



# Civil Partnership Act 2004

## 2004 CHAPTER 33

### PART 2

#### CIVIL PARTNERSHIP: ENGLAND AND WALES

### CHAPTER 1

#### REGISTRATION

##### *Formation, eligibility and parental etc. consent*

## **2 Formation of civil partnership by registration**

- (1) For the purposes of section 1, two people are to be regarded as having registered as civil partners of each other once each of them has signed the civil partnership document—
  - (a) at the invitation of, and in the presence of, a civil partnership registrar, and
  - (b) in the presence of each other and two witnesses.
- (2) Subsection (1) applies regardless of whether subsections (3) and (4) are complied with.
- (3) After the civil partnership document has been signed under subsection (1), it must also be signed, in the presence of the civil partners and each other, by—
  - (a) each of the two witnesses, and
  - (b) the civil partnership registrar.
- (4) After the witnesses and the civil partnership registrar have signed the civil partnership document, the relevant registration authority must ensure that—
  - (a) the fact that the two people have registered as civil partners of each other, and
  - (b) any other information prescribed by regulations,is recorded in the register as soon as is practicable.

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- (5) No religious service is to be used while the civil partnership registrar is officiating at the signing of a civil partnership document.
- (6) “The civil partnership document” has the meaning given by section 7(1).
- (7) “The relevant registration authority” means the registration authority in whose area the registration takes place.

### **3 Eligibility**

- (1) Two people are not eligible to register as civil partners of each other if—
  - (a) they are not of the same sex,
  - (b) either of them is already a civil partner or lawfully married,
  - (c) either of them is under 16, or
  - (d) they are within prohibited degrees of relationship.
- (2) Part 1 of Schedule 1 contains provisions for determining when two people are within prohibited degrees of relationship.

### **4 Parental etc. consent where proposed civil partner under 18**

- (1) The consent of the appropriate persons is required before a child and another person may register as civil partners of each other.
- (2) Part 1 of Schedule 2 contains provisions for determining who are the appropriate persons for the purposes of this section.
- (3) The requirement of consent under subsection (1) does not apply if the child is a surviving civil partner.
- (4) Nothing in this section affects any need to obtain the consent of the High Court before a ward of court and another person may register as civil partners of each other.
- (5) In this Part “child”, except where used to express a relationship, means a person who is under 18.

*Registration procedure: general*

### **5 Types of pre-registration procedure**

- (1) Two people may register as civil partners of each other under—
  - (a) the standard procedure;
  - (b) the procedure for house-bound persons;
  - (c) the procedure for detained persons;
  - (d) the special procedure (which is for cases where a person is seriously ill and not expected to recover).
- (2) The procedures referred to in subsection (1)(a) to (c) are subject to—
  - (a) section 20 (modified procedures for certain non-residents);
  - (b) Schedule 3 (former spouses one of whom has changed sex).

- (3) The procedures referred to in subsection (1) (including the procedures as modified by section 20 and Schedule 3) are subject to—
  - (a) Part 2 of Schedule 1 (provisions applicable in connection with prohibited degrees of relationship), and
  - (b) Parts 2 and 3 of Schedule 2 (provisions applicable where proposed civil partner is under 18).
- (4) This section is also subject to section 249 and Schedule 23 (immigration control and formation of civil partnerships).

## **6 Place of registration**

- (1) The place at which two people may register as civil partners of each other—
  - (a) must be in England or Wales,
  - (b) must not be in religious premises, and
  - (c) must be specified in the notices, or notice, of proposed civil partnership required by this Chapter.
- (2) “Religious premises” means premises which—
  - (a) are used solely or mainly for religious purposes, or
  - (b) have been so used and have not subsequently been used solely or mainly for other purposes.
- (3) In the case of registration under the standard procedure (including that procedure modified as mentioned in section 5), the place—
  - (a) must be one which is open to any person wishing to attend the registration, and
  - (b) before being specified in a notice of proposed civil partnership, must be agreed with the registration authority in whose area that place is located.
- (4) If the place specified in a notice is not so agreed, the notice is void.
- (5) A registration authority may provide a place in its area for the registration of civil partnerships.

## **7 The civil partnership document**

- (1) In this Part “the civil partnership document” means—
  - (a) in relation to the special procedure, a Registrar General’s licence, and
  - (b) in relation to any other procedure, a civil partnership schedule.
- (2) Before two people are entitled to register as civil partners of each other—
  - (a) the civil partnership document must be delivered to the civil partnership registrar, and
  - (b) the civil partnership registrar may then ask them for any information required (under section 2(4)) to be recorded in the register.

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### *The standard procedure*

## **8 Notice of proposed civil partnership and declaration**

- (1) For two people to register as civil partners of each other under the standard procedure, each of them must—
  - (a) give a notice of proposed civil partnership to a registration authority, and
  - (b) have resided in England or Wales for at least 7 days immediately before giving the notice.
- (2) A notice of proposed civil partnership must contain such information as may be prescribed by regulations.
- (3) A notice of proposed civil partnership must also include the necessary declaration, made and signed by the person giving the notice—
  - (a) at the time when the notice is given, and
  - (b) in the presence of an authorised person;and the authorised person must attest the declaration by adding his name, description and place of residence.
- (4) The necessary declaration is a solemn declaration in writing—
  - (a) that the proposed civil partner believes that there is no impediment of kindred or affinity or other lawful hindrance to the formation of the civil partnership;
  - (b) that each of the proposed civil partners has had a usual place of residence in England or Wales for at least 7 days immediately before giving the notice.
- (5) Where a notice of proposed civil partnership is given to a registration authority in accordance with this section, the registration authority must ensure that the following information is recorded in the register as soon as possible—
  - (a) the fact that the notice has been given and the information in it;
  - (b) the fact that the authorised person has attested the declaration.
- (6) “Authorised person” means an employee or officer or other person provided by a registration authority who is authorised by that authority to attest notices of proposed civil partnership.
- (7) For the purposes of this Chapter, a notice of proposed civil partnership is recorded when subsection (5) is complied with.

## **9 Power to require evidence of name etc.**

- (1) The registration authority to which a notice of proposed civil partnership is given may require the person giving the notice to provide it with specified evidence—
  - (a) relating to that person, or
  - (b) if the registration authority considers that the circumstances are exceptional, relating not only to that person but also to that person’s proposed civil partner.
- (2) Such a requirement may be imposed at any time before the registration authority issues the civil partnership schedule under section 14.
- (3) “Specified evidence”, in relation to a person, means such evidence as may be specified in guidance issued by the Registrar General—
  - (a) of the person’s name and surname,

- (b) of the person's age,
- (c) as to whether the person has previously formed a civil partnership or a marriage and, if so, as to the ending of the civil partnership or marriage,
- (d) of the person's nationality, and
- (e) as to the person's residence in England or Wales during the period of 7 days preceding the giving of a notice of proposed civil partnership by that person.

## **10 Proposed civil partnership to be publicised**

- (1) Where a notice of proposed civil partnership has been given to a registration authority, the relevant information must be publicised during the waiting period—
  - (a) by that registration authority,
  - (b) by any registration authority in whose area the person giving the notice has resided during the period of 7 days preceding the giving of the notice,
  - (c) by any registration authority in whose area the proposed civil partner of the person giving the notice has resided during the period of 7 days preceding the giving of that notice,
  - (d) by the registration authority in whose area the place specified in the notice as the place of proposed registration is located, and
  - (e) by the Registrar General.
- (2) “The relevant information” means—
  - (a) the name of the person giving the notice,
  - (b) the name of that person's proposed civil partner, and
  - (c) such other information as may be prescribed by regulations.

## **11 Meaning of “the waiting period”**

In this Chapter “the waiting period”, in relation to a notice of proposed civil partnership, means the period—

- (a) beginning the day after the notice is recorded, and
- (b) subject to section 12, ending at the end of the period of 15 days beginning with that day.

