



# Civil Partnership Act 2004

## 2004 CHAPTER 33

### PART 4

#### CIVIL PARTNERSHIP: NORTHERN IRELAND

### CHAPTER 1

#### REGISTRATION

##### *Formation and eligibility*

#### **137 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 schedule in the presence of—
  - (a) each other,
  - (b) two witnesses both of whom profess to be 16 or over, and
  - (c) the registrar.
- (2) Subsection (1) applies regardless of whether subsections (3) and (4) are complied with.
- (3) After the civil partnership schedule 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 registrar.
- (4) After the witnesses and the registrar have signed the civil partnership schedule, the registrar must cause the registration of the civil partnership to be recorded as soon as practicable.
- (5) No religious service is to be used while the registrar is officiating at the signing of a civil partnership schedule.

*Status: Point in time view as at 13/01/2020.*

*Changes to legislation: Civil Partnership Act 2004, Part 4 is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### 138 Eligibility

- (1) Two people are not eligible to register as civil partners of each other if—
  - <sup>F1</sup>(a) . . . . .
  - (b) either of them is already a civil partner or lawfully married,
  - (c) either of them is under 16,
  - (d) they are within prohibited degrees of relationship, or
  - (e) either of them is incapable of understanding the nature of civil partnership.
- (2) Schedule 12 contains provisions for determining when two people are within prohibited degrees of relationship.

#### Textual Amendments

- F1** S. 138(1)(a) omitted (13.1.2020) by virtue of [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **16(3)** (with regs. 6-9)

#### *Preliminaries to registration*

### 139 Notice of proposed civil partnership

- (1) For two people to register as civil partners of each other under this Chapter, each of them must give the registrar a notice of proposed civil partnership (a “civil partnership notice”).
- (2) A civil partnership notice must be—
  - (a) in the prescribed form, and
  - (b) accompanied by the prescribed fee and such documents and other information as may be prescribed.
- (3) In prescribed cases a civil partnership notice must be given to the registrar by each party in person.

#### Commencement Information

- II** S. 139 wholly in force at 5.12.2005; s. 139 not in force at Royal Assent see s. 263; s. 139(2)(3) in force at 5.9.2005 for certain purposes by [S.I. 2005/2399](#), **art. 2**, [Sch.](#) and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3255](#), **art. 2(1)**, [Sch.](#); s. 139(1) in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255](#), **art. 2(1)**, [Sch.](#)

#### [<sup>F2</sup>139A. Additional information if party not relevant national

- (1) This section applies to a civil partnership notice given to a registrar in accordance with section 139 if one, or each, of the parties to the proposed civil partnership is not a relevant national.
- (2) For each party to the proposed civil partnership who is not a relevant national, the notice must be accompanied by whichever of statements A, B or C is applicable to that person.

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- (3) Statement A is a statement that the person has the appropriate immigration status.
- (4) Statement B is a statement that the person holds a relevant visa in respect of the proposed civil partnership.
- (5) Statement C is a statement that the person neither—
  - (a) has the appropriate immigration status, nor
  - (b) holds a relevant visa in respect of the proposed civil partnership.
- (6) If the notice is accompanied by the statement referred to in the first column of an entry in this table, the notice must also be accompanied by the information and photographs referred to in the second column of that entry (insofar as that entry is applicable to the parties to the proposed civil partnership)—

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<i>If the notice is accompanied by this statement....</i>	<i>...the notice must also be accompanied by....</i>
Statement A (in respect of one or both of the parties to the proposed civil partnership)	For each party in respect of whom statement A is made, details of the particular immigration status which that party has
Statement B (in respect of one or both of the parties to the proposed civil partnership)	1. For each party, a specified photograph of that party 2. For each party in respect of whom statement B is made, details of the relevant visa which that party has
Statement C (in respect of one or both of the parties to the proposed civil partnership)	1. For each party, a specified photograph of that party 2. For each party, the usual address of that party 3. For each party who has previously used any name or names other than the person's name stated in the civil partnership notice, a statement of the other name or names 4. For each party who currently uses, or has previously used, an alias or aliases, a statement of the alias or aliases.

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- (7) If the notice is accompanied by more than one of statements A, B and C, subsection (6) must be complied with in relation to each of those statements; but where the notice is accompanied by statements B and C, subsection (6) does not require the notice to be accompanied by more than one specified photograph of each party.
- (8) If the notice is accompanied by statement C for a party to the proposed civil partnership—
  - (a) the notice may also be accompanied by a statement (“statement D”) of that person's immigration position in the United Kingdom;
  - (b) if the notice is accompanied by statement D for a party to the proposed civil partnership, the person may provide the registrar with details of his or her immigration position in the United Kingdom; and
  - (c) if any such details are provided, the registrar must record them.
- (9) In this section and section 139B—

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- (a) a reference—
  - (i) to a person having the appropriate immigration status, or
  - (ii) to a person holding a relevant visa,

is to be construed in accordance with section 49 of the 2014 Act;

- (b) a reference to the particular immigration status which a person has is a reference to the immigration status set out in any of paragraphs (a) to (c) of section 49(2) of that Act which the person has;
  - (c) a reference to a person’s immigration position in the United Kingdom includes a reference to the person’s not being entitled to be in the United Kingdom.
- (10) In this section “specified photograph” means a photograph that is in accordance with regulations made by the Secretary of State under section 54(2) of, and paragraph 3 of Schedule 5 to, the 2014 Act (and for this purpose “photograph” includes other kinds of images).

#### Textual Amendments

- F2** Ss. 139A-139E inserted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), art. 1(2), [Sch. 3 para. 2](#) (with art. 1(3))

#### Modifications etc. (not altering text)

- C1** [S. 139A\(9\)](#) applied (2.3.2015) by [The Sham Marriage and Civil Partnership \(Scotland and Northern Ireland\) \(Administrative\) Regulations 2015 \(S.I. 2015/404\)](#), regs. 1(2), **18(4)(b)**

### 139B. Additional evidence if party not relevant national

- (1) If a civil partnership notice to which section 139A applies (“the notice”) is accompanied by statement A (referred to in section 139A(3)), and accordingly is also accompanied by details of the particular immigration status which a party to the proposed civil partnership has, the notice must also be accompanied by specified evidence of that status.
- (2) If the notice is accompanied by statement B (referred to in section 139A(4)), the notice must also be accompanied by specified evidence of the holding of the relevant visa by the party to the proposed civil partnership.
- (3) If, in accordance with section 139A(6), the notice is accompanied by the usual address of a party to the proposed civil partnership, the notice must also be accompanied by specified evidence that it is that party’s usual address.
- (4) If the notice is accompanied by statement D (referred to in section 139A(8)), the notice may also be accompanied by evidence of the person’s immigration position in the United Kingdom.
- (5) If subsection (1) or (2) applies to the notice, and the notice is not accompanied by the specified evidence required by that subsection, the notice must be accompanied by—
  - (a) photographs and addresses of the kinds referred to in paragraphs 1 and 2 in the relevant entry in section 139A(6);
  - (b) as respects the usual address of each party that is provided in accordance with sub-paragraph (a), specified evidence that the address provided is that party’s usual address; and

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- (c) names and aliases of the kinds referred to in paragraphs 3 and 4 in the relevant entry in section 139A(6) (insofar as those paragraphs are applicable to the parties to the proposed civil partnership).
- (6) In this section—
- “relevant entry in section 139A(6)” means the second column of the last entry in the table in section 139A(6);
- “specified evidence” means evidence that is in accordance with regulations made by the Secretary of State under section 54(2) of, and paragraph 3 of Schedule 5 to, the 2014 Act.

