

Status: Point in time view as at 15/04/2005. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Civil Partnership Act 2004, Cross Heading: Matrimonial and Family Proceedings Act 1984 (c. 42) is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 27

MINOR AND CONSEQUENTIAL AMENDMENTS: GENERAL

VALID FROM 05/12/2005

Matrimonial and Family Proceedings Act 1984 (c. 42)

90 (1) Amend section 12 (applications for financial relief after overseas divorce etc.) as follows.

(2) In subsection (2) (no application may be made after remarriage), for “remarries” substitute “ forms a subsequent marriage or civil partnership, ”.

(3) For subsection (3) substitute—

“(3) The reference in subsection (2) above to the forming of a subsequent marriage or civil partnership includes a reference to the forming of a marriage or civil partnership which is by law void or voidable.”

91 In section 32 (meaning of “family business” etc.), after the definition of “family proceedings” insert—

““civil partnership cause” means an action for the dissolution or annulment of a civil partnership or for the legal separation of civil partners;”.

92 After section 36 insert—

“Jurisdiction of county courts in civil partnership causes and matters Jurisdiction of county courts in civil partnership causes

36A Jurisdiction of county courts in civil partnership causes

(1) The Lord Chancellor may by order—

(a) designate any county court as a civil partnership proceedings county court, and

(b) designate, as a court of trial, any county court designated as a civil partnership proceedings county court.

(2) In this Part of this Act “civil partnership proceedings county court” means a county court designated under subsection (1)(a) above.

(3) A civil partnership proceedings county court shall have jurisdiction to hear and determine any civil partnership cause, subject to subsection (4) below.

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- (4) A civil partnership proceedings county court shall have jurisdiction to try a civil partnership cause only if it is designated under subsection (1)(b) above as a court of trial.
- (5) The jurisdiction conferred by this section on a civil partnership proceedings county court shall be exercisable throughout England and Wales, but rules of court may provide for a civil partnership cause pending in one such court to be heard and determined—
 - (a) partly in that court and partly in another such court, or
 - (b) in another such court.
- (6) Every civil partnership cause shall be commenced in a civil partnership proceedings county court.
- (7) Every civil partnership cause shall be heard and determined in a civil partnership proceedings county court unless, or except to the extent, it is transferred to the High Court under—
 - (a) section 39 below, or
 - (b) section 41 of the County Court Act 1984 (transfer to High Court by order of High Court).
- (8) The Lord Chancellor may by order designate a civil partnership proceedings county court as a court for the exercise of jurisdiction in civil partnership matters under Schedule 7 to the Civil Partnership Act 2004.
- (9) The power to make an order under subsection (1) or (8) above shall be exercisable by statutory instrument.

Jurisdiction of civil partnership proceedings county courts as respects financial relief and protection of children

36B Jurisdiction of civil partnership proceedings county courts as respects financial relief and protection of children

- (1) Subject to subsection (2) below, a civil partnership proceedings county court shall have the following jurisdiction—
 - (a) a jurisdiction to exercise any power exercisable under—
 - (i) section 63 of the Civil Partnership Act 2004 (restrictions on making of orders affecting children), or
 - (ii) Schedule 5 to that Act (financial relief in the courts), other than Part 12 (arrears and repayments) and paragraph 73 (alteration of maintenance agreements by court after death of one party),
 in connection with any application or order pending in, or made by, a civil partnership proceedings county court;
 - (b) a jurisdiction to exercise any power exercisable under—
 - (i) Part 9 of that Schedule (failure to maintain: financial provision (and interim orders)), or
 - (ii) paragraphs 69 to 71 of that Schedule (alteration of maintenance agreements by court during lives of parties);
 - (c) if designated under section 36A(8) above, jurisdiction to exercise any power under Schedule 7 to that Act.

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(2) Any proceedings for the exercise of a power which a civil partnership proceedings county court has jurisdiction to exercise by virtue of subsection (1) above shall be commenced in such civil partnership proceedings county court as may be prescribed by rules of court.

(3) Nothing in this section shall affect the jurisdiction of a magistrates' court under paragraphs 69 to 71 of Schedule 5 to the Civil Partnership Act 2004.

Consideration of agreements or arrangements

36C Consideration of agreements or arrangements

Where rules of court make provision for the purposes of section 43 of the Civil Partnership Act 2004 with respect to any power exercisable by the court on an application made under that section before an application is made for a dissolution or separation order, the rules shall confer jurisdiction to exercise the power on civil partnership proceedings county courts.

Assignment of circuit judges to civil partnership proceedings

36D Assignment of circuit judges to civil partnership proceedings

The jurisdiction conferred by the preceding provisions of this Part of this Act on civil partnership proceedings county courts, so far as it exercisable by judges of such courts, shall be exercised by such Circuit judges as the Lord Chancellor may direct.”

