



Civil Partnership Act 2004

2004 CHAPTER 33

PART 7

MISCELLANEOUS

249 Immigration control and formation of civil partnerships

Schedule 23 contains provisions relating to the formation of civil partnerships in the United Kingdom by persons subject to immigration control.

250 Gender recognition where applicant a civil partner

(1) Amend the Gender Recognition Act 2004 (c. 7) as follows.

(2) In—

- (a) section 3 (evidence), in subsection (6)(a), and
- (b) section 4 (successful applications), in subsections (2) and (3),
after “is married” insert “ or a civil partner ”.

(3) In section 5 (subsequent issue of full certificates)—

- (a) in subsection (2), after “is again married” insert “ or is a civil partner ”,
- (b) in subsection (6)(a), for “is not married” substitute “ is neither married nor a civil partner ”, and
- (c) for the heading substitute “ Issue of full certificates where applicant has been married ”.

(4) After section 5 insert—

“5A Issue of full certificates where applicant has been a civil partner

(1) A court which—

- (a) makes final a nullity order made on the ground that an interim gender recognition certificate has been issued to a civil partner, or

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- (b) (in Scotland) grants a decree of dissolution on that ground, must, on doing so, issue a full gender recognition certificate to that civil partner and send a copy to the Secretary of State.
- (2) If an interim gender recognition certificate has been issued to a person and either—
 - (a) the person’s civil partnership is dissolved or annulled (otherwise than on the ground mentioned in subsection (1)) in proceedings instituted during the period of six months beginning with the day on which it was issued, or
 - (b) the person’s civil partner dies within that period,
 the person may make an application for a full gender recognition certificate at any time within the period specified in subsection (3) (unless the person is again a civil partner or is married).
- (3) That period is the period of six months beginning with the day on which the civil partnership is dissolved or annulled or the death occurs.
- (4) An application under subsection (2) must include evidence of the dissolution or annulment of the civil partnership and the date on which proceedings for it were instituted, or of the death of the civil partner and the date on which it occurred.
- (5) An application under subsection (2) is to be determined by a Gender Recognition Panel.
- (6) The Panel—
 - (a) must grant the application if satisfied that the applicant is neither a civil partner nor married, and
 - (b) otherwise must reject it.
- (7) If the Panel grants the application it must issue a full gender recognition certificate to the applicant.”
- (5) In—
 - (a) section 7 (applications: supplementary), in subsection (1),
 - (b) section 8 (appeals etc.), in subsections (1) and (5), and
 - (c) section 22 (prohibition on disclosure of information), in subsection (2)(a), after “5(2)” insert “ , 5A(2) ”.
- (6) In section 21 (foreign gender change and marriage), in subsection (4), after “entered into a later (valid) marriage” insert “ or civil partnership ”.
- (7) In section 25 (interpretation), in the definition of “full gender recognition certificate” and “interim gender recognition certificate”, for “or 5” substitute “ , 5 or 5A ”.
- (8) In Schedule 1 (Gender Recognition Panels), in paragraph 5, after “5(2)” insert “ , 5A(2) ”.
- (9) In Schedule 3 (registration), in paragraphs 9(1), 19(1) and 29(1), for “or 5(2)” substitute “ , 5(2) or 5A(2) ”.

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251 Discrimination against civil partners in employment field

- (1) Amend the Sex Discrimination Act 1975 (c. 65) as follows.
- (2) For section 3 (discrimination against married persons in employment field) substitute—

“3 Discrimination against married persons and civil partners in employment field

- (1) In any circumstances relevant for the purposes of any provision of Part 2, a person discriminates against a person (“A”) who fulfils the condition in subsection (2) if—
 - (a) on the ground of the fulfilment of the condition, he treats A less favourably than he treats or would treat a person who does not fulfil the condition, or
 - (b) he applies to A a provision, criterion or practice which he applies or would apply equally to a person who does not fulfil the condition, but—
 - (i) which puts or would put persons fulfilling the condition at a particular disadvantage when compared with persons not fulfilling the condition, and
 - (ii) which puts A at that disadvantage, and
 - (iii) which he cannot show to be a proportionate means of achieving a legitimate aim.
 - (2) The condition is that the person is—
 - (a) married, or
 - (b) a civil partner.
 - (3) For the purposes of subsection (1), a provision of Part 2 framed with reference to discrimination against women is to be treated as applying equally to the treatment of men, and for that purpose has effect with such modifications as are requisite.”
- (3) In section 5 (interpretation), for subsection (3) substitute—
- “(3) Each of the following comparisons, that is—
- (a) a comparison of the cases of persons of different sex under section 1(1) or (2),
 - (b) a comparison of the cases of persons required for the purposes of section 2A, and
 - (c) a comparison of the cases of persons who do and who do not fulfil the condition in section 3(2),
- must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.”;
- and omit section 1(4).
- (4) In section 7 (exception where sex is a genuine occupational qualification), in subsection (2)(h) for “by a married couple” substitute “—
 - (i) by a married couple,
 - (ii) by a couple who are civil partners of each other, or