#### Textual Amendments

- F2** Ss. 139A-139E inserted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), art. 1(2), [Sch. 3 para. 2](#) (with art. 1(3))

### 139C. Declaration to accompany information and evidence

Where information and evidence accompany the civil partnership notice in accordance with sections 139A and 139B that information and evidence must also be accompanied by a declaration in writing and signed by the party who makes it that the party believes all of the information and evidence accompanying the notice to be true.

#### Textual Amendments

- F2** Ss. 139A-139E inserted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), art. 1(2), [Sch. 3 para. 2](#) (with art. 1(3))

### 139D. Rejection of false information or evidence

- (1) A registrar may reject—
- any information or photograph provided under section 139A or 139B,
  - any evidence provided under section 139B, or
  - any evidence relating to a party’s nationality provided in accordance with section 141,
- if (in particular) the registrar has reasonable grounds for suspecting that the information, photograph or evidence is false.
- (2) If the registrar rejects any information, photograph or evidence, the registrar may proceed under this Act as if the rejected information, photograph or evidence had not been provided.
- (3) This section does not limit the powers of the registrar to reject anything provided under any other statutory provision.

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### Textual Amendments

- F2** Ss. 139A-139E inserted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), art. 1(2), [Sch. 3 para. 2](#) (with art. 1(3))

## 139E. Referral of proposed civil partnership to the Secretary of State

- (1) On every occasion when a civil partnership notice is given under section 139, a registrar must decide whether or not each of the parties to the proposed civil partnership is an exempt person.
- (2) In making a decision under subsection (1) about a party to a proposed civil partnership, a registrar may rely on any advice given in relation to that decision by the Secretary of State.
- (3) In a case where—
  - (a) section 139A applies to the civil partnership notice, and
  - (b) specified evidence required by section 139B(1) or (2) in relation to a party to the proposed civil partnership is not produced in accordance with that section,
 the registrar must decide that that party to the proposed civil partnership is not an exempt person.
- (4) If the registrar decides that either of the parties is not an exempt person, or that both of the parties are not exempt persons, the registrar must—
  - (a) refer the proposed civil partnership to the Secretary of State;
  - (b) notify the parties to the proposed civil partnership that the proposed civil partnership must be referred to the Secretary of State;
  - (c) give the parties to the proposed civil partnership prescribed information about—
    - (i) the effects of the referral;
    - (ii) the requirement under regulations to notify the Secretary of State of changes of address.
- (5) The registrar must act in accordance with regulations when complying with the duty in subsection (4)(a) to refer a proposed civil partnership to the Secretary of State.
- (6) If the registrar refers the proposed civil partnership to the Secretary of State, this Act has effect in relation to the proposed civil partnership subject to the modifications in Schedule 13A.
- (7) In this section—
  - (a) a reference to a person being an exempt person has the same meaning as in section 49 of the 2014 Act;
  - (b) “prescribed information” means information prescribed in regulations;
  - (c) “regulations” means regulations made by the Secretary of State under section 54(2) of, and Schedule 5 to, the 2014 Act.]

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### Textual Amendments

- F2** Ss. 139A-139E inserted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), art. 1(2), [Sch. 3 para. 2](#) (with art. 1(3))

## 140 Civil partnership notice book and list of intended civil partnerships

- (1) The registrar must keep a record of—
- such particulars as may be prescribed, taken from each civil partnership notice received by him, and
  - the date on which each civil partnership notice is received by him.

- (2) In this Chapter “civil partnership notice book” means the record kept under subsection (1).

[<sup>F3</sup>(2A) But the registrar must not enter the particulars relating to the civil partnership in the civil partnership notice book in a case where any of the requirements imposed by or under any of the following provisions of this Act is applicable but not complied with—

- section 139A(2) to (7);
- section 139B(3) or (5);
- section 141 so far as that requirement relates to evidence of nationality;
- paragraph 13 of Schedule 23.

(2B) Where the registrar may not enter the particulars relating to the civil partnership notice book as mentioned in subsection (2A) the parties are to be taken not to have given notice under section 139.]

- (3) The registrar must, in accordance with any guidance issued by the Registrar General, place on public display a list containing in relation to each proposed civil partnership in respect of which the registrar has received a civil partnership notice—
- the names of the proposed civil partners, and
  - the date on which it is intended to register them as civil partners of each other.

(4) As soon as practicable after the date mentioned in subsection (3) the registrar must remove from the list the names and the date mentioned in that subsection.

(5) Any person claiming that he may have reason to make an objection to a proposed civil partnership may inspect any entry relating to the civil partnership in the civil partnership notice book without charge.

### Textual Amendments

- F3** S. 140(2A)(2B) inserted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), art. 1(2), [Sch. 3 para. 4](#) (with art. 1(3))

### Commencement Information

- I2** S. 140 wholly in force at 5.12.2005; s. 140 not in force at Royal Assent see s. 263; s. 140(1)(a) in force at 5.9.2005 for certain purposes by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and otherwise 5.12.2005 insofar as not

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already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#); s. 140 in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#)

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

- (1) A registrar to whom a civil partnership notice is given may require the person giving it to provide him with specified evidence relating to each proposed civil partner.
- (2) Such a requirement may be imposed at any time before the registrar issues the civil partnership schedule under section 143.
- (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 is or has been a civil partner or lawfully married, and
  - (d) of the person’s nationality.

#### **142 Objections**

- (1) Any person may at any time before the formation of a civil partnership in Northern Ireland make an objection in writing to the registrar.
- (2) An objection on the ground that one of the proposed civil partners is incapable of understanding the nature of civil partnership must be accompanied by a supporting certificate signed by a medical practitioner.
- (3) If the registrar is satisfied that the objection relates to no more than a misdescription or inaccuracy in the civil partnership notice, he must—
  - (a) notify the proposed civil partners,
  - (b) make such inquiries as he thinks fit, and
  - (c) subject to the approval of the Registrar General, make any necessary correction to any document relating to the proposed civil partnership.
- (4) In any other case the registrar must notify the Registrar General of the objection.
- (5) If the Registrar General is satisfied that there is a legal impediment to the formation of the civil partnership, he must direct the registrar to—
  - (a) notify the parties, and
  - (b) take all reasonable steps to ensure that the formation of the civil partnership does not take place.
- (6) If subsection (5) does not apply, the Registrar General must direct the registrar to proceed under section 143.
- (7) For the purposes of this section and section 143 there is a legal impediment to the formation of a civil partnership where the proposed civil partners are not eligible to be registered as civil partners of each other.
- (8) A person who has submitted an objection may withdraw it at any time, but the Registrar General may have regard to an objection which has been withdrawn.



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### 143 Civil partnership schedule

After the registrar receives a civil partnership notice from each of the proposed civil partners, he must complete a civil partnership schedule in the prescribed form, if—

- (a) he is satisfied that there is no legal impediment to the formation of the civil partnership, or
- (b) the Registrar General has directed him under section 142(6) to proceed under this section.