93 For section 38(3) (transfer of family proceedings from High Court to county court) substitute—

“(3) Proceedings transferred under this section shall be transferred to such county court as the High Court directs, subject to subsections (3A) and (3B) below.

(3A) Where a matrimonial cause or matter within the jurisdiction of a divorce county court only is transferred under this section, it shall be transferred to such divorce county court as the High Court directs.

(3B) Where a civil partnership cause or matter within the jurisdiction of a civil partnership proceedings county court only is transferred under this section, it shall be transferred to such civil partnership proceedings county court as the High Court directs.”

94 In section 39(2) (family proceedings transferable to the High Court), for “or divorce county court” (in each place) substitute “, divorce county court or civil partnership proceedings county court”.

95 In section 40(4)(b) (enforcement in High Court of orders of divorce county court), after “a divorce county court” insert “ or a civil partnership proceedings county court”.

96 (1) Amend section 42 (county court proceedings in principal registry of Family Division) as follows.

(2) In subsection (1)—

(a) after “Sections 33 to 35” insert “ and 36A to 36C ”,

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- (b) after “section 34(2)” insert “ or 36B(2) ”, and
- (c) after “divorce county court” insert “ or civil partnership proceedings county court ”.

(3) After that subsection insert—

“(1A) Subsection (2) below applies to—

- (a) the jurisdiction in matrimonial causes or matters conferred by sections 33, 34 and 35 above on divorce county courts, and
- (b) the jurisdiction in civil partnership causes or matters conferred by sections 36A, 36B and 36C above on civil partnership proceedings county courts.”

(4) In subsection (2), for the words from the beginning to “on divorce county courts” substitute “ A jurisdiction to which this subsection applies ”.

(5) For the words in subsection (2) after paragraph (b) substitute the following new subsection—

“(2A) Rules of court may make provision—

- (a) for treating, for any purposes specified in the rules, matrimonial causes and matters pending in the registry with respect to which the jurisdiction mentioned in subsection (1A)(a) above is exercisable as pending in a divorce county court,
- (b) for treating, for any purposes specified in the rules, civil partnership causes and matters pending in the registry with respect to which the jurisdiction mentioned in subsection (1A)(b) above is exercisable as pending in a civil partnership proceedings county court, and
- (c) for the application of section 74(3) of the Solicitors Act 1974 (costs) with respect to proceedings treated as mentioned in paragraph (a) or (b) above.”

(6) In subsection (3), for “subsection (2)” substitute “ subsection (2A) ”.

(7) After subsection (3) insert—

“(3A) Where, by virtue of rules under subsection (2A) above, a civil partnership cause or matter is pending in the registry as in a civil partnership proceedings county court, any ancillary or related proceedings which could be taken in a civil partnership proceedings county court and which are not of a description excluded by the rules from the operation of this subsection may be taken and dealt with in the registry as in a civil partnership proceedings county court.”

(8) After subsection (4) insert—

“(4ZA) The principal registry shall be treated as a civil partnership proceedings county court—

- (a) for the purposes of any provision to be made by rules of court under section 36A(5) above;
- (b) for the purpose of any provision to be made under section 36B(2) above prescribing the county court in which any proceedings are to be commenced; and

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- (c) for the purpose of any transfer of family proceedings under section 38 or 39 above between the High Court and a civil partnership proceedings county court.”
- (9) In subsection (4A), after “in any matrimonial cause or matter” insert “, or in any civil partnership cause or matter,”.
- (10) In subsection (5), for paragraphs (a) and (b) substitute—
- “ (a) as regards service of process—
- (i) as if proceedings commenced in the principal registry in a matrimonial cause or matter had been commenced in a divorce county court, and
- (ii) as if proceedings commenced in that registry in a civil partnership cause or matter had been commenced in a civil partnership proceedings county court; and
- (b) as regards enforcement of orders—
- (i) as if orders made in that registry in the exercise of the family jurisdiction conferred by sections 33, 34 and 35 above on divorce county courts were orders made by such a court, and
- (ii) as if orders made in that registry in the exercise of the family jurisdiction conferred by sections 36A, 36B and 36C above on civil partnership proceedings county courts were orders made by such a court.”
- (11) After that subsection insert—
- “(5A) For the purposes of subsection (3A) above, proceedings—
- (a) are “ancillary” to a civil partnership cause if they are connected with the cause, and
- (b) are “related” to a civil partnership cause if they are for protecting or otherwise relate to any rights, or the exercise of any rights, of—
- (i) the civil partners as civil partners, or
- (ii) any children of the family.”

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