
Status: Point in time view as at 07/12/2020.

Changes to legislation: The Wills and Administration Proceedings (Northern Ireland) Order 1994, Cross Heading: Effect of marriage, divorce, etc. is up to date with all changes known to be in force on or before 28 August 2023. 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)

STATUTORY INSTRUMENTS

1994 No. 1899

The Wills and Administration Proceedings (Northern Ireland) Order 1994

PART II

WILLS

Effect of marriage, divorce, etc.

Effect of marriage

12.—(1) Subject to paragraphs (2) to [F¹(5)], a will is revoked by the testator's marriage.

(2) A disposition in a will in exercise of a power of appointment takes effect notwithstanding the testator's subsequent marriage unless the property so appointed would in default of appointment pass to his personal representatives.

(3) Where it appears from a will that at the time it was made the testator was expecting to be married to a particular person and that he intended that the will should not be revoked by the marriage, the will is not revoked by his marriage to that person.

(4) Where it appears from a will that at the time it was made the testator was expecting to be married to a particular person and that he intended that a gift in the will should not be revoked by his marriage to that person—

- (a) that gift takes effect notwithstanding the marriage; and
- (b) any other gift in the will takes effect also, unless it appears from the will that the testator intended the gift to be revoked by the marriage.

[F²(5) Nothing in this Article applies in the case of a marriage which results from—

- (a) the conversion of a civil partnership into a marriage under Part 3 of the Marriage and Civil Partnership (Northern Ireland) (No. 2) Regulations 2020;
- (b) the conversion of a civil partnership into a marriage under Part 2, 3 or 4 of the Marriage of Same Sex Couples (Conversion of Civil Partnership) Regulations 2014; or
- (c) the changing of a civil partnership into a marriage under—
 - (i) the Marriage (Scotland) Act 1977;
 - (ii) the Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Regulations 2014; or
 - (iii) Part 5 of the Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014.]

F1 Word in art. 12(1) substituted (7.12.2020) by [The Marriage and Civil Partnership \(Northern Ireland\) \(No. 2\) Regulations 2020 \(S.I. 2020/1143\)](#), regs. 1(2), **41(2)(a)**

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F2 Art. 12(5) inserted (7.12.2020) by [The Marriage and Civil Partnership \(Northern Ireland\) \(No. 2\) Regulations 2020 \(S.I. 2020/1143\)](#), regs. 1(2), **41(2)(b)**

Effect of dissolution or annulment of marriage

- 13.**—(1) Where, after a testator has made a will, his marriage is dissolved or annulled—
- (a) provisions of the will appointing executors or trustees or conferring a power of appointment, if they appoint or confer the power on the former spouse, take effect as if the former spouse had died on the date on which the marriage is dissolved or annulled, and
 - (b) except as provided in paragraph (2), any property comprising or included in a gift to the former spouse passes as if the former spouse had died on that date.
- (2) Where property comprising or included in a gift to the former spouse is a share of residue, the will takes effect as if the gift of the residue were to the other person or persons entitled thereto (and, if more than one, in such shares as to preserve the ratio of their former shares), to the exclusion of the former spouse.
- (3) Paragraphs (1) and (2) are subject to any contrary intention appearing from the will.
- (4) Paragraph (1)(b) is without prejudice to any rights of the former spouse to apply for financial provision under the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979^{F3}.
- (5) In this Article, “dissolved or annulled” means—
- (a) dissolved by a decree of divorce or annulled by a decree of nullity of marriage granted under the law of any part of the United Kingdom or the Channel Islands or under the law of the Isle of Man, or
 - (b) dissolved or annulled in any country or territory outside the United Kingdom, the Channel Islands and the Isle of Man by a divorce or annulment which is entitled to be recognised as valid by the law of Northern Ireland;

and “the former spouse” means the person whose marriage with the testator was so dissolved or annulled.

F3 1979 NI 8

[^{F4}Effect of civil partnership

13A.—(1) Subject to paragraphs (2) to [^{F5}(7)], a will is revoked by the formation of a civil partnership between the testator and another person.

(2) A disposition in a will in exercise of a power of appointment takes effect despite the formation of a subsequent civil partnership between the testator and another person unless the property so appointed would in default of appointment pass to the testator's personal representatives.

- (3) If it appears from a will—
- (a) that at the time it was made the testator was expecting to form a civil partnership with a particular person, and
 - (b) that he intended that the will should not be revoked by the formation of the civil partnership,

the will is not revoked by its formation.

- (4) Paragraphs (5) and (6) apply if it appears from a will—

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- (a) that at the time it was made the testator was expecting to form a civil partnership with a particular person, and
 - (b) that he intended that a gift in the will should not be revoked by the formation of the civil partnership.
- (5) The gift takes effect despite the formation of the civil partnership.
- (6) Any other gift in the will also takes effect, unless it appears from the will that the testator intended the gift to be revoked by the formation of the civil partnership.

- [
- ^{F6}(7) Nothing in this Article applies in the case of a civil partnership which results from—
- (a) the conversion of a marriage into a civil partnership under Part 3 of the Marriage and Civil Partnership (Northern Ireland) (No. 2) Regulations 2020; or
 - (b) the conversion of a marriage into a civil partnership under Part 4 or 5 of those Regulations.]]