#### Commencement Information

- I3** S. 143 wholly in force at 5.12.2005; s. 143 not in force at Royal Assent see s. 263; s. 143 in force at 5.9.2005 for certain purposes by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

### [<sup>F4</sup>143A. Civil partnership notice: false information or evidence

- (1) A registrar may refuse to complete a civil partnership schedule under section 143 (or where one has already been completed, may cancel it) in a case where—
  - (a) notice of a proposed civil partnership has been given under section 139, and
  - (b) the registrar has reasonable grounds for suspecting that a relevant decision was made incorrectly because of the provision of false information or evidence in or accompanying that notice.
- (2) If the registrar refuses to complete (or cancels) a civil partnership schedule under subsection (1), the parties to the proposed civil partnership are to be taken not to have given notice under section 139; but that does not prevent criminal proceedings from being brought against either party, or any other person, in relation to the giving of the notice.
- (3) This section does not limit the powers of the registrar to refuse to complete (or, as the case may be, cancel) a civil partnership schedule.
- (4) In this section—
  - “evidence” includes a photograph or other image;
  - “exempt person” has the same meaning as in section 139E;
  - “relevant decision” means a decision of a registrar that a party to the proposed civil partnership is an exempt person.]

#### Textual Amendments

- F4** S. 143A inserted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), [art. 1\(2\)](#), [Sch. 3 para. 5](#) (with [art. 1\(3\)](#))

### 144 Place of registration

- (1) The place at which two people may register as civil partners of each other must be—
  - (a) a registration office, or
  - (b) a place approved under subsection (3).

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- (2) Subsection (1) is subject to subsections (5) and (7).
- (3) A local registration authority may, in accordance with regulations under subsection (4), approve places where civil partnerships may be registered in its district.
- (4) Regulations under section 159 may make provision for or in connection with the approval of places under subsection (3), including provision as to—
- (a) the kinds of place in respect of which approvals may be granted,
  - (b) the procedure to be followed in relation to applications for approval,
  - (c) the considerations to be taken into account in determining whether to approve any places,
  - (d) the duration and renewal of approvals (whether for one occasion or for a period),
  - (e) the conditions that must or may be imposed on granting or renewing an approval,
  - (f) the determination and charging of fees in respect of[en rule]
    - (i) applications for the approval of places,
    - (ii) the renewal of approvals, and
    - (iii) the attendance by registrars at places approved under the regulations,
  - (g) the circumstances in which a local registration authority must or may revoke or suspend an approval or vary any of the conditions imposed in relation to an approval,
  - (h) the renewal of decisions made by virtue of the regulations,
  - (i) appeals to a county court from decisions made by virtue of the regulations,
  - (j) the notification to the Registrar General of all approvals granted, renewed, revoked, suspended or varied,
  - (k) the notification to the registrar for the district in which a place approved under the regulations is situated of all approvals relating to such a place which are granted, renewed, revoked, suspended or varied,
  - (l) the keeping by the Registrar General, registrars and local registration authorities of registers of places approved under the regulations, and
  - (m) the issue by the Registrar General of guidance supplementing the provision made by the regulations.
- (5) If either of the parties to a proposed civil partnership gives the registrar a medical statement, the civil partnership may, with the approval of the Registrar General, be registered at any place where that party is.
- (6) In subsection (5) “medical statement”, in relation to any person, means a statement made in the prescribed form by a registered medical practitioner that in his opinion at the time the statement is made—
- (a) by reason of serious illness or serious bodily injury, that person ought not to move or be moved from the place where he is at that time, and
  - (b) it is likely that it will be the case for at least the following 3 months that by reason of illness or disability the person ought not to move or be moved from that place.
- (7) If the Registrar General so directs, a registrar must register a civil partnership in a place specified in the direction.

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#### Commencement Information

- 14** S. 144 wholly in force at 5.12.2005; s. 144 not in force at Royal Assent see s. 263; s. 144(4)(6) in force at 5.9.2005 for certain purposes by S.I. 2005/2399, **art. 2, Sch.** and otherwise 5.12.2005 insofar as not already in force by S.I. 2005/3255, **art. 2(1), Sch.**; s. 144(1)-(3)(5)(7) in force at 5.12.2005 insofar as not already in force by S.I. 2005/3255, **art. 2(1), Sch.**

### *Young persons*

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

- (1) The consent of the appropriate persons is required before a young person and another person may register as civil partners of each other.
- (2) Schedule 13 contains provisions—
  - (a) for determining who are the appropriate persons for the purposes of this section (see Part 1 of the Schedule);
  - (b) for orders dispensing with consent and for recording consents and orders (see Parts 2 and 3 of the Schedule).
- (3) Each consent required by subsection (1) must be—
  - (a) in the prescribed form; and
  - (b) produced to the registrar before the issue of the civil partnership schedule.
- (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 section and Schedule 13 “young person” means a person who is under 18.

#### Commencement Information

- 15** S. 145 wholly in force at 5.12.2005; s. 145 not in force at Royal Assent see s. 263; s. 145(3) in force at 5.9.2005 for certain purposes by S.I. 2005/2399, **art. 2, Sch.** and otherwise 5.12.2005 insofar as not already in force by S.I. 2005/3255, **art. 2(1), Sch.**; s. 145 in force at 5.12.2005 insofar as not already in force by S.I. 2005/3255, **art. 2(1), Sch.**

### *Supplementary*

#### **146 Validity of registration**

- (1) This section applies to any legal proceedings commenced at any time after the registration of a civil partnership is recorded under section 137.
- (2) The validity of the civil partnership must not be questioned in any such proceedings on the ground of any contravention of a provision of, or made under, this Act.

#### **147 Corrections and cancellations**

- (1) Regulations under section 159 may make provision for the making of corrections by the Registrar General or any registrar.

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- (2) The Registrar General must cancel the registration of a void civil partnership or direct the registrar to do so.
- [<sup>F5</sup>(3) Subsection (4) applies in relation to a civil partnership formed in Northern Ireland before, on or after 13th January 2020 where, before the civil partnership is formed, a full gender recognition certificate has been issued under the Gender Recognition Act 2004 to either or each of the parties.
- (4) The Registrar General, after consulting the parties, may—
- (a) modify, or direct a registrar to modify, the recorded status of either or both of the parties in the registration of the civil partnership, or
  - (b) direct a registrar to modify the way in which the status of either or both of the parties is to be recorded when registering the civil partnership,
- for the purpose of reducing the risk that the recorded status of the parties in the registration of the civil partnership will disclose the issue of the gender recognition certificate or either of the certificates.]

#### Textual Amendments

- F5** S. 147(3)(4) inserted (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), **50(2)** (with regs. 6-9)

#### Commencement Information

- I6** S. 147 wholly in force at 5.12.2005; s. 147 not in force at Royal Assent see s. 263; s. 147(1) in force at 5.9.2005 for certain purposes by [S.I. 2005/2399](#), **art. 2**, **Sch.** and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3255](#), **art. 2(1)**, **Sch.**; s. 147(2) in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255](#), **art. 2(1)**, **Sch.**

## 148 Interpreters

- (1) If the registrar considers it necessary or desirable, he may use the services of an interpreter (not being one of the civil partners or a witness).
- (2) The interpreter must—
- (a) before the registration of the civil partnership, sign a statement in English that he understands, and is able to converse in, any language in respect of which he is to act as an interpreter, and
  - (b) immediately after the registration of the civil partnership, give the registrar a certificate written in English and signed by the interpreter that he has faithfully acted as the interpreter.

## 149 Detained persons

- (1) If—
- (a) one of the parties to a proposed civil partnership is detained in a prison or as a patient in a hospital, and
  - (b) the civil partnership is to be registered in that prison or hospital,
- the civil partnership notice given by that party must be accompanied by a statement to which subsection (2) applies.