## **12 Power to shorten the waiting period**

- (1) If the Registrar General, on an application being made to him, is satisfied that there are compelling reasons because of the exceptional circumstances of the case for shortening the period of 15 days mentioned in section 11(b), he may shorten it to such period as he considers appropriate.
- (2) Regulations may make provision with respect to the making, and granting, of applications under subsection (1).
- (3) Regulations under subsection (2) may provide for—
  - (a) the power conferred by subsection (1) to be exercised by a registration authority on behalf of the Registrar General in such classes of case as are prescribed by the regulations;
  - (b) the making of an appeal to the Registrar General against a decision taken by a registration authority in accordance with regulations made by virtue of paragraph (a).

### **13 Objection to proposed civil partnership**

- (1) Any person may object to the issue of a civil partnership schedule under section 14 by giving any registration authority notice of his objection.
- (2) A notice of objection must—
  - (a) state the objector’s place of residence and the ground of objection, and
  - (b) be signed by or on behalf of the objector.
- (3) If a notice of objection is given to a registration authority, it must ensure that the fact that it has been given and the information in it are recorded in the register as soon as possible.

### **14 Issue of civil partnership schedule**

- (1) As soon as the waiting period in relation to each notice of proposed civil partnership has expired, the registration authority in whose area it is proposed that the registration take place is under a duty, at the request of one or both of the proposed civil partners, to issue a document to be known as a “civil partnership schedule”.
- (2) Regulations may make provision as to the contents of a civil partnership schedule.
- (3) The duty in subsection (1) does not apply if the registration authority is not satisfied that there is no lawful impediment to the formation of the civil partnership.
- (4) If an objection to the issue of the civil partnership schedule has been recorded in the register, no civil partnership schedule is to be issued until—
  - (a) the relevant registration authority has investigated the objection and is satisfied that the objection ought not to obstruct the issue of the civil partnership schedule, or
  - (b) the objection has been withdrawn by the person who made it.
- (5) “The relevant registration authority” means the authority which first records that a notice of proposed civil partnership has been given by one of the proposed civil partners.

### **15 Appeal against refusal to issue civil partnership schedule**

- (1) If the registration authority refuses to issue a civil partnership schedule—
  - (a) because an objection to its issue has been made under section 13, or
  - (b) in reliance on section 14(3),either of the proposed civil partners may appeal to the Registrar General.
- (2) On an appeal under this section the Registrar General must either confirm the refusal or direct that a civil partnership schedule be issued.

### **16 Frivolous objections and representations: liability for costs etc.**

- (1) Subsection (3) applies if—
  - (a) a person objects to the issue of a civil partnership schedule, but
  - (b) the Registrar General declares that the grounds on which the objection is made are frivolous and ought not to obstruct the issue of the civil partnership schedule.

- (2) Subsection (3) also applies if—
  - (a) in reliance on section 14(3), the registration authority refuses to issue a civil partnership schedule as a result of a representation made to it, and
  - (b) on an appeal under section 15 against the refusal, the Registrar General declares that the representation is frivolous and ought not to obstruct the issue of the civil partnership schedule.
- (3) The person who made the objection or representation is liable for—
  - (a) the costs of the proceedings before the Registrar General, and
  - (b) damages recoverable by the proposed civil partner to whom the objection or representation relates.
- (4) For the purpose of enabling any person to recover any such costs and damages, a copy of a declaration of the Registrar General purporting to be sealed with the seal of the General Register Office is evidence that the Registrar General has made the declaration.

## **17 Period during which registration may take place**

- (1) The proposed civil partners may not register as civil partners of each other on the production of the civil partnership schedule until the waiting period in relation to each notice of proposed civil partnership has expired.
- (2) Subject to subsection (1), under the standard procedure, they may register as civil partners by signing the civil partnership schedule at any time during the applicable period.
- (3) If they do not register as civil partners by signing the civil partnership schedule before the end of the applicable period—
  - (a) the notices of proposed civil partnership and the civil partnership schedule are void, and
  - (b) no civil partnership registrar may officiate at the signing of the civil partnership schedule by them.
- (4) The applicable period, in relation to two people registering as civil partners of each other, is the period of 12 months beginning with—
  - (a) the day on which the notices of proposed civil partnership are recorded, or
  - (b) if the notices are not recorded on the same day, the earlier of those days.

### *The procedures for house-bound and detained persons*

## **18 House-bound persons**

- (1) This section applies if two people wish to register as civil partners of each other at the place where one of them is house-bound.
- (2) A person is house-bound at any place if, in relation to that person, a statement is made by a registered medical practitioner that, in his opinion—
  - (a) because of illness or disability, that person ought not to move or be moved from the place where he is at the time when the statement is made, and
  - (b) it is likely to be the case for at least the following 3 months that because of the illness or disability that person ought not to move or be moved from that place.

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- (3) The procedure under which the two people concerned may register as civil partners of each other is the same as the standard procedure, except that—
- (a) each notice of proposed civil partnership must be accompanied by a statement under subsection (2) (“a medical statement”), which must have been made not more than 14 days before the day on which the notice is recorded,
  - (b) the fact that the registration authority to whom the notice is given has received the medical statement must be recorded in the register, and
  - (c) the applicable period (for the purposes of section 17) is the period of 3 months beginning with—
    - (i) the day on which the notices of proposed civil partnership are recorded, or
    - (ii) if the notices are not recorded on the same day, the earlier of those days.
- (4) A medical statement must contain such information and must be made in such manner as may be prescribed by regulations.
- (5) A medical statement may not be made in relation to a person who is detained as described in section 19(2).
- (6) For the purposes of this Chapter, a person in relation to whom a medical statement is made is to be treated, if he would not otherwise be so treated, as resident and usually resident at the place where he is for the time being.

## 19 Detained persons

- (1) This section applies if two people wish to register as civil partners of each other at the place where one of them is detained.
- (2) “Detained” means detained—
- (a) as a patient in a hospital (but otherwise than by virtue of section 2, 4, 5, 35, 36 or 136 of the Mental Health Act 1983 (c. 20) (short term detentions)), or
  - (b) in a prison or other place to which the Prison Act 1952 (c. 52) applies.
- (3) The procedure under which the two people concerned may register as civil partners of each other is the same as the standard procedure, except that—
- (a) each notice of proposed civil partnership must be accompanied by a supporting statement, which must have been made not more than 21 days before the day on which the notice is recorded,
  - (b) the fact that the registration authority to whom the notice is given has received the supporting statement must be recorded in the register, and
  - (c) the applicable period (for the purposes of section 17) is the period of 3 months beginning with—
    - (i) the day on which the notices of proposed civil partnership are recorded, or
    - (ii) if the notices are not recorded on the same day, the earlier of those days.
- (4) A supporting statement, in relation to a detained person, is a statement made by the responsible authority which—
- (a) identifies the establishment where the person is detained, and



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- (b) states that the responsible authority has no objection to that establishment being specified in a notice of proposed civil partnership as the place at which the person is to register as a civil partner.
- (5) A supporting statement must contain such information and must be made in such manner as may be prescribed by regulations.
- (6) “The responsible authority” means—
  - (a) if the person is detained in a hospital, the hospital’s managers;
  - (b) if the person is detained in a prison or other place to which the 1952 Act applies, the governor or other officer for the time being in charge of that prison or other place.
- (7) “Patient” and “hospital” have the same meaning as in Part 2 of the 1983 Act and “managers”, in relation to a hospital, has the same meaning as in section 145(1) of the 1983 Act.
- (8) For the purposes of this Chapter, a detained person is to be treated, if he would not otherwise be so treated, as resident and usually resident at the place where he is for the time being.

