placed with them as foster parents by a local authority or voluntary organisation, who has been treated by both of them as a child of their family.”
- (4) In the definition of “relative” in section 105(1), for “by affinity)” substitute “ by marriage or civil partnership) ”.

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*Changes to legislation: Civil Partnership Act 2004, Chapter 5 is up to date with all changes known to be in force on or before 05 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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### Commencement Information

- II** S. 75 wholly in force at 5.12.2005; s. 75 not in force at Royal Assent see s. 263; s. 75(1)(3)(4) in force at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#) Sch. 1; s. 75(2) in force at 30.12.2005 by [S.I. 2005/3175](#), [art. 2\(9\)](#), Sch. 1

## 76 Guardianship

In section 6 of the 1989 Act (guardians: revocation and disclaimer) after subsection (3A) insert—

- “(3B) An appointment under section 5(3) or (4) (including one made in an unrevoked will or codicil) is revoked if the person appointed is the civil partner of the person who made the appointment and either—
- (a) an order of a court of civil jurisdiction in England and Wales dissolves or annuls the civil partnership, or
  - (b) the civil partnership is dissolved or annulled and the dissolution or annulment is entitled to recognition in England and Wales by virtue of Chapter 3 of Part 5 of the Civil Partnership Act 2004,
- unless a contrary intention appears by the appointment.”

## 77 Entitlement to apply for residence or contact order

In section 10(5) of the 1989 Act (persons entitled to apply for residence or contact order) after paragraph (a) insert—

- “(aa) any civil partner in a civil partnership (whether or not subsisting) in relation to whom the child is a child of the family;”.

## 78 Financial provision for children

- (1) Amend Schedule 1 to the 1989 Act (financial provision for children) as follows.
- (2) In paragraph 2(6) (meaning of “periodical payments order”) after paragraph (d) insert—
  - “(e) Part 1 or 9 of Schedule 5 to the Civil Partnership Act 2004 (financial relief in the High Court or a county court etc.);
  - (f) Schedule 6 to the 2004 Act (financial relief in the magistrates' courts etc.)”.
- (3) In paragraph 15(2) (person with whom a child lives or is to live) after “husband or wife” insert “ or civil partner ”.
- (4) For paragraph 16(2) (extended meaning of “parent”) substitute—
 

“(2) In this Schedule, except paragraphs 2 and 15, “parent” includes—

  - (a) any party to a marriage (whether or not subsisting) in relation to whom the child concerned is a child of the family, and
  - (b) any civil partner in a civil partnership (whether or not subsisting) in relation to whom the child concerned is a child of the family;

and for this purpose any reference to either parent or both parents shall be read as a reference to any parent of his and to all of his parents.”

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## 79 Adoption

- (1) Amend the Adoption and Children Act 2002 (c. 38) as follows.
- (2) In section 21 (placement orders), in subsection (4)(c), after “child marries” insert “, forms a civil partnership”.
- (3) In section 47 (conditions for making adoption orders), after subsection (8) insert—
  - “(8A) An adoption order may not be made in relation to a person who is or has been a civil partner.”
- (4) In section 51 (adoption by one person), in subsection (1), after “is not married” insert “ or a civil partner”.
- (5) After section 51(3) insert—
  - “(3A) An adoption order may be made on the application of one person who has attained the age of 21 years and is a civil partner if the court is satisfied that—
    - (a) the person’s civil partner cannot be found,
    - (b) the civil partners have separated and are living apart, and the separation is likely to be permanent, or
    - (c) the person’s civil partner is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order.”
- (6) In section 64 (other provision to be made by regulations), in subsection (5) for “or marriage” substitute “, marriage or civil partnership”.
- (7) In section 74(1) (enactments for whose purposes section 67 does not apply), for paragraph (a) substitute—
  - “(a) section 1 of and Schedule 1 to the Marriage Act 1949 or Schedule 1 to the Civil Partnership Act 2004 (prohibited degrees of kindred and affinity),”.
- (8) In section 79 (connections between the register and birth records), in subsection (7)—
  - (a) in paragraph (b), after “intends to be married” insert “ or form a civil partnership”, and
  - (b) for “the person whom the applicant intends to marry” substitute “ the intended spouse or civil partner”.
- (9) In section 81 (Adoption Contact Register: supplementary), in subsection (2) for “or marriage” substitute “, marriage or civil partnership”.
- (10) In section 98 (pre-commencement adoptions: information), in subsection (7), in the definition of “relative” for “or marriage” substitute “, marriage or civil partnership”.
- (11) In section 144 (interpretation), in the definition of “relative” in subsection (1), after “by marriage” insert “ or civil partnership”.
- (12) In section 144(4) (meaning of “couple”), after paragraph (a) insert—
  - “(aa) two people who are civil partners of each other, or”.

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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\(2\)](#)