*Status: Point in time view as at 13/01/2020.*

*Changes to legislation: Civil Partnership Act 2004, Part 4 is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) This subsection applies to a statement which—
- (a) is made in the prescribed form by the responsible authority not more than 21 days before the date on which the civil partnership notice is given,
  - (b) identifies the establishment where the person is detained, and
  - (c) states that the responsible authority has no objection to that establishment being the place of registration for that civil partnership.
- (3) In subsection (2) “responsible authority” means—
- (a) if the person named in the statement is detained in a prison, the governor or other officer in charge of that prison;
  - (b) if the person named in the statement is detained in a hospital or special accommodation, the Health and Social Services Board administering that hospital or the Department of Health, Social Services and Public Safety, respectively;
  - (c) if the person named in the statement is detained in a private hospital, the person in charge of that hospital.
- (4) After the registrar receives a civil partnership notice accompanied by a statement to which subsection (2) applies, he must notify the Registrar General and not complete a civil partnership schedule unless the Registrar General directs him to proceed under section 143.
- (5) In this section—
- (a) “prison” includes a remand centre and a young offenders centre, and
  - (b) “hospital”, “patient”, “private hospital” and “special accommodation” have the same meaning as in the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).

#### Commencement Information

- I7** S. 149 wholly in force at 5.12.2005; s. 149 not in force at Royal Assent see s. 263; s. 149(2)(a) in force at 5.9.2005 for certain purposes by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#); s. 149 in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

## 150 Certificates of no impediment for Part 2 purposes

**F6** .....

#### Textual Amendments

- F6** S. 150 omitted (5.12.2005) by virtue of [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005](#) (S.I. 2005/2000), [art. 3](#), [Sch. para. 16](#) (subject to [art. 1\(3\)](#))

## 151 Registration districts and registration authorities

- (1) Each local government district shall be a registration district and the district council shall be the local registration authority for the purposes of this Part.

*Status: Point in time view as at 13/01/2020.*

*Changes to legislation: Civil Partnership Act 2004, Part 4 is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) A district council shall, in the exercise of functions conferred on it as a local registration authority—
  - (a) act as agent for the Department of Finance and Personnel, and
  - (b) act in accordance with such directions as that Department may give to the council.
- (3) Any expenditure to be incurred by the district council in the exercise of functions conferred on it as a local registration authority shall be subject to the approval of the Registrar General.
- (4) The Department of Finance and Personnel shall retain or, as the case may be, defray in respect of each financial year the amount of the difference between—
  - (a) the aggregate of the amounts of salaries, pension provision and other expenses payable by virtue of this Part in respect of any registration district, and
  - (b) the aggregate of the amounts received in that registration district under any statutory provision or otherwise by way of fees or other expenses.

## 152 Registrars and other staff

- (1) A local registration authority shall, with the approval of the Registrar General, appoint—
  - (a) a registrar of civil partnerships, and
  - (b) one or more deputy registrars of civil partnerships.
- (2) A person holding an appointment under subsection (1) may with the approval of, and shall at the direction of, the Registrar General be removed from his office of registrar or deputy registrar by the local registration authority.
- (3) A local registration authority shall, at the direction of the Registrar General, appoint additional persons to register civil partnerships and carry out other functions for the purposes of this Part.
- (4) A person shall not be appointed under subsection (1) or (3) if he is under the age of 21.
- (5) Regulations under section 159 may confer additional functions on a person holding an appointment under subsection (1).
- (6) A person holding an appointment under subsection (1) shall, in exercising his functions under this Part or any other statutory provision, be subject to such instructions or directions as the Registrar General may give.

### Commencement Information

- 18** S. 152 wholly in force at 5.12.2005; s. 152 not in force at Royal Assent see s. 263; s. 152(5) in force at 5.9.2005 by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#); s. 152 in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

## 153 Records and documents to be sent to Registrar General

If the Registrar General directs him to do so, a person must send to the Registrar General any record or document relating to civil partnerships in accordance with the Registrar General's directions.

*Status: Point in time view as at 13/01/2020.*

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## 154 Annual report

- (1) The Registrar General must send to the Department of Finance and Personnel an annual report of the number of civil partnerships registered during each year, together with such other information as he considers it appropriate to include.
- (2) The Department of Finance and Personnel must lay the report before the Northern Ireland Assembly.

## 155 Searches

- (1) The Registrar General must provide indexes to civil partnership registration records in his custody for inspection by the public.
- (2) A registrar must provide indexes to civil partnership registration records in his custody for inspection by the public.
- (3) Any person may, on payment of the prescribed fee—
  - (a) search any index mentioned in subsection (1) or (2), and
  - (b) require the Registrar General or, as the case may be, the registrar to give him a document in the prescribed form relating to the registration of a civil partnership.
- (4) The Registrar General must cause any document given by him under this section or section 156 to be stamped with the seal of the General Register Office.
- (5) Judicial notice shall be taken of any document so stamped.
- [<sup>F7</sup>(6) Regulations under section 159 may make provision for any person to have access, on payment of the prescribed fee, to any information contained in any civil partnership registration records.
- (7) Regulations under section 159 may provide that the relevant period must have expired in relation to the information.
- (8) In subsection (7) “the relevant period” in relation to a civil partnership means the period of 75 years from the date on which the civil partnership was registered or such other period as may be prescribed.
- (9) Regulations under section 159 may provide for the Registrar General—
  - (a) to make arrangements with any person for the purpose of providing access to information as mentioned in subsection (6); and
  - (b) for that purpose to transfer information to that person subject to conditions (including conditions as to the making of payments by that person to the Registrar General).]

### Textual Amendments

- F7** S. 155(6)-(9) added (16.11.2012) by [Civil Registration Act \(Northern Ireland\) 2011 \(c. 20\)](#), [ss. 23\(2\)](#), [34](#); [S.R. 2012/406](#), [art. 2](#), [Sch.](#)

### Commencement Information

- I9** S. 155 wholly in force at 5.12.2005; s. 155 not in force at Royal Assent see s. 263; s. 155(3) in force at 5.9.2005 for certain purposes by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and otherwise 5.12.2005 insofar as not

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already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#); s. 155 in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#)

### **[<sup>F8</sup>155A Notification of registration**

- (1) The Registrar General may notify such persons as the Registrar General considers appropriate of the registration of a civil partnership.
- (2) An application may be made in the prescribed form to the Registrar General as to persons to be notified by the Registrar General under subsection (1) by either civil partner.
- (3) The prescribed fee shall be payable to the Registrar General by the applicant.
- (4) Any notification under subsection (1) shall be subject to such conditions as the Registrar General considers appropriate.
- (5) The power conferred by subsection (1) may be exercised whether or not an application has been made under subsection (2).]

#### **Textual Amendments**

- F8** S. 155A inserted (N.I.) (16.11.2012) by [Civil Registration Act \(Northern Ireland\) 2011 \(c. 20\), ss. 24\(2\), 34; S.R. 2012/406, art. 2, Sch.](#)

### **156 Proof of civil partnership for purposes of certain statutory provisions**

- (1) Where the civil partnership of a person is required to be proved for the purposes of any prescribed statutory provision, any person—
  - (a) on application to the Registrar General, and
  - (b) on payment of the prescribed fee,
 is entitled to a document in the prescribed form relating to the registration of the civil partnership of that person.
- (2) An application under subsection (1) must be in such form and accompanied by such particulars as the Registrar General may require.
- (3) The Registrar General or any registrar may, on payment of the prescribed fee, issue such information (including a document as mentioned in subsection (1)) as may be required for the purposes of any prescribed statutory provision.