*Modified procedures for certain non-residents*

**20 Modified procedures for certain non-residents**

- (1) Subsection (5) applies in the following three cases.
- (2) The first is where—
  - (a) two people wish to register as civil partners of each other in England and Wales, and
  - (b) one of them (“A”) resides in Scotland and the other (“B”) resides in England or Wales.
- (3) The second is where—
  - (a) two people wish to register as civil partners of each other in England and Wales, and
  - (b) one of them (“A”) resides in Northern Ireland and the other (“B”) resides in England or Wales.
- (4) The third is where—
  - (a) two people wish to register as civil partners of each other in England and Wales, and
  - (b) one of them (“A”) is a member of Her Majesty’s forces who is serving outside the United Kingdom and the other (“B”) resides in England or Wales.
- (5) For the purposes of the standard procedure, the procedure for house-bound persons and the procedure for detained persons—
  - (a) A is not required to give a notice of proposed civil partnership under this Chapter;
  - (b) B may give a notice of proposed civil partnership and make the necessary declaration without regard to the requirement that would otherwise apply that A must reside in England or Wales;

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- (c) the waiting period is calculated by reference to the day on which B’s notice is recorded;
  - (d) the civil partnership schedule is not to be issued by a registration authority unless A or B produces to that registration authority a certificate of no impediment issued to A under the relevant provision;
  - (e) the applicable period is calculated by reference to the day on which B’s notice is recorded and, where the standard procedure is used in the first and second cases, is the period of 3 months beginning with that day;
  - (f) section 31 applies as if in subsections (1)(a) and (2)(c) for “each notice” there were substituted “B’s notice”.
- (6) “The relevant provision” means—
- (a) if A resides in Scotland, section 97;
  - (b) if A resides in Northern Ireland, section 150;
  - (c) if A is a member of Her Majesty’s forces who is serving outside the United Kingdom, section 239.
- (7) “Her Majesty’s forces” has the same meaning as in the Army Act 1955 (3 & 4 Eliz. 2 c. 18).

### *The special procedure*

## **21 Notice of proposed civil partnership**

- (1) For two people to register as civil partners of each other under the special procedure, one of them must—
- (a) give a notice of proposed civil partnership to the registration authority for the area in which it is proposed that the registration take place, and
  - (b) comply with any requirement made under section 22.
- (2) The notice must contain such information as may be prescribed by regulations.
- (3) Subsections (3) to (6) of section 8 (necessary declaration etc.), apart from paragraph (b) of subsection (4), apply for the purposes of this section as they apply for the purposes of that section.

## **22 Evidence to be produced**

- (1) The person giving a notice of proposed civil partnership to a registration authority under the special procedure must produce to the authority such evidence as the Registrar General may require to satisfy him—
- (a) that there is no lawful impediment to the formation of the civil partnership,
  - (b) that the conditions in subsection (2) are met, and
  - (c) that there is sufficient reason why a licence should be granted.
- (2) The conditions are that one of the proposed civil partners—
- (a) is seriously ill and not expected to recover, and
  - (b) understands the nature and purport of signing a Registrar General’s licence.
- (3) The certificate of a registered medical practitioner is sufficient evidence of any or all of the matters referred to in subsection (2).

## **23 Application to be reported to Registrar General**

On receiving a notice of proposed civil partnership under section 21 and any evidence under section 22, the registration authority must—

- (a) inform the Registrar General, and
- (b) comply with any directions the Registrar General may give for verifying the evidence given.

## **24 Objection to issue of Registrar General’s licence**

- (1) Any person may object to the Registrar General giving authority for the issue of his licence by giving the Registrar General or any registration authority notice of his objection.
- (2) A notice of objection must—
  - (a) state the objector’s place of residence and the ground of objection, and
  - (b) be signed by or on behalf of the objector.
- (3) If a notice of objection is given to a registration authority, it must ensure that the fact that it has been given and the information in it are recorded in the register as soon as possible.

## **25 Issue of Registrar General’s licence**

- (1) This section applies where a notice of proposed civil partnership is given to a registration authority under section 21.
- (2) The registration authority may issue a Registrar General’s licence if, and only if, given authority to do so by the Registrar General.
- (3) The Registrar General—
  - (a) may not give his authority unless he is satisfied that one of the proposed civil partners is seriously ill and not expected to recover, but
  - (b) if so satisfied, must give his authority unless a lawful impediment to the issue of his licence has been shown to his satisfaction to exist.
- (4) A licence under this section must state that it is issued on the authority of the Registrar General.
- (5) Regulations may (subject to subsection (4)) make provision as to the contents of a licence under this section.
- (6) If an objection has been made to the Registrar General giving authority for the issue of his licence, he is not to give that authority until—
  - (a) he has investigated the objection and decided whether it ought to obstruct the issue of his licence, or
  - (b) the objection has been withdrawn by the person who made it.
- (7) Any decision of the Registrar General under subsection (6)(a) is final.

## **26 Frivolous objections: liability for costs**

- (1) This section applies if—

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- (a) a person objects to the Registrar General giving authority for the issue of his licence, but
  - (b) the Registrar General declares that the grounds on which the objection is made are frivolous and ought not to obstruct the issue of his licence.
- (2) The person who made the objection is liable for—
- (a) the costs of the proceedings before the Registrar General, and
  - (b) damages recoverable by the proposed civil partner to whom the objection relates.
- (3) For the purpose of enabling any person to recover any such costs and damages, a copy of a declaration of the Registrar General purporting to be sealed with the seal of the General Register Office is evidence that the Registrar General has made the declaration.

## **27 Period during which registration may take place**

- (1) If a Registrar General's licence has been issued under section 25, the proposed civil partners may register as civil partners by signing it at any time within 1 month from the day on which the notice of proposed civil partnership was given.
- (2) If they do not register as civil partners by signing the licence within the 1 month period—
- (a) the notice of proposed civil partnership and the licence are void, and
  - (b) no civil partnership registrar may officiate at the signing of the licence by them.

### *Supplementary*

## **28 Registration authorities**

In this Chapter “registration authority” means—

- (a) in relation to England, a county council, the council of any district comprised in an area for which there is no county council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in relation to Wales, a county council or a county borough council.

## **29 Civil partnership registrars**

- (1) A civil partnership registrar is an individual who is designated by a registration authority as a civil partnership registrar for its area.
- (2) It is the duty of each registration authority to ensure that there is a sufficient number of civil partnership registrars for its area to carry out in that area the functions of civil partnership registrars.
- (3) Each registration authority must inform the Registrar General as soon as is practicable—
- (a) of any designation it has made of a person as a civil partnership registrar, and
  - (b) of the ending of any such designation.
- (4) The Registrar General must make available to the public a list—

- (a) of civil partnership registrars, and
- (b) of the registration authorities for which they are designated to act.

### **30 The Registrar General and the register**

- (1) In this Chapter “the Registrar General” means the Registrar General for England and Wales.
- (2) The Registrar General must provide a system for keeping any records that relate to civil partnerships and are required by this Chapter to be made.
- (3) The system may, in particular, enable those records to be kept together with other records kept by the Registrar General.
- (4) In this Chapter “the register” means the system for keeping records provided under subsection (2).

### **31 Offences relating to civil partnership schedule**

- (1) A person commits an offence if he issues a civil partnership schedule knowing that he does so—
  - (a) before the waiting period in relation to each notice of proposed civil partnership has expired,
  - (b) after the end of the applicable period, or
  - (c) at a time when its issue has been forbidden under Schedule 2 by a person entitled to forbid its issue.
- (2) A person commits an offence if, in his actual or purported capacity as a civil partnership registrar, he officiates at the signing of a civil partnership schedule by proposed civil partners knowing that he does so—
  - (a) at a place other than the place specified in the notices of proposed civil partnership and the civil partnership schedule,
  - (b) in the absence of a civil partnership registrar,
  - (c) before the waiting period in relation to each notice of proposed civil partnership has expired, or
  - (d) even though the civil partnership is void under section 49(b) or (c).
- (3) A person guilty of an offence under subsection (1) or (2) is liable on conviction on indictment to imprisonment for a term not exceeding 5 years or to a fine (or both).
- (4) A prosecution under this section may not be commenced more than 3 years after the commission of the offence.

### **32 Offences relating to Registrar General’s licence**

- (1) A person commits an offence if—
  - (a) he gives information by way of evidence in response to a requirement under section 22(1), knowing that the information is false;
  - (b) he gives a certificate as provided for by section 22(3), knowing that the certificate is false.

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- (2) A person commits an offence if, in his actual or purported capacity as a civil partnership registrar, he officiates at the signing of a Registrar General's licence by proposed civil partners knowing that he does so—
- (a) at a place other than the place specified in the licence,
  - (b) in the absence of a civil partnership registrar,
  - (c) after the end of 1 month from the day on which the notice of proposed civil partnership was given, or
  - (d) even though the civil partnership is void under section 49(b) or (c).
- (3) A person guilty of an offence under subsection (1) or (2) is liable—
- (a) on conviction on indictment, to imprisonment not exceeding 3 years or to a fine (or both);
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (4) A prosecution under this section may not be commenced more than 3 years after the commission of the offence.