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(iii) by a married couple or a couple who are civil partners of each other”.

(5) In section 65 (remedies on complaint under section 63), in subsection (1B) for “or marital status as the case may be” substitute “ or (as the case may be) fulfilment of the condition in section 3(2) ”.

252 Discrimination against civil partners in employment field: Northern Ireland

(1) Amend the Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15)) as follows.

(2) For Article 5 (discrimination against married persons in employment field) substitute—

“5 Discrimination against married persons and civil partners in employment field

(1) In any circumstances relevant for the purposes of any provision of Part 3, a person discriminates against a person (“A”) who fulfils the condition in paragraph (2) if—

- (a) on the ground of the fulfilment of the condition, he treats A less favourably than he treats or would treat a person who does not fulfil the condition, or
- (b) he applies to A a provision, criterion or practice which he applies or would apply equally to a person who does not fulfil the condition, but—
 - (i) which puts or would put persons fulfilling the condition at a particular disadvantage when compared with persons not fulfilling the condition, and
 - (ii) which puts A at that disadvantage, and
 - (iii) which he cannot show to be a proportionate means of achieving a legitimate aim.

(2) The condition is that the person is—

- (a) married, or
- (b) a civil partner.

(3) For the purposes of paragraph (1), a provision of Part 3 framed with reference to discrimination against women is to be treated as applying equally to the treatment of men, and for that purpose has effect with such modifications as are requisite.”

(3) For Article 7 (basis of comparison) substitute—

“7 Basis of comparison

Each of the following comparisons, that is—

- (a) a comparison of the cases of persons of different sex under Article 3(1) or (2),
- (b) a comparison of the cases of persons required for the purposes of Article 4A, and

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- (c) a comparison of the cases of persons who do and who do not fulfil the condition in Article 5(2),
must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.”;
- and omit Article 3(4).
- (4) In Article 10 (exception where sex is a genuine occupational qualification), in paragraph (2)(h) for “by a married couple” substitute—
- “(i) by a married couple,
 - (ii) by a couple who are civil partners of each other, or
 - (iii) by a married couple or a couple who are civil partners of each other”.
- (5) In Article 65 (remedies on complaint under Article 63), in paragraph (1B) for “or marital status as the case may be” substitute “ or (as the case may be) fulfilment of the condition in Article 5(2) ”.

253 Civil partners to have unlimited insurable interest in each other

- (1) Where two people are civil partners, each of them is to be presumed for the purposes of section 1 of the Life Assurance Act 1774 (c. 48) to have an interest in the life of the other.
- (2) For the purposes of section 3 of the 1774 Act, there is no limit on the amount of value of the interest.

254 Social security, child support and tax credits

- (1) Schedule 24 contains amendments relating to social security, child support and tax credits.
- (2) Subsection (3) applies in relation to any provision of any Act, Northern Ireland legislation or subordinate legislation which—
- (a) relates to social security, child support or tax credits, and
 - (b) contains references (however expressed) to persons who are living or have lived together as husband and wife.
- (3) The power under section 259 to make orders amending enactments, Northern Ireland legislation and subordinate legislation is to be treated as including power to amend the provision to refer to persons who are living or have lived together as if they were civil partners.
- (4) Subject to subsection (5), section 175(3), (5) and (6) of the Social Security Contributions and Benefits Act 1992 (c. 4) applies to the exercise of the power under section 259 in relation to social security, child support or tax credits as it applies to any power under that Act to make an order (there being disregarded for the purposes of this subsection the exceptions in section 175(3) and (5) of that Act).
- (5) Section 171(3), (5) and (6) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) applies to the exercise by a Northern Ireland department of the power under section 259 in relation to social security and child support as it applies to any power under that Act to make an order (there being disregarded for the purposes of this subsection the exceptions in section 171(3) and (5) of that Act).