#### **Commencement Information**

- I10** S. 156 wholly in force at 5.12.2005; s. 156 not in force at Royal Assent see s. 263; s. 156(1)(3) in force at 5.9.2005 for certain purposes by [S.I. 2005/2399, art. 2, Sch.](#) and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#); s. 156 in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#)

### **157 Fees**

- (1) The Department of Finance and Personnel may by order prescribe—



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- (a) any fee which is required to be prescribed for the purposes of this Chapter;
  - (b) fees for such other matters as that Department considers necessary or expedient for the purposes of this Chapter.
- (2) The power to make an order under subsection (1) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
  - (3) An order under subsection (1) may only be made if a draft has been laid before and approved by resolution of the Northern Ireland Assembly.

## **158 Offences**

- (1) Any registrar who signs a civil partnership schedule in the absence of the civil partners is guilty of an offence.
- (2) Any person who is not a registrar but officiates at the signing of a civil partnership schedule in such a way as to lead the civil partners to believe that he is a registrar is guilty of an offence.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.
- (4) Notwithstanding anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (limitation of time for taking proceedings), proceedings for an offence under this section may be instituted at any time within 3 years after the commission of the offence.

## **159 Regulations**

- (1) The Department of Finance and Personnel may by regulations make such provision as appears to it necessary or expedient for the registration of civil partnerships in Northern Ireland.
- (2) The power to make regulations under subsection (1) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (3) Regulations under subsection (1) shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (1954 c. 33 (N.I.))).

## **160 Interpretation**

In this Chapter—

[<sup>F9</sup>“2014 Act” means the Immigration Act 2014;]

“civil partnership notice” means a notice of proposed civil partnership under section 139;

“civil partnership notice book” has the meaning given by section 140;

“prescribed”, except in relation to a fee, means prescribed by regulations under section 159 and, in relation to a fee, means prescribed by order under section 157;

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“registrar” means such person appointed under section 152(1)(a) or (b) or (3) as may be prescribed;

“Registrar General” means the Registrar General for Northern Ireland;

[<sup>F10</sup>“relevant national” has the same meaning as in section 30A;]

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (1954 c. 33 (N.I.)).

### Textual Amendments

- F9** Words in s. 160 inserted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), art. 1(2), [Sch. 3 para. 6\(a\)](#) (with art. 1(3))
- F10** Words in s. 160 inserted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), art. 1(2), [Sch. 3 para. 6\(b\)](#) (with art. 1(3))

## CHAPTER 2

### DISSOLUTION, NULLITY AND OTHER PROCEEDINGS

#### *Introduction*

### 161 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) <sup>F11</sup> .....
  - (d) make an order (a “separation order”) which provides for the separation of the civil partners.
- (2) Every [<sup>F12</sup>dissolution order or nullity 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 162);
- 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 “the court” has the meaning given by section 188.
- (5) This Chapter is subject to section 219 and sections 228 to 232 (jurisdiction of the court).

*Status: Point in time view as at 13/01/2020.*

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#### Textual Amendments

- F11** S. 161(1)(c) repealed (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 19(1), (2), 20, Sch. 2, {Sch. 3}; S.R. 2009/356, [art. 2](#)
- F12** Words in s. 161(2) substituted (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 19(1), 20, [Sch. 2](#); S.R. 2009/356, [art. 2](#)

### 162 The period before conditional orders may be made final

- (1) Subject to subsection (2), the prescribed period for the purposes of section 161(2)(b) is 6 weeks from the making of the conditional order.
- (2) In a particular case the court dealing with the case may by order shorten the prescribed period.

### 163 Intervention by the Crown Solicitor

- (1) This section applies if an application has been made for a [<sup>F13</sup>dissolution order or nullity order].
- (2) The court may, if it thinks fit, direct that all necessary papers in the matter are to be sent to the Crown Solicitor 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 Crown Solicitor on any matter material to the due decision of the case, the Crown Solicitor may take such steps as the Attorney General considers necessary or expedient.
- (4) If the Crown Solicitor 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 Crown Solicitor of any costs incurred by any of those parties because of his doing so.
- (5) In this Chapter—

“the Attorney General” means the Attorney General for Northern Ireland;  
and  
“the Crown Solicitor” means the Crown Solicitor for Northern Ireland.

#### Textual Amendments

- F13** Words in s. 163(1) substituted (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 19(1), 20, [Sch. 2](#); S.R. 2009/356, [art. 2](#)

*Status: Point in time view as at 13/01/2020.*

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## 164 Proceedings before order has been made final

- (1) This section applies if—
  - (a) a conditional order has been made, and
  - (b) the Crown Solicitor, 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 161(2) (period before conditional orders may be made final), but
  - (b) is subject to section 172(4) (protection for respondent in separation cases) and section 186 (restrictions on making of orders affecting children).

## 165 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 2 years 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 2 year period.

### Modifications etc. (not altering text)

- C2** S. 165 applied (with modifications) (N.I.) (5.12.2005) by [The Civil Partnership \(Treatment of Overseas Relationships\) Order \(Northern Ireland\) 2005 \(S.R. 2005/531\)](#), **art. 3(1)**
- C3** S. 165 applied (with modifications) (N.I.) (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), **171(1)** (with regs. 6-9)

## 166 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) 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

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adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect a reconciliation between them.

- (3) If during any such adjournment the parties resume living with each other in the same household, no account is to be taken of the fact for the purposes of the proceedings.
- (4) The power to adjourn under subsection (2) is additional to any other power of adjournment.

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

- (1) This section applies 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, on application made either before or after the making of the application for a dissolution or separation order, 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*

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

- (1) Subject to section 165, 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.
- (6) The court must not make a dissolution order without considering the oral testimony of the applicant unless for special reasons it orders that such testimony be dispensed with.

### **169 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 168(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 168(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 168(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 order, and
  - (b) the steps which he must take to indicate his consent.
- (5) For the purposes of section 168(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 168(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 together.
- (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.

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- (8) For the purposes of section 168(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.

#### Commencement Information

- III** S. 169 wholly in force at 5.12.2005; s. 169 not in force at Royal Assent see s. 263; s. 169(3)(4) in force at 5.9.2005 by S.I. 2005/2399, art. 2, Sch.; s. 169 in force at 5.12.2005 insofar as not already in force by S.I. 2005/3255, art. 2(1), Sch.

### 170 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 separation order;
  - an order under Schedule 16 (financial relief in court of summary jurisdiction etc.);
  - an occupation order under Article 11 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6) (occupation orders));
  - an order under Article 15 of that Order (orders where neither civil partner entitled to occupy the home).
- (2) Nothing prevents—
- either civil partner from applying for a dissolution order, or
  - 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—
- 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
  - must not make the dissolution order without receiving evidence from the applicant.
- (4) If—
- the application for the dissolution order follows a separation order or any order requiring the civil partners to live apart,
  - there was a period of desertion immediately preceding the institution of the proceedings for the separation order, and
  - 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 168(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—
- an injunction granted by the High Court or a county court which excludes the respondent from the civil partnership home, or

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- (b) an order under Article 11 or 15 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6)) 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.

### **171 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,
  - (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 168(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.

### **172 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 168(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



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- (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 168(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) The court must not make the order final unless it has, by order, declared that it is satisfied that—
  - (a) the applicant should not be required to make any financial provision for the respondent,
  - (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, or
  - (c) there are circumstances making it desirable that the order should be made final without delay.
- (5) The court must not make an order declaring that it is satisfied as mentioned in subsection (4)(c) unless it has obtained a satisfactory undertaking from the applicant that he will bring the question of financial provision for the respondent before the court within a specified time.
- (6) Subsection (7) applies if, following an application under subsection (2) which is not withdrawn, the court makes the order final without making an order under subsection (4).
- (7) The final order is voidable at the instance of the respondent or of the court but no person is entitled to challenge the validity of the order after it is made final on the ground that subsections (4) and (5) were not satisfied.
- (8) If the court refuses to make an order under subsection (4), it must, on an application by the applicant, make an order declaring that it is not satisfied as mentioned in that subsection.