### **33 Offences relating to the recording of civil partnerships**

- (1) A civil partnership registrar commits an offence if he refuses or fails to comply with the provisions of this Chapter or of any regulations made under section 36.
- (2) A civil partnership registrar guilty of an offence under subsection (1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine (or both);
  - (b) on summary conviction, to a fine not exceeding the statutory maximum;
- and on conviction shall cease to be a civil partnership registrar.
- (3) A person commits an offence if—
- (a) under arrangements made by a registration authority for the purposes of section 2(4), he is under a duty to record information required to be recorded under section 2(4), but
  - (b) he refuses or without reasonable cause omits to do so.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) A person commits an offence if he records in the register information relating to the formation of a civil partnership by the signing of a civil partnership schedule, knowing that the civil partnership is void under section 49(b) or (c).
- (6) A person guilty of an offence under subsection (5) is liable on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine (or both).
- (7) A person commits an offence if he records in the register information relating to the formation of a civil partnership by the signing of a Registrar General's licence, knowing that the civil partnership is void under section 49(b) or (c).
- (8) A person guilty of an offence under subsection (7) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 3 years or to a fine (or both);
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

- (9) A prosecution under subsection (5) or (7) may not be commenced more than 3 years after the commission of the offence.

### **34 Fees**

- (1) The Chancellor of the Exchequer may by order provide for fees, of such amounts as may be specified in the order, to be payable to such persons as may be prescribed by the order in respect of—
- (a) the giving of a notice of proposed civil partnership and the attestation of the necessary declaration;
  - (b) the making of an application under section 12(1) (application to reduce waiting period);
  - (c) the issue of a Registrar General’s licence;
  - (d) the attendance of the civil partnership registrar when two people sign the civil partnership document;
  - (e) such other services provided in connection with civil partnerships either by registration authorities or by or on behalf of the Registrar General as may be prescribed by the order.
- (2) The Registrar General may remit the fee for the issue of his licence in whole or in part in any case where it appears to him that the payment of the fee would cause hardship to the proposed civil partners.

### **35 Power to assimilate provisions relating to civil registration**

- (1) The Chancellor of the Exchequer may by order make—
- (a) such amendments of this Act as appear to him appropriate for the purpose of assimilating any provision connected with the formation or recording of civil partnerships in England and Wales to any provision made (whether or not under an order under section 1 of the Regulatory Reform Act 2001 (c. 6)) in relation to civil marriage in England and Wales, and
  - (b) such amendments of other enactments and of subordinate legislation as appear to him appropriate in consequence of any amendments made under paragraph (a).
- (2) “Civil marriage” means marriage solemnised otherwise than according to the rites of the Church of England or any other religious usages.
- (3) “Amendment” includes repeal or revocation.
- (4) “Subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

### **36 Regulations and orders**

- (1) Regulations may make provision supplementing the provisions of this Chapter.
- (2) Regulations may in particular make provision—
- (a) relating to the use of Welsh in documents and records relating to civil partnerships;
  - (b) with respect to the retention of documents relating to civil partnerships;
  - (c) prescribing the duties of civil partnership registrars;

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- (d) prescribing the duties of persons in whose presence any declaration is made for the purposes of this Chapter;
  - (e) for the issue by the Registrar General of guidance supplementing any provision made by the regulations.
  - (f) for the issue by registration authorities or the Registrar General of certified copies of entries in the register and for such copies to be received in evidence.
- (3) In this Chapter “regulations” means regulations made by the Registrar General with the approval of the Chancellor of the Exchequer.
- (4) Any power to make regulations or an order under this Chapter is exercisable by statutory instrument.
- (5) A statutory instrument containing an order under section 34 is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) No order may be made under section 35 unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.

## CHAPTER 2

### DISSOLUTION, NULLITY AND OTHER PROCEEDINGS

#### *Introduction*

#### **37 Powers to make orders and effect of orders**

- (1) The court may, in accordance with this Chapter—
- (a) make an order (a “dissolution order”) which dissolves a civil partnership on the ground that it has broken down irretrievably;
  - (b) make an order (a “nullity order”) which annuls a civil partnership which is void or voidable;
  - (c) make an order (a “presumption of death order”) which dissolves a civil partnership on the ground that one of the civil partners is presumed to be dead;
  - (d) make an order (a “separation order”) which provides for the separation of the civil partners.
- (2) Every dissolution, nullity or presumption of death order—
- (a) is, in the first instance, a conditional order, and
  - (b) may not be made final before the end of the prescribed period (see section 38);
- and any reference in this Chapter to a conditional order is to be read accordingly.
- (3) A nullity order made where a civil partnership is voidable annuls the civil partnership only as respects any time after the order has been made final, and the civil partnership is to be treated (despite the order) as if it had existed up to that time.
- (4) In this Chapter, other than in sections 58 to 61, “the court” means—
- (a) the High Court, or
  - (b) if a county court has jurisdiction by virtue of Part 5 of the Matrimonial and Family Proceedings Act 1984 (c. 42), a county court.



(5) This Chapter is subject to sections 219 to 224 (jurisdiction of the court).

### **38 The period before conditional orders may be made final**

- (1) Subject to subsections (2) to (4), the prescribed period for the purposes of section 37(2) (b) is—
  - (a) 6 weeks from the making of the conditional order, or
  - (b) if the 6 week period would end on a day on which the office or registry of the court dealing with the case is closed, the period of 6 weeks extended to the end of the first day on which the office or registry is next open.
- (2) The Lord Chancellor may by order amend this section so as to substitute a different definition of the prescribed period for the purposes of section 37(2)(b).
- (3) But the Lord Chancellor may not under subsection (2) provide for a period longer than 6 months to be the prescribed period.
- (4) In a particular case the court dealing with the case may by order shorten the prescribed period.
- (5) The power to make an order under subsection (2) is exercisable by statutory instrument.
- (6) An instrument containing such an order is subject to annulment in pursuance of a resolution of either House of Parliament.

### **39 Intervention of the Queen's Proctor**

- (1) This section applies if an application has been made for a dissolution, nullity or presumption of death order.
- (2) The court may, if it thinks fit, direct that all necessary papers in the matter are to be sent to the Queen's Proctor who must under the directions of the Attorney General instruct counsel to argue before the court any question in relation to the matter which the court considers it necessary or expedient to have fully argued.
- (3) If any person at any time—
  - (a) during the progress of the proceedings, or
  - (b) before the conditional order is made final,gives information to the Queen's Proctor on any matter material to the due decision of the case, the Queen's Proctor may take such steps as the Attorney General considers necessary or expedient.
- (4) If the Queen's Proctor intervenes or shows cause against the making of the conditional order in any proceedings relating to its making, the court may make such order as may be just as to—
  - (a) the payment by other parties to the proceedings of the costs incurred by him in doing so, or
  - (b) the payment by the Queen's Proctor of any costs incurred by any of those parties because of his doing so.
- (5) The Queen's Proctor is entitled to charge as part of the expenses of his office—
  - (a) the costs of any proceedings under subsection (2);

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- (b) if his reasonable costs of intervening or showing cause as mentioned in subsection (4) are not fully satisfied by an order under subsection (4)(a), the amount of the difference;
- (c) if the Treasury so directs, any costs which he pays to any parties under an order made under subsection (4)(b).

#### **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.
- (4) Subsection (3)(a)—
  - (a) applies despite section 37(2) (period before conditional orders may be made final), but
  - (b) is subject to section 48(4) (protection for respondent in separation cases) and section 63 (restrictions on making of orders affecting children).

#### **41 Time bar on applications for dissolution orders**

- (1) No application for a dissolution order may be made to the court before the end of the period of 1 year from the date of the formation of the civil partnership.
- (2) Nothing in this section prevents the making of an application based on matters which occurred before the end of the 1 year period.

#### **42 Attempts at reconciliation of civil partners**

- (1) This section applies in relation to cases where an application is made for a dissolution or separation order.
- (2) Rules of court must make provision for requiring the solicitor acting for the applicant to certify whether he has—
  - (a) discussed with the applicant the possibility of a reconciliation with the other civil partner, and

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- (b) given the applicant the names and addresses of persons qualified to help effect a reconciliation between civil partners who have become estranged.
- (3) If at any stage of proceedings for the order it appears to the court that there is a reasonable possibility of a reconciliation between the civil partners, the court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect a reconciliation between them.
- (4) The power to adjourn under subsection (3) is additional to any other power of adjournment.