F4 2004 c.33

F5 Word in art. 13A(1) substituted (7.12.2020) by [The Marriage and Civil Partnership \(Northern Ireland\) \(No. 2\) Regulations 2020 \(S.I. 2020/1143\)](#), regs. 1(2), **41(3)(a)**

F6 Art. 13A(7) inserted (7.12.2020) by [The Marriage and Civil Partnership \(Northern Ireland\) \(No. 2\) Regulations 2020 \(S.I. 2020/1143\)](#), regs. 1(2), **41(3)(b)**

Modifications etc. (not altering text)

C1 Art. 13A excluded (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **172** (with regs. 6-9)

Effect of dissolution or annulment of civil partnership

- 13B.**—(1) This Article applies if, after a testator has made a will—
- (a) a court of civil jurisdiction in Northern Ireland dissolves his civil partnership or makes a nullity order in respect of it, or
 - (b) his civil partnership is dissolved or annulled and the dissolution or annulment is entitled to recognition in Northern Ireland under Chapter 3 of Part 5 of the Civil Partnership Act 2004.
- (2) Subject to any contrary intention appearing from the will—
- (a) provisions of the will appointing executors or trustees or conferring a power of appointment, if they appoint or confer the power on the former civil partner, take effect as if the former civil partner had died on the date on which the civil partnership is dissolved or annulled, and
 - (b) except as provided in paragraph (3), any property comprising or included in a gift to the former civil partner passes as if the former civil partner had died on that date.
- (3) Where property comprising or included in a gift to the former civil partner is a share of residue, the will takes effect as if the gift of the residue were to the other person or persons entitled to it (and, if more than one, in such shares as to preserve the ratio of their former shares), to the exclusion of the former civil partner.
- (4) Paragraph (2)(b) does not affect any right of the former civil partner to apply for financial provision under the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979 (S.I. 1979/ 924 (N.I. 8)).

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[^{F7}Effect on subsisting will of conversion of civil partnership into marriage

13C.—(1) The conversion of a civil partnership into a marriage does not—

- (a) revoke any will made by a party to the civil partnership before the conversion; or
- (b) affect any disposition in such a will.

(2) The conversion of a civil partnership into a marriage does not affect any previous application of Article 13A(2) to (6) to—

- (a) a will made by a party to the civil partnership before the conversion; or
- (b) a disposition in such a will.

(3) Paragraphs (1) and (2) are subject to paragraph (4).

(4) Any reference in a will to a civil partnership or civil partners (howsoever expressed) is to be read in relation to any civil partnership that has been converted into a marriage, or civil partners who have converted their civil partnership into a marriage, as referring to that marriage or married couple, as appropriate.

(5) Paragraph (4) is subject to any contrary intention appearing from the will.

(6) In this Article “conversion” means—

- (a) the conversion of a civil partnership into a marriage under Part 3 of the Marriage and Civil Partnership (Northern Ireland) (No. 2) Regulations 2020;
- (b) the conversion of a civil partnership into a marriage under Part 2, 3 or 4 of the Marriage of Same Sex Couples (Conversion of Civil Partnership) Regulations 2014; or
- (c) the changing of a civil partnership into a marriage under—
 - (i) the Marriage (Scotland) Act 1977;
 - (ii) the Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Regulations 2014; or
 - (iii) Part 5 of the Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014.

F7 Arts. 13C, 13D inserted (7.12.2020) by [The Marriage and Civil Partnership \(Northern Ireland\) \(No. 2\) Regulations 2020 \(S.I. 2020/1143\)](#), regs. 1(2), **41(4)**

Effect on subsisting will of conversion of marriage into civil partnership

13D.—(1) The conversion of a marriage into a civil partnership does not—

- (a) revoke any will made by a party to the marriage before the conversion; or
- (b) affect any disposition in such a will.

(2) The conversion of a marriage into a civil partnership does not affect any previous application of Article 12(2) to (4) to—

- (a) a will made by a party to the marriage before the conversion; or
- (b) a disposition in such a will.

(3) Paragraphs (1) and (2) are subject to paragraph (4).

(4) Any reference in a will to a marriage or spouses (howsoever expressed) is to be read in relation to any marriage that has been converted into a civil partnership, or a married couple who have converted their marriage into a civil partnership, as referring to that civil partnership or the parties to it, as appropriate.

(5) Paragraph (4) is subject to any contrary intention appearing from the will.

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(6) In this Article “conversion” means—

- (a) the conversion of a marriage into a civil partnership under Part 3 of the Marriage and Civil Partnership (Northern Ireland) (No. 2) Regulations 2020; or
- (b) the conversion of a marriage into a civil partnership under Part 4 or 5 of those Regulations.]

F7 Arts. 13C, 13D inserted (7.12.2020) by The Marriage and Civil Partnership (Northern Ireland) (No. 2) Regulations 2020 (S.I. 2020/1143), regs. 1(2), **41(4)**

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