### *Nullity*

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

Where two people register as civil partners of each other in Northern Ireland, 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 138), or
- (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 schedule has not been duly issued,

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- (iii) that the place of registration is a place other than that specified in the civil partnership schedule, or
- (iv) that a registrar is not present.

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

- (1) Where two people register as civil partners of each other in Northern Ireland, 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.
- (2) In this section and section 175 “mental disorder” has the same meaning as in the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).

#### **175 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 174(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.

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- (5) Without prejudice to subsection (1), the court must not make a nullity order by virtue of section 174(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 174(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.

## 176 Proof of certain matters not necessary to validity of civil partnership

Where two people have registered as civil partners of each other in Northern Ireland, 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 145 (parental etc. consent) had given his consent;
  - (b) that the registrar was properly appointed under section 152;
  - [<sup>F14</sup>(c) that, in the case of a civil partnership to which Schedule 13A applied, any of the events listed in paragraph 2(2) to (6) of that Schedule occurred;]
- and no evidence is to be given to prove the contrary in any proceedings touching the validity of the civil partnership.

### Textual Amendments

- F14** S. 176(c) inserted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), art. 1(2), [Sch. 3 para. 7](#) (with art. 1(3))

## 177 Validity of civil partnerships registered outside Northern Ireland

- (1) Where two people register as civil partners of each other in England or Wales, the civil partnership is—
  - (a) void, if it would be void in England and Wales under section 49, and
  - (b) voidable, if the circumstances fall within any paragraph of section 174(1).
- (2) 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 174(1)(d).
- (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

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- (b) voidable, if—
  - (i) the appropriate part of the United Kingdom is Northern Ireland or England and Wales and the circumstances fall within any paragraph of section 174(1), or
  - (ii) the appropriate part of the United Kingdom is Scotland and the circumstances fall within section 174(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.
- (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 174(1)(d), or
  - (c) where either of the parties was domiciled in Northern Ireland or England and Wales at the time when the overseas relationship was registered, the circumstances fall within section 174(1)(a), (b), (c) or (e).
- (9) Section 175 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 174 and 175 to the formation of a civil partnership are to be read as references to the registration of the overseas relationship.

### *Presumption of death orders*

## **178 Presumption of death orders**

F15 .....

### **Textual Amendments**

**F15** S. 178 repealed (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 14(1)(b)(3), 19(2), 20, [Sch. 3](#); S.R. 2009/356, [art. 2](#)

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### *Separation orders*

#### **179 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 168(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 168(5)(a), (b), (c) or (d) it must, subject to section 186, make a separation order.
- (4) Section 169 (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.

#### **180 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 order is continuing,

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

### *Declarations*

#### **181 Declarations**

- (1) Any person may apply to the 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 in any country outside Northern Ireland in respect of the civil partnership is entitled to recognition in Northern Ireland;
  - (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 Northern Ireland.
- (2) Where an application under subsection (1) is made to the court by a person other than a civil partner in the civil partnership to which the application relates, the court must

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refuse to hear the application if it considers that the applicant does not have a sufficient interest in the determination of that application.

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

- (1) Where on an application for a declaration under section 181 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.
- (2) Any declaration under section 181 binds Her Majesty and all other persons.
- (3) The court, on the dismissal of an application for a declaration under section 181, may not make any declaration for which an application has not been made.
- (4) No declaration which may be applied for under section 181 may be made otherwise than under section 181 by any court.
- (5) No declaration may be made by any court, whether under section 181 or otherwise, that a civil partnership was at its inception void.
- (6) Nothing in this section affects the powers of any court to annul a civil partnership.

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

- (1) On an application for a declaration under section 181 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 181, may—
  - (a) intervene in the proceedings on that application in such manner as he thinks necessary or expedient, and
  - (b) argue before the court 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 181, the court may make such order as it considers just as to the payment of those costs by parties to the proceedings.

## **184 Supplementary provisions as to declarations**

- (1) Any declaration made under section 181, and any application for such a declaration, must be in the form prescribed by family proceedings rules.
- (2) Family proceedings rules may make provision—
  - (a) as to the information required to be given by any applicant for a declaration under section 181;
  - (b) requiring notice of an application under section 181 to be served on the Attorney General and on persons who may be affected by any declaration applied for.
- (3) No proceedings under section 181 affects any final judgment or order already pronounced or made by any court of competent jurisdiction.

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- (4) The court hearing an application under section 181 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.
- (6) Family proceedings rules must make provision for an appeal to the Court of Appeal from any declaration made by a county court under section 181 or from the dismissal of an application under that section, upon a point of law, a question of fact or the admission or rejection of any evidence.
- (7) Subsection (6) does not affect Article 61 of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)) (cases stated).
- (8) In this section “family proceedings rules” means family proceedings rules made under Article 12 of the Family Law (Northern Ireland) Order 1993 (S.I. 1993/1576 (N.I. 6)).

#### Commencement Information

**I12** [S. 184](#) wholly in force at 5.12.2005; [s. 184](#) not in force at Royal Assent see [s. 263](#); [s. 184\(1\)](#) in force at 5.9.2005 for certain purposes by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#); [s. 184\(2\)\(6\)\(8\)](#) in force at 5.9.2005 by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#); [s. 184\(3\)-\(5\)\(7\)](#) in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

### General provisions

#### 185 Relief for respondent in dissolution proceedings

- (1) If in any proceedings for a dissolution or separation order the respondent alleges and proves any such fact as is mentioned in section 168(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 168(5).

#### 186 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 (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) with respect to any of them.
- (2) If, in any case to which this section applies, it appears to the court that—

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- (a) the circumstances of the case require it, or are likely to require it, to exercise any of its powers under the 1995 Order 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.

### **187 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 161 to 179 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 181.
- (2) Rules of court made under this section may make different provision for different cases.
- (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.

#### **Commencement Information**

**I13** S. 187 wholly in force at 5.12.2005; s. 187 not in force at Royal Assent see s. 263; s. 187(1)(2) in force at 5.9.2005 by S.I. 2005/2399, art. 2, Sch. ; s. 187 in force at 5.12.2005 insofar as not already in force by S.I. 2005/3255, art. 2(1), Sch.

#### *The court*

### **188 The court**

- (1) In this Chapter “the court” means—
- (a) the High Court, or
  - [<sup>F16</sup>(b) a county court.]
- (2) Subsection (1) is subject to the following provisions of this section.
- (3) Subsection (1) does not apply where the context shows that “the court” means some particular court.

<sup>F17</sup>(4) .....



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- <sup>F17</sup>(4A) . . . . .
- <sup>F17</sup>(5) . . . . .
- <sup>F17</sup>(6) . . . . .
- (7) Any jurisdiction conferred on a [<sup>F18</sup>county court] is exercisable even though by reason of any amount claimed the jurisdiction would not but for this subsection be exercisable by a county court.
- (8) The jurisdiction of a <sup>F19</sup>... county court to exercise any power under Schedule 15 (except a power under Part 8 of or paragraph 62 of that Schedule or a power under paragraph 57, 58 or 66 of that Schedule <sup>F19</sup>...) shall, except to the extent that rules of court otherwise permit and, in particular, without prejudice to section 190(4) and (6), be exercisable only in connection with an application or order pending in or made by such a court.
- <sup>F20</sup>(9) . . . . .