#### **43 Consideration by the court of certain agreements or arrangements**

- (1) This section applies in relation to cases where—
  - (a) proceedings for a dissolution or separation order are contemplated or have begun, and
  - (b) an agreement or arrangement is made or proposed to be made between the civil partners which relates to, arises out of, or is connected with, the proceedings.
- (2) Rules of court may make provision for enabling—
  - (a) the civil partners, or either of them, to refer the agreement or arrangement to the court, and
  - (b) the court—
    - (i) to express an opinion, if it thinks it desirable to do so, as to the reasonableness of the agreement or arrangement, and
    - (ii) to give such directions, if any, in the matter as it thinks fit.

#### *Dissolution of civil partnership*

#### **44 Dissolution of civil partnership which has broken down irretrievably**

- (1) Subject to section 41, an application for a dissolution order may be made to the court by either civil partner on the ground that the civil partnership has broken down irretrievably.
- (2) On an application for a dissolution order the court must inquire, so far as it reasonably can, into—
  - (a) the facts alleged by the applicant, and
  - (b) any facts alleged by the respondent.
- (3) The court hearing an application for a dissolution order must not hold that the civil partnership has broken down irretrievably unless the applicant satisfies the court of one or more of the facts described in subsection (5)(a), (b), (c) or (d).
- (4) But if the court is satisfied of any of those facts, it must make a dissolution order unless it is satisfied on all the evidence that the civil partnership has not broken down irretrievably.
- (5) The facts referred to in subsections (3) and (4) are—
  - (a) that the respondent has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent;
  - (b) that—

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- (i) the applicant and the respondent have lived apart for a continuous period of at least 2 years immediately preceding the making of the application (“2 years’ separation”), and
- (ii) the respondent consents to a dissolution order being made;
- (c) that the applicant and the respondent have lived apart for a continuous period of at least 5 years immediately preceding the making of the application (“5 years’ separation”);
- (d) that the respondent has deserted the applicant for a continuous period of at least 2 years immediately preceding the making of the application.

#### **45 Supplemental provisions as to facts raising presumption of breakdown**

- (1) Subsection (2) applies if—
  - (a) in any proceedings for a dissolution order the applicant alleges, in reliance on section 44(5)(a), that the respondent has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent, but
  - (b) after the date of the occurrence of the final incident relied on by the applicant and held by the court to support his allegation, the applicant and the respondent have lived together for a period (or periods) which does not, or which taken together do not, exceed 6 months.
- (2) The fact that the applicant and respondent have lived together as mentioned in subsection (1)(b) must be disregarded in determining, for the purposes of section 44(5)(a), whether the applicant cannot reasonably be expected to live with the respondent.
- (3) Subsection (4) applies in relation to cases where the applicant alleges, in reliance on section 44(5)(b), that the respondent consents to a dissolution order being made.
- (4) Rules of court must make provision for the purpose of ensuring that the respondent has been given such information as will enable him to understand—
  - (a) the consequences to him of consenting to the making of the order, and
  - (b) the steps which he must take to indicate his consent.
- (5) For the purposes of section 44(5)(d) the court may treat a period of desertion as having continued at a time when the deserting civil partner was incapable of continuing the necessary intention, if the evidence before the court is such that, had he not been so incapable, the court would have inferred that the desertion continued at that time.
- (6) In considering for the purposes of section 44(5) whether the period for which the civil partners have lived apart or the period for which the respondent has deserted the applicant has been continuous, no account is to be taken of—
  - (a) any one period not exceeding 6 months, or
  - (b) any two or more periods not exceeding 6 months in all,
 during which the civil partners resumed living with each other.
- (7) But no period during which the civil partners have lived with each other counts as part of the period during which the civil partners have lived apart or as part of the period of desertion.
- (8) For the purposes of section 44(5)(b) and (c) and this section civil partners are to be treated as living apart unless they are living with each other in the same household, and references in this section to civil partners living with each other are to be read as references to their living with each other in the same household.

#### **46 Dissolution order not precluded by previous separation order etc.**

- (1) Subsections (2) and (3) apply if any of the following orders has been made in relation to a civil partnership—
- (a) a separation order;
  - (b) an order under Schedule 6 (financial relief in magistrates' courts etc.);
  - (c) an order under section 33 of the Family Law Act 1996 (c. 27) (occupation orders);
  - (d) an order under section 37 of the 1996 Act (orders where neither civil partner entitled to occupy the home).
- (2) Nothing prevents—
- (a) either civil partner from applying for a dissolution order, or
  - (b) the court from making a dissolution order,
- on the same facts, or substantially the same facts, as those proved in support of the making of the order referred to in subsection (1).
- (3) On the application for the dissolution order, the court—
- (a) may treat the order referred to in subsection (1) as sufficient proof of any desertion or other fact by reference to which it was made, but
  - (b) must not make the dissolution order without receiving evidence from the applicant.
- (4) If—
- (a) the application for the dissolution order follows a separation order or any order requiring the civil partners to live apart,
  - (b) there was a period of desertion immediately preceding the institution of the proceedings for the separation order, and
  - (c) the civil partners have not resumed living together and the separation order has been continuously in force since it was made,
- the period of desertion is to be treated for the purposes of the application for the dissolution order as if it had immediately preceded the making of the application.
- (5) For the purposes of section 44(5)(d) the court may treat as a period during which the respondent has deserted the applicant any period during which there is in force—
- (a) an injunction granted by the High Court or a county court which excludes the respondent from the civil partnership home, or
  - (b) an order under section 33 or 37 of the 1996 Act which prohibits the respondent from occupying a dwelling-house in which the applicant and the respondent have, or at any time have had, a civil partnership home.

#### **47 Refusal of dissolution in 5 year separation cases on ground of grave hardship**

- (1) The respondent to an application for a dissolution order in which the applicant alleges 5 years' separation may oppose the making of an order on the ground that—
- (a) the dissolution of the civil partnership will result in grave financial or other hardship to him, and
  - (b) it would in all the circumstances be wrong to dissolve the civil partnership.
- (2) Subsection (3) applies if—
- (a) the making of a dissolution order is opposed under this section,

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- (b) the court finds that the applicant is entitled to rely in support of his application on the fact of 5 years' separation and makes no such finding as to any other fact mentioned in section 44(5), and
  - (c) apart from this section, the court would make a dissolution order.
- (3) The court must—
- (a) consider all the circumstances, including the conduct of the civil partners and the interests of the civil partners and of any children or other persons concerned, and
  - (b) if it is of the opinion that the ground mentioned in subsection (1) is made out, dismiss the application for the dissolution order.
- (4) “Hardship” includes the loss of the chance of acquiring any benefit which the respondent might acquire if the civil partnership were not dissolved.

#### **48 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 44(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
  - (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 44(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) Subject to subsection (5), the court must not make the order final unless it is satisfied that—

- (a) the applicant should not be required to make any financial provision for the respondent, or
  - (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.
- (5) The court may if it thinks fit make the order final if—
- (a) it appears that there are circumstances making it desirable that the order should be made final without delay, and
  - (b) it has obtained a satisfactory undertaking from the applicant that he will make such financial provision for the respondent as it may approve.

### *Nullity*

#### **49 Grounds on which civil partnership is void**

Where two people register as civil partners of each other in England and Wales, the civil partnership is void if—

- (a) at the time when they do so, they are not eligible to register as civil partners of each other under Chapter 1 (see section 3),
- (b) at the time when they do so they both know—
  - (i) that due notice of proposed civil partnership has not been given,
  - (ii) that the civil partnership document has not been duly issued,
  - (iii) that the civil partnership document is void under section 17(3) or 27(2) (registration after end of time allowed for registering),
  - (iv) that the place of registration is a place other than that specified in the notices (or notice) of proposed civil partnership and the civil partnership document, or
  - (v) that a civil partnership registrar is not present, or
- (c) the civil partnership document is void under paragraph 6(5) of Schedule 2 (civil partnership between child and another person forbidden).