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- (6) The reference in subsection (2) to an Act or Northern Ireland legislation relating to social security is to be read as including a reference to—
- (a) the Pneumoconiosis etc. (Workers' Compensation) Act 1979 (c. 41), and
 - (b) the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 (S.I. 1979/925 (N.I. 9));
- and the references in subsections (4) and (5) to social security are to be construed accordingly.

Commencement Information

- II** S. 254 wholly in force at 5.12.2005; s. 254(2)-(6) in force at Royal Assent, see s. 263(8)(f); s. 254(1) in force at 5.12.2005 for certain purposes by S.I. 2005/3175, art. 2(1), Sch. 1; s. 254(1) in force at 5.12.2005 for certain purposes by S.I. 2005/3255, art. 2(1), Sch.

255 Power to amend enactments relating to pensions

- (1) A Minister of the Crown may by order make such amendments, repeals or revocations in any enactment, Northern Ireland legislation, subordinate legislation or Church legislation relating to pensions, allowances or gratuities as he considers appropriate for the purpose of, or in connection with, making provision with respect to pensions, allowances or gratuities for the surviving civil partners or dependants of deceased civil partners.
- (2) The power conferred by subsection (1) is also exercisable—
 - (a) by the Scottish Ministers, if the provision making the amendment, repeal or revocation is a relevant Scottish provision;
 - (b) by a Northern Ireland department, if the provision making the amendment, repeal or revocation deals with a transferred matter.
- (3) In the case of judicial pensions, allowances or gratuities, the power conferred by subsection (1) is exercisable—
 - (a) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to Scotland, by the Secretary of State, or
 - (b) subject to paragraph (a), by the Lord Chancellor.
- (4) The provision which may be made by virtue of subsection (1)—
 - (a) may be the same as, or different to, the provision made with respect to widows, widowers or the dependants of persons who are not civil partners, and
 - (b) may be made with a view to ensuring that pensions, allowances or gratuities take account of rights which accrued, service which occurred or any other circumstances which existed before the passing of this Act.
- (5) The power conferred by subsection (1) is not restricted by any provision of this Act.
- (6) Before the appropriate person makes an order under subsection (1) he must consult such persons as he considers appropriate.
- (7) Subsection (6) does not apply—
 - (a) to an order in the case of which the appropriate person considers that consultation is inexpedient because of urgency, or

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- (b) to an order made before the end of the period of 6 months beginning with the coming into force of this section.
- (8) Subject to subsection (9), the power to make an order under subsection (1) is exercisable by statutory instrument.
- (9) Any power of a Northern Ireland department to make an order under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (10) An order under subsection (1) may not be made—
 - (a) by a Minister of the Crown, unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament;
 - (b) by the Scottish Ministers, unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the Scottish Parliament;
 - (c) by a Northern Ireland department, unless a draft of the statutory rule containing the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (11) In this section—
 - “the appropriate person”, in relation to an order under this section, means the person making the order;
 - “Church legislation” means—
 - (a) any Measure of the Church Assembly or of the General Synod of the Church of England, or
 - (b) any order, regulation or other instrument made under or by virtue of such a Measure;
 - “enactment” includes an enactment comprised in an Act of the Scottish Parliament;
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);
 - “relevant Scottish provision” means a provision that would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament;
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30) except that it includes any instrument made under an Act of the Scottish Parliament and any instrument within the meaning of section 1(c) of the Interpretation Act (Northern Ireland) 1954 (1954 c. 33 (N.I.));
 - “transferred matter” has the meaning given by section 4(1) of the Northern Ireland Act 1998 (c. 47) and “deals with” in relation to a transferred matter is to be construed in accordance with section 98(2) and (3) of the 1998 Act.

256 Amendment of certain enactments relating to pensions

Schedule 25 amends certain enactments relating to pensions.

257 Amendment of certain enactments relating to the armed forces

Schedule 26 amends certain enactments relating to the armed forces.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 103(10) inserted by [2023 asp 3 s. 56\(5\)](#)
- s. 108(5) inserted by [2023 asp 3 s. 56\(8\)](#)
- s. 213(1A) inserted by [2013 c. 30 Sch. 2 para. 5\(2\)](#)