**Textual Amendments**

- F16** S. 188(1)(b) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 1 para. 124(1)(a)** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)
- F17** S. 188(4)-(6) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 124(1)(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F18** Words in s. 188(7) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 1 para. 124(1)(c)** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)
- F19** Words in s. 188(8) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 124(1)(d), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F20** S. 188(9) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 124(1)(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**Modifications etc. (not altering text)**

- C4** S. 188: functions transferred (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 15(1), **Sch. 17 para. 21(a)** (with arts. 15(6), 28-31)

**189 Appeals**

- (1) Rules of court shall make provision for an appeal upon a point of law, a question of fact or the admission or rejection of any evidence to the Court of Appeal from—
- (a) any order made by a judge of a <sup>F21</sup>... county court in the exercise of the jurisdiction conferred by a relevant provision, or
  - (b) the dismissal by a judge of a <sup>F21</sup>... county court of any application under a relevant provision.
- (2) “Relevant provision” means any provision of—
- (a) this Chapter or Schedule 15 (except paragraphs 56 to 58 and 66);
  - (b) the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)).
- (3) A person dissatisfied with—
- (a) an order made by any county court in exercise of the jurisdiction conferred by paragraph 57, 58 or 66 of Schedule 15, or

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- (b) with the dismissal of any application made by him under any of those paragraphs,  
 is entitled to appeal from the order or dismissal as if the order or dismissal had been made in exercise of the jurisdiction conferred by Part 3 of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)) and the appeal brought under Part 6 of that Order and Articles 61 (cases stated by county court judge) and 62 (cases stated by High Court on appeal from county court) of that Order apply accordingly.

#### Textual Amendments

**F21** Words in s. 189(1)(a)(b) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 1 para. 124\(2\), Sch. 9 Pt. 1](#) (with [Sch. 8 para. 1](#)); [S.R. 2016/387, art. 2\(k\)\(m\)](#) (with [art. 3](#))

#### Commencement Information

**I14** S. 189 wholly in force at 5.12.2005; s. 189 not in force at Royal Assent see s. 263; s. 189(1) in force at 5.9.2005 by [S.I. 2005/2399, art. 2, Sch.](#); s. 189(2) in force at 5.9.2005 for certain purposes by [S.I. 2005/2399, art. 2, Sch.](#) and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#); s. 189 in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#)

## 190 Transfer of proceedings

- (1) This section applies if an order is made under section 188.
- (2) Rules of court—
  - (a) must provide for the transfer to the High Court—
    - (i) of any civil partnership cause pending in a [<sup>F22</sup>county court] which ceases to be undefended, and
    - (ii) of any civil partnership cause so pending, where the transfer appears to the [<sup>F22</sup>county court] to be desirable;
  - (b) may provide for the transfer to the High Court of any civil partnership cause which remains undefended;
  - (c) may provide for the transfer or retransfer from the High Court to a [<sup>F22</sup>county court] of any civil partnership cause which is, or again becomes, undefended;
  - (d) must define the circumstances in which any civil partnership cause is to be treated for the purposes of this subsection as undefended.
- (3) “Civil partnership cause” means an action for the dissolution or annulment of a civil partnership or for the legal separation of civil partners.
- (4) Rules of court may provide for the transfer or retransfer—
  - (a) from a civil partnership proceedings county court to the High Court, or
  - (b) from the High Court to a civil partnership proceedings county court, of any proceedings for the exercise of a power under this Chapter or Schedule 15 (except proceedings on an application under paragraph 57, 58 or 66).
- (5) The power conferred by subsections (2) and (4) includes power to provide for the removal of proceedings at the direction of the High Court; but nothing in this section affects—
  - (a) any other power of the High Court to remove proceedings to that court from a county court, or
  - (b) any power to remit proceedings from that court to a county court.

*Status: Point in time view as at 13/01/2020.*

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- (6) A court has jurisdiction to entertain any proceedings transferred to the court by virtue of rules made in pursuance of subsection (4).

#### Textual Amendments

**F22** Words in s. 190(2) substituted (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 1 para. 124\(3\)](#) (with [Sch. 8 para. 1](#)); [S.R. 2016/387, art. 2\(k\)](#) (with [art. 3](#))

#### Commencement Information

**I15** S. 190 wholly in force at 5.12.2005; s. 190 not in force at Royal Assent see s. 263; s. 190(2)-(4) in force at 5.9.2005 for certain purposes by [S.I. 2005/2399, art. 2, Sch.](#) and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#); s. 190 in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#)

## CHAPTER 3

### PROPERTY AND FINANCIAL ARRANGEMENTS

#### 191 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 by summons or otherwise in a summary way to—
- the High Court, or
  - a county 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.

#### Commencement Information

**I16** [S. 191](#) wholly in force at 5.12.2005; [s. 191](#) not in force at Royal Assent see [s. 263](#); [s. 191\(3\)](#) in force at 5.9.2005 for certain purposes by [S.I. 2005/2399, art. 2, Sch.](#) and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#); [s. 191](#) in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255, art. 2\(1\), Sch.](#)

#### 192 Applications under section 191 where property not in possession etc.

- (1) The right of a civil partner (“A”) to make an application under section 191 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—
- money to which, or to a share of which, A was beneficially entitled, or
  - 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 just and equitable in the circumstances.
- (4) The power of the court to make orders under section 191 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 191,

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 191.
- (6) Any power of the court which is exercisable on an application under section 191 is exercisable in relation to an application made under that section as extended by this section.

### **193 Applications under section 191 by former civil partners**

- (1) Where a civil partnership has been dissolved or annulled or is void (whether or not it has been annulled), either party may make an application under section 191 (or under that section as extended by section 192) and references in those sections to a civil partner are to be read accordingly.
- (2) An application under subsection (1) must—
  - (a) where the civil partnership has been dissolved or annulled, be made within the period of 3 years beginning with the date of the dissolution or annulment, and
  - (b) where a civil partnership is void but has not been annulled and the parties have ceased to live together in the same household, be made within the period of 3 years beginning with the date on which they ceased so to live together.

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

Section 4 of the Law Reform (Husband and Wife) Act (Northern Ireland) 1964 (c. 23 (N.I.)) (money payable under policy of life assurance or endowment not to form part of the estate of the insured) applies in relation to a policy of life assurance or endowment—

- (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 life assurance or endowment 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.

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

Schedule 14 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.

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

- (1) Schedule 15 makes provision for financial relief in connection with civil partnerships that corresponds to the provision made for financial relief in connection with marriages by Part 3 of the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)).
- (2) <sup>F23</sup> .....
- (3) Schedule 16 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 (Northern Ireland) Order 1980 (S.I. 1980/563 (N.I. 5)).
- (4) Schedule 17 makes provision for financial relief in Northern Ireland after a civil partnership has been dissolved or annulled, or civil partners have been legally separated, in a country outside the British Islands.

##### **Textual Amendments**

**F23** S. 196(2) repealed (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 14(1)(b)(3), 19(2), 20, [Sch. 3](#); S.R. 2009/356, [art. 2](#)

## **CHAPTER 4**

### **CIVIL PARTNERSHIP AGREEMENTS**

#### **197 Civil partnership agreements unenforceable**

- (1) A civil partnership agreement does not under the law of Northern Ireland have effect as a contract giving rise to legal rights.
- (2) No action lies in Northern Ireland for breach of a civil partnership agreement, whatever the law applicable to the agreement.