#### **50 Grounds on which civil partnership is voidable**

- (1) Where two people register as civil partners of each other in England and Wales, the civil partnership is voidable if—
- (a) either of them did not validly consent to its formation (whether as a result of duress, mistake, unsoundness of mind or otherwise);
  - (b) at the time of its formation either of them, though capable of giving a valid consent, was suffering (whether continuously or intermittently) from mental disorder of such a kind or to such an extent as to be unfitted for civil partnership;
  - (c) at the time of its formation, the respondent was pregnant by some person other than the applicant;
  - (d) an interim gender recognition certificate under the Gender Recognition Act 2004 (c. 7) has, after the time of its formation, been issued to either civil partner;
  - (e) the respondent is a person whose gender at the time of its formation had become the acquired gender under the 2004 Act.

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- (2) In this section and section 51 “mental disorder” has the same meaning as in the Mental Health Act 1983 (c. 20).

## **51 Bars to relief where civil partnership is voidable**

- (1) The court must not make a nullity order on the ground that a civil partnership is voidable if the respondent satisfies the court—
- (a) that the applicant, with knowledge that it was open to him to obtain a nullity order, conducted himself in relation to the respondent in such a way as to lead the respondent reasonably to believe that he would not seek to do so, and
  - (b) that it would be unjust to the respondent to make the order.
- (2) Without prejudice to subsection (1), the court must not make a nullity order by virtue of section 50(1)(a), (b), (c) or (e) unless—
- (a) it is satisfied that proceedings were instituted within 3 years from the date of the formation of the civil partnership, or
  - (b) leave for the institution of proceedings after the end of that 3 year period has been granted under subsection (3).
- (3) A judge of the court may, on an application made to him, grant leave for the institution of proceedings if he—
- (a) is satisfied that the applicant has at some time during the 3 year period suffered from mental disorder, and
  - (b) considers that in all the circumstances of the case it would be just to grant leave for the institution of proceedings.
- (4) An application for leave under subsection (3) may be made after the end of the 3 year period.
- (5) Without prejudice to subsection (1), the court must not make a nullity order by virtue of section 50(1)(d) unless it is satisfied that proceedings were instituted within the period of 6 months from the date of issue of the interim gender recognition certificate.
- (6) Without prejudice to subsections (1) and (2), the court must not make a nullity order by virtue of section 50(1)(c) or (e) unless it is satisfied that the applicant was at the time of the formation of the civil partnership ignorant of the facts alleged.

## **52 Proof of certain matters not necessary to validity of civil partnership**

- (1) Where two people have registered as civil partners of each other in England and Wales, it is not necessary in support of the civil partnership to give any proof—
- (a) that any person whose consent to the civil partnership was required by section 4 (parental etc. consent) had given his consent, or
  - (b) that the civil partnership registrar was designated as such by the registration authority in whose area the registration took place;
- and no evidence is to be given to prove the contrary in any proceedings touching the validity of the civil partnership.
- (2) Subsection (1)(a) is subject to section 49(c) (civil partnership void if forbidden).



### **53 Power to validate civil partnership**

- (1) Where two people have registered as civil partners of each other in England and Wales, the Lord Chancellor may by order validate the civil partnership if it appears to him that it is or may be void under section 49(b).
- (2) An order under subsection (1) may include provisions for relieving a person from any liability under section 31(2), 32(2) or 33(5) or (7).
- (3) The draft of an order under subsection (1) must be advertised, in such manner as the Lord Chancellor thinks fit, not less than one month before the order is made.
- (4) The Lord Chancellor must—
  - (a) consider all objections to the order sent to him in writing during that month, and
  - (b) if it appears to him necessary, direct a local inquiry into the validity of any such objections.
- (5) An order under subsection (1) is subject to special parliamentary procedure.

### **54 Validity of civil partnerships registered outside England and Wales**

- (1) Where two people register as civil partners of each other in Scotland, the civil partnership is—
  - (a) void, if it would be void in Scotland under section 123, and
  - (b) voidable, if the circumstances fall within section 50(1)(d).
- (2) Where two people register as civil partners of each other in Northern Ireland, the civil partnership is—
  - (a) void, if it would be void in Northern Ireland under section 173, and
  - (b) voidable, if the circumstances fall within any paragraph of section 50(1).
- (3) Subsection (4) applies where two people register as civil partners of each other under an Order in Council under—
  - (a) section 210 (registration at British consulates etc.), or
  - (b) section 211 (registration by armed forces personnel), (“the relevant section”).
- (4) The civil partnership is—
  - (a) void, if—
    - (i) the condition in subsection (2)(a) or (b) of the relevant section is not met, or
    - (ii) a requirement prescribed for the purposes of this paragraph by an Order in Council under the relevant section is not complied with, and
  - (b) voidable, if—
    - (i) the appropriate part of the United Kingdom is England and Wales or Northern Ireland and the circumstances fall within any paragraph of section 50(1), or
    - (ii) the appropriate part of the United Kingdom is Scotland and the circumstances fall within section 50(1)(d).
- (5) The appropriate part of the United Kingdom is the part by reference to which the condition in subsection (2)(b) of the relevant section is met.

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- (6) Subsections (7) and (8) apply where two people have registered an apparent or alleged overseas relationship.
- (7) The civil partnership is void if—
- (a) the relationship is not an overseas relationship, or
  - (b) (even though the relationship is an overseas relationship) the parties are not treated under Chapter 2 of Part 5 as having formed a civil partnership.
- (8) The civil partnership is voidable if—
- (a) the overseas relationship is voidable under the relevant law,
  - (b) the circumstances fall within section 50(1)(d), or
  - (c) where either of the parties was domiciled in England and Wales or Northern Ireland at the time when the overseas relationship was registered, the circumstances fall within section 50(1)(a), (b), (c) or (e).
- (9) Section 51 applies for the purposes of—
- (a) subsections (1)(b), (2)(b) and (4)(b),
  - (b) subsection (8)(a), in so far as applicable in accordance with the relevant law, and
  - (c) subsection (8)(b) and (c).
- (10) In subsections (8)(a) and (9)(b) “the relevant law” means the law of the country or territory where the overseas relationship was registered (including its rules of private international law).
- (11) For the purposes of subsections (8) and (9)(b) and (c), references in sections 50 and 51 to the formation of the civil partnership are to be read as references to the registration of the overseas relationship.

#### *Presumption of death orders*

### **55 Presumption of death orders**

- (1) The court may, on an application made by a civil partner, make a presumption of death order if it is satisfied that reasonable grounds exist for supposing that the other civil partner is dead.
- (2) In any proceedings under this section the fact that—
- (a) for a period of 7 years or more the other civil partner has been continually absent from the applicant, and
  - (b) the applicant has no reason to believe that the other civil partner has been living within that time,
- is evidence that the other civil partner is dead until the contrary is proved.

#### *Separation orders*

### **56 Separation orders**

- (1) An application for a separation order may be made to the court by either civil partner on the ground that any such fact as is mentioned in section 44(5)(a), (b), (c) or (d) exists.

- (2) On an application for a separation order the court must inquire, so far as it reasonably can, into—
  - (a) the facts alleged by the applicant, and
  - (b) any facts alleged by the respondent,but whether the civil partnership has broken down irretrievably is irrelevant.
- (3) If the court is satisfied on the evidence of any such fact as is mentioned in section 44(5) (a), (b), (c) or (d) it must, subject to section 63, make a separation order.
- (4) Section 45 (supplemental provisions as to facts raising presumption of breakdown) applies for the purposes of an application for a separation order alleging any such fact as it applies in relation to an application for a dissolution order alleging that fact.

## **57 Effect of separation order**

If either civil partner dies intestate as respects all or any of his or her real or personal property while—

- (a) a separation order is in force, and
- (b) the separation is continuing,

the property as respects which he or she died intestate devolves as if the other civil partner had then been dead.