*Status: Point in time view as at 13/01/2020.*

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- (3) In this section and section 198 “civil partnership agreement” means an agreement between two people—
- (a) to register as civil partners of each other—
    - (i) in Northern Ireland (under Part 4),
    - (ii) in England and Wales (under Part 2),
    - (iii) in Scotland (under Part 3), 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.

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

- (1) This section applies if a civil partnership agreement is terminated.
- (2) Sections 191 and 192 (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.
- (3) An application made under section 191 or 192 by virtue of subsection (2) must be made within 3 years of the termination of the agreement.
- (4) 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.

## **CHAPTER 5**

### CHILDREN

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

- (1) Amend the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) (“the 1995 Order”) as follows.
- (2) In Article 2(2) (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 an authority or voluntary organisation, who has been treated by both of them as a child of their family.”

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- (3) In the definition of “relative” in Article 2(2), for “by affinity)” substitute “by marriage or civil partnership)”.
- (4) In Article 7(1C) (acquisition of parental responsibility by step-parent), after “is married to” insert “, or a civil partner of,”.

## **200 Guardianship**

In Article 161 of the 1995 Order (revocation of appointment), after paragraph (7) insert—

“(8) An appointment under paragraph (1) or (2) of Article 160 (including one made in an unrevoked will) is revoked if—

- (a) the civil partnership of the person who made the appointment is dissolved or annulled, and
- (b) the person appointed is his former civil partner.

(9) Paragraph (8) is subject to a contrary intention appearing from the appointment.

(10) In paragraph (8) “dissolved or annulled” means—

- (a) dissolved by a dissolution order or annulled by a nullity order under Part 4 of the Civil Partnership Act 2004, or
- (b) dissolved or annulled in any country or territory outside Northern Ireland by a dissolution or annulment which is entitled to recognition in Northern Ireland by virtue of Chapter 3 of Part 5 of that Act.”

## **201 Entitlement to apply for residence or contact order**

In Article 10(5) of the 1995 Order (persons entitled to apply for residence or contact order), after sub-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;”.

## **202 Financial provision for children**

(1) Amend Schedule 1 to the 1995 Order (financial provision for children) as follows.

(2) For paragraph 1(2) (extended meaning of “parent”) substitute—

“(2) In this Schedule, except paragraphs 3 and 17, “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.”

(3) In paragraph 3(6) (meaning of “periodical payments order”), after paragraph (d) insert—

“(e) Part 1 or 8 of Schedule 15 to the Civil Partnership Act 2004 (financial relief in the High Court or county court etc.);

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- (f) Schedule 16 to the 2004 Act (financial relief in court of summary jurisdiction etc.);”.
- (4) In paragraph 17(2) (person with whom a child lives or is to live), after “husband or wife” insert “ or civil partner ”.

### **203 Adoption**

- (1) Amend the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)) as follows.
- (2) In Article 2 (interpretation), in the definition of “relative” in paragraph (2), for “affinity” substitute “ marriage or civil partnership ”.
- (3) In Article 12 (adoption orders), in paragraph (5), after “married” insert “ or who is or has been a civil partner ”.
- (4) In Article 15 (adoption by one person), in paragraph (1)(a), after “is not married” insert “ or a civil partner ”.
- (5) In Article 33 (meaning of “protected child”), in paragraph (3)(g), after “marriage” insert “ or forming a civil partnership ”.
- (6) In Article 40 (status conferred by adoption), in paragraph (3)(a), after “1984” insert “ or for the purposes of Schedule 12 to the Civil Partnership Act 2004 ”.
- (7) In Article 54 (disclosure of birth records of adopted children), in paragraph (2)—
  - (a) after “intending to be married” insert “ or to form a civil partnership ”;
  - (b) for “the person whom he intends to marry” substitute “ the intended spouse or civil partner ”;
  - (c) after “1984” insert “ or Schedule 12 to the Civil Partnership Act 2004 ”.
- (8) In Article 54A (Adoption Contact Register), in paragraph (13)(a), for “or marriage” substitute “ , marriage or civil partnership ”.

## **CHAPTER 6**

### MISCELLANEOUS

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

- (1) Amend Article 8 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)) (false statements etc. with reference to marriage) as follows.
- (2) After paragraph (1) insert—
  - “(1A) Any person who—
    - (a) for the purpose of procuring the formation of a civil partnership or a document mentioned in paragraph (1B)—
      - (i) makes or signs a declaration required under Part 4 or 5 of the Civil Partnership Act 2004; or
      - (ii) gives a notice or certificate required under Part 4 or 5 of the Civil Partnership Act 2004,



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- 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—
- (i) makes a statement as to any information which is required to be registered under Part 4 or 5 of the Civil Partnership Act 2004; or
- (ii) causes such a statement to be made, knowing that the statement is false;
- (c) forbids the issue of a document mentioned in paragraph (1B)(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 Part 4 or 5 of the Civil Partnership Act 2004, knowing the representation to be false,
- shall be guilty of an offence.

(1B) The documents are[en rule]

- (a) a civil partnership schedule;
- (b) a document required by an Order in Council under section 210 or 211 of the Civil Partnership Act 2004 as an authority for two people to register as civil partners of each other;
- (c) a certificate of no impediment under section 240 of the Civil Partnership Act 2004.”

(3) In paragraph (2), after “paragraph (1)” insert “ or (1A) ”.

(4) In the heading to Article 8, after “marriage” insert “ or civil partnership ”.

## **205 Housing and tenancies**

Schedule 18 amends certain enactments relating to housing and tenancies.

## **206 Family homes and domestic violence**

Schedule 19 amends the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6)) and related enactments so that they apply in relation to civil partnerships as they apply in relation to marriages.

## **207 Fatal accidents claims**

(1) Amend the Fatal Accidents (Northern Ireland) Order 1977 (S.I. 1977/1251 (N.I. 18)) as follows.

(2) In Article 2(2) (meaning of “dependant”), after sub-paragraph (a) insert—

“(aa) the civil partner or former civil partner of the deceased;”.

(3) In sub-paragraph (b)(iii) of Article 2(2), after “wife” insert “ or civil partner ”.

(4) After sub-paragraph (f) of Article 2(2) 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;”.

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(5) After Article 2(2A) insert—

“(2B) The reference to the former civil partner of the deceased in paragraph (2)(aa) 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 Article 2(3)(b), for “by affinity” substitute “ by marriage or civil partnership ”.

(7) In Article 3A(2) (persons for whose benefit claim for bereavement damages may be made)—

(a) in sub-paragraph (a), after “wife or husband” insert “ or civil partner ”, and

(b) in sub-paragraph (b), after “was never married” insert “ or a civil partner ”.

(8) In Article 5 (assessment of damages), in paragraph (3A), after “wife” insert “ or civil partner ”.

## 208 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.

(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 Article 22(1) of the Criminal Justice (Evidence) (Northern Ireland) Order 2004 (S.I. 2004/1501 (N.I. 10)), 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.

## 209 Restriction on publicity of reports of proceedings

Section 1 of the Matrimonial Causes (Reports) Act (Northern Ireland) 1966 (c. 29 (N.I.)) (restriction on publication of reports of proceedings) shall extend to proceedings—

(a) for the dissolution or annulment of a civil partnership or for the legal separation of civil partners,

(b) under section 181,

(c) under Part 8 of Schedule 15, or

(d) under Part 10 of Schedule 15 in relation to an order under Part 8 of that Schedule.

**Status:**

Point in time view as at 13/01/2020.

**Changes to legislation:**

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