### *Declarations*

## **58 Declarations**

- (1) Any person may apply to the High Court or a county court for one or more of the following declarations in relation to a civil partnership specified in the application—
  - (a) a declaration that the civil partnership was at its inception a valid civil partnership;
  - (b) a declaration that the civil partnership subsisted on a date specified in the application;
  - (c) a declaration that the civil partnership did not subsist on a date so specified;
  - (d) a declaration that the validity of a dissolution, annulment or legal separation obtained outside England and Wales in respect of the civil partnership is entitled to recognition in England and Wales;
  - (e) a declaration that the validity of a dissolution, annulment or legal separation so obtained in respect of the civil partnership is not entitled to recognition in England and Wales.
- (2) Where an application under subsection (1) is made to a court by a person other than a civil partner in the civil partnership to which the application relates, the court must refuse to hear the application if it considers that the applicant does not have a sufficient interest in the determination of that application.

## **59 General provisions as to making and effect of declarations**

- (1) Where on an application for a declaration under section 58 the truth of the proposition to be declared is proved to the satisfaction of the court, the court must make the declaration unless to do so would be manifestly contrary to public policy.

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- (2) Any declaration under section 58 binds Her Majesty and all other persons.
- (3) The court, on the dismissal of an application for a declaration under section 58, may not make any declaration for which an application has not been made.
- (4) No declaration which may be applied for under section 58 may be made otherwise than under section 58 by any court.
- (5) No declaration may be made by any court, whether under section 58 or otherwise, that a civil partnership was at its inception void.
- (6) Nothing in this section affects the powers of any court to make a nullity order in respect of a civil partnership.

## **60 The Attorney General and proceedings for declarations**

- (1) On an application for a declaration under section 58 the court may at any stage of the proceedings, of its own motion or on the application of any party to the proceedings, direct that all necessary papers in the matter be sent to the Attorney General.
- (2) The Attorney General, whether or not he is sent papers in relation to an application for a declaration under section 58, may—
  - (a) intervene in the proceedings on that application in such manner as he thinks necessary or expedient, and
  - (b) argue before the court dealing with the application any question in relation to the application which the court considers it necessary to have fully argued.
- (3) Where any costs are incurred by the Attorney General in connection with any application for a declaration under section 58, the court may make such order as it considers just as to the payment of those costs by parties to the proceedings.

## **61 Supplementary provisions as to declarations**

- (1) Any declaration made under section 58, and any application for such a declaration, must be in the form prescribed by rules of court.
- (2) Rules of court may make provision—
  - (a) as to the information required to be given by any applicant for a declaration under section 58;
  - (b) requiring notice of an application under section 58 to be served on the Attorney General and on persons who may be affected by any declaration applied for.
- (3) No proceedings under section 58 affect any final judgment or order already pronounced or made by any court of competent jurisdiction.
- (4) The court hearing an application under section 58 may direct that the whole or any part of the proceedings must be heard in private.
- (5) An application for a direction under subsection (4) must be heard in private unless the court otherwise directs.

### *General provisions*

#### **62 Relief for respondent in dissolution proceedings**

- (1) If in any proceedings for a dissolution order the respondent alleges and proves any such fact as is mentioned in section 44(5)(a), (b), (c) or (d) the court may give to the respondent the relief to which he would have been entitled if he had made an application seeking that relief.
- (2) When applying subsection (1), treat—
  - (a) the respondent as the applicant, and
  - (b) the applicant as the respondent,for the purposes of section 44(5).

#### **63 Restrictions on making of orders affecting children**

- (1) In any proceedings for a dissolution, nullity or separation order, the court must consider—
  - (a) whether there are any children of the family to whom this section applies, and
  - (b) if there are any such children, whether (in the light of the arrangements which have been, or are proposed to be, made for their upbringing and welfare) it should exercise any of its powers under the Children Act 1989 (c. 41) with respect to any of them.
- (2) If, in the case of any child to whom this section applies, it appears to the court that—
  - (a) the circumstances of the case require it, or are likely to require it, to exercise any of its powers under the 1989 Act with respect to any such child,
  - (b) it is not in a position to exercise the power or (as the case may be) those powers without giving further consideration to the case, and
  - (c) there are exceptional circumstances which make it desirable in the interests of the child that the court should give a direction under this section,it may direct that the order is not to be made final, or (in the case of a separation order) is not to be made, until the court orders otherwise.
- (3) This section applies to—
  - (a) any child of the family who has not reached 16 at the date when the court considers the case in accordance with the requirements of this section, and
  - (b) any child of the family who has reached 16 at that date and in relation to whom the court directs that this section shall apply.

#### **64 Parties to proceedings under this Chapter**

- (1) Rules of court may make provision with respect to—
  - (a) the joinder as parties to proceedings under sections 37 to 56 of persons involved in allegations of improper conduct made in those proceedings,
  - (b) the dismissal from such proceedings of any parties so joined, and
  - (c) the persons who are to be parties to proceedings on an application under section 58.
- (2) Rules of court made under this section may make different provision for different cases.

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- (3) In every case in which the court considers, in the interest of a person not already a party to the proceedings, that the person should be made a party, the court may if it thinks fit allow the person to intervene upon such terms, if any, as the court thinks just.

### CHAPTER 3

#### PROPERTY AND FINANCIAL ARRANGEMENTS

#### **65 Contribution by civil partner to property improvement**

- (1) This section applies if—
- (a) a civil partner contributes in money or money's worth to the improvement of real or personal property in which or in the proceeds of sale of which either or both of the civil partners has or have a beneficial interest, and
  - (b) the contribution is of a substantial nature.
- (2) The contributing partner is to be treated as having acquired by virtue of the contribution a share or an enlarged share (as the case may be) in the beneficial interest of such an extent—
- (a) as may have been then agreed, or
  - (b) in default of such agreement, as may seem in all the circumstances just to any court before which the question of the existence or extent of the beneficial interest of either of the civil partners arises (whether in proceedings between them or in any other proceedings).
- (3) Subsection (2) is subject to any agreement (express or implied) between the civil partners to the contrary.

#### **66 Disputes between civil partners about property**

- (1) In any question between the civil partners in a civil partnership as to title to or possession of property, either civil partner may apply to—
- (a) the High Court, or
  - (b) such county court as may be prescribed by rules of court.
- (2) On such an application, the court may make such order with respect to the property as it thinks fit (including an order for the sale of the property).
- (3) Rules of court made for the purposes of this section may confer jurisdiction on county courts whatever the situation or value of the property in dispute.

#### **67 Applications under section 66 where property not in possession etc.**

- (1) The right of a civil partner ("A") to make an application under section 66 includes the right to make such an application where A claims that the other civil partner ("B") has had in his possession or under his control—
- (a) money to which, or to a share of which, A was beneficially entitled, or
  - (b) property (other than money) to which, or to an interest in which, A was beneficially entitled,

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and that either the money or other property has ceased to be in B's possession or under B's control or that A does not know whether it is still in B's possession or under B's control.

- (2) For the purposes of subsection (1)(a) it does not matter whether A is beneficially entitled to the money or share—
  - (a) because it represents the proceeds of property to which, or to an interest in which, A was beneficially entitled, or
  - (b) for any other reason.
- (3) Subsections (4) and (5) apply if, on such an application being made, the court is satisfied that B—
  - (a) has had in his possession or under his control money or other property as mentioned in subsection (1)(a) or (b), and
  - (b) has not made to A, in respect of that money or other property, such payment or disposition as would have been appropriate in the circumstances.
- (4) The power of the court to make orders under section 66 includes power to order B to pay to A—
  - (a) in a case falling within subsection (1)(a), such sum in respect of the money to which the application relates, or A's share of it, as the court considers appropriate, or
  - (b) in a case falling within subsection (1)(b), such sum in respect of the value of the property to which the application relates, or A's interest in it, as the court considers appropriate.
- (5) If it appears to the court that there is any property which—
  - (a) represents the whole or part of the money or property, and
  - (b) is property in respect of which an order could (apart from this section) have been made under section 66,the court may (either instead of or as well as making an order in accordance with subsection (4)) make any order which it could (apart from this section) have made under section 66.
- (6) Any power of the court which is exercisable on an application under section 66 is exercisable in relation to an application made under that section as extended by this section.

## **68 Applications under section 66 by former civil partners**

- (1) This section applies where a civil partnership has been dissolved or annulled.
- (2) Subject to subsection (3), an application may be made under section 66 (including that section as extended by section 67) by either former civil partner despite the dissolution or annulment (and references in those sections to a civil partner are to be read accordingly).
- (3) The application must be made within the period of 3 years beginning with the date of the dissolution or annulment.

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## **69 Actions in tort between civil partners**

- (1) This section applies if an action in tort is brought by one civil partner against the other during the subsistence of the civil partnership.
- (2) The court may stay the proceedings if it appears—
  - (a) that no substantial benefit would accrue to either civil partner from the continuation of the proceedings, or
  - (b) that the question or questions in issue could more conveniently be disposed of on an application under section 66.
- (3) Without prejudice to subsection (2)(b), the court may in such an action—
  - (a) exercise any power which could be exercised on an application under section 66, or
  - (b) give such directions as it thinks fit for the disposal under that section of any question arising in the proceedings.

## **70 Assurance policy by civil partner for benefit of other civil partner etc.**

Section 11 of the Married Women's Property Act 1882 (c. 75) (money payable under policy of assurance not to form part of the estate of the insured) applies in relation to a policy of assurance—

- (a) effected by a civil partner on his own life, and
- (b) expressed to be for the benefit of his civil partner, or of his children, or of his civil partner and children, or any of them,

as it applies in relation to a policy of assurance effected by a husband and expressed to be for the benefit of his wife, or of his children, or of his wife and children, or of any of them.

## **71 Wills, administration of estates and family provision**

Schedule 4 amends enactments relating to wills, administration of estates and family provision so that they apply in relation to civil partnerships as they apply in relation to marriage.

## **72 Financial relief for civil partners and children of family**

- (1) Schedule 5 makes provision for financial relief in connection with civil partnerships that corresponds to provision made for financial relief in connection with marriages by Part 2 of the Matrimonial Causes Act 1973 (c. 18).
- (2) Any rule of law under which any provision of Part 2 of the 1973 Act is interpreted as applying to dissolution of a marriage on the ground of presumed death is to be treated as applying (with any necessary modifications) in relation to the corresponding provision of Schedule 5.
- (3) Schedule 6 makes provision for financial relief in connection with civil partnerships that corresponds to provision made for financial relief in connection with marriages by the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).
- (4) Schedule 7 makes provision for financial relief in England and Wales after a civil partnership has been dissolved or annulled, or civil partners have been legally separated, in a country outside the British Islands.



## CHAPTER 4

### CIVIL PARTNERSHIP AGREEMENTS

#### **73 Civil partnership agreements unenforceable**

- (1) A civil partnership agreement does not under the law of England and Wales have effect as a contract giving rise to legal rights.
- (2) No action lies in England and Wales for breach of a civil partnership agreement, whatever the law applicable to the agreement.
- (3) In this section and section 74 “civil partnership agreement” means an agreement between two people—
  - (a) to register as civil partners of each other—
    - (i) in England and Wales (under this Part),
    - (ii) in Scotland (under Part 3),
    - (iii) in Northern Ireland (under Part 4), or
    - (iv) outside the United Kingdom under an Order in Council made under Chapter 1 of Part 5 (registration at British consulates etc. or by armed forces personnel), or
  - (b) to enter into an overseas relationship.
- (4) This section applies in relation to civil partnership agreements whether entered into before or after this section comes into force, but does not affect any action commenced before it comes into force.

#### **74 Property where civil partnership agreement is terminated**

- (1) This section applies if a civil partnership agreement is terminated.
- (2) Section 65 (contributions by civil partner to property improvement) applies, in relation to any property in which either or both of the parties to the agreement had a beneficial interest while the agreement was in force, as it applies in relation to property in which a civil partner has a beneficial interest.
- (3) Sections 66 and 67 (disputes between civil partners about property) apply to any dispute between or claim by one of the parties in relation to property in which either or both had a beneficial interest while the agreement was in force, as if the parties were civil partners of each other.
- (4) An application made under section 66 or 67 by virtue of subsection (3) must be made within 3 years of the termination of the agreement.
- (5) A party to a civil partnership agreement who makes a gift of property to the other party on the condition (express or implied) that it is to be returned if the agreement is terminated is not prevented from recovering the property merely because of his having terminated the agreement.

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## 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)”.

#### 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—

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- “(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.”

## 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

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- (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”.

## CHAPTER 6

### MISCELLANEOUS

#### **80 False statements etc. with reference to civil partnerships**

- (1) A person commits an offence if—
  - (a) for the purpose of procuring the formation of a civil partnership, or a document mentioned in subsection (2), he—
    - (i) makes or signs a declaration required under this Part or Part 5, or
    - (ii) gives a notice or certificate so required,
 knowing that the declaration, notice or certificate is false,
  - (b) for the purpose of a record being made in any register relating to civil partnerships, he—
    - (i) makes a statement as to any information which is required to be registered under this Part or Part 5, or
    - (ii) causes such a statement to be made,
 knowing that the statement is false,
  - (c) he forbids the issue of a document mentioned in subsection (2)(a) or (b) by representing himself to be a person whose consent to a civil partnership between a child and another person is required under this Part or Part 5, knowing the representation to be false, or
  - (d) with respect to a declaration made under paragraph 5(1) of Schedule 1 he makes a statement mentioned in paragraph 6 of that Schedule which he knows to be false in a material particular.
- (2) The documents are—
  - (a) a civil partnership schedule or a Registrar General’s licence under Chapter 1;
  - (b) a document required by an Order in Council under section 210 or 211 as an authority for two people to register as civil partners of each other;
  - (c) a certificate of no impediment under section 240.
- (3) A person guilty of an offence under subsection (1) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine (or both);
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

(4) The Perjury Act 1911 (c. 6) has effect as if this section were contained in it.

## **81 Housing and tenancies**

Schedule 8 amends certain enactments relating to housing and tenancies.

## **82 Family homes and domestic violence**

Schedule 9 amends Part 4 of the Family Law Act 1996 (c. 27) and related enactments so that they apply in relation to civil partnerships as they apply in relation to marriages.

## **83 Fatal accidents claims**

- (1) Amend the Fatal Accidents Act 1976 (c. 30) as follows.
- (2) In section 1(3) (meaning of “dependant” for purposes of right of action for wrongful act causing death), after paragraph (a) insert—
  - “(aa) the civil partner or former civil partner of the deceased;”.
- (3) In paragraph (b)(iii) of section 1(3), after “wife” insert “or civil partner”.
- (4) After paragraph (f) of section 1(3) insert—
  - “(fa) any person (not being a child of the deceased) who, in the case of any civil partnership in which the deceased was at any time a civil partner, was treated by the deceased as a child of the family in relation to that civil partnership;”.
- (5) After section 1(4) insert—
  - “(4A) The reference to the former civil partner of the deceased in subsection (3) (aa) above includes a reference to a person whose civil partnership with the deceased has been annulled as well as a person whose civil partnership with the deceased has been dissolved.”
- (6) In section 1(5)(a), for “by affinity” substitute “by marriage or civil partnership”.
- (7) In section 1A(2) (persons for whose benefit claim for bereavement damages may be made)—
  - (a) in paragraph (a), after “wife or husband” insert “or civil partner”, and
  - (b) in paragraph (b), after “was never married” insert “or a civil partner”.
- (8) In section 3 (assessment of damages), in subsection (4), after “wife” insert “or civil partner”.

## **84 Evidence**

- (1) Any enactment or rule of law relating to the giving of evidence by a spouse applies in relation to a civil partner as it applies in relation to the spouse.
- (2) Subsection (1) is subject to any specific amendment made by or under this Act which relates to the giving of evidence by a civil partner.
- (3) For the avoidance of doubt, in any such amendment, references to a person’s civil partner do not include a former civil partner.

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- (4) References in subsections (1) and (2) to giving evidence are to giving evidence in any way (whether by supplying information, making discovery, producing documents or otherwise).
- (5) Any rule of law—
- (a) which is preserved by section 7(3) of the Civil Evidence Act 1995 (c. 38) or section 118(1) of the Criminal Justice Act 2003 (c. 44), and
  - (b) under which in any proceedings evidence of reputation or family tradition is admissible for the purpose of proving or disproving the existence of a marriage,
- is to be treated as applying in an equivalent way for the purpose of proving or disproving the existence of a civil partnership.