

**LAW REFORM (MISCELLANEOUS PROVISIONS)
(NORTHERN IRELAND) ORDER 2006**

S.I. 2006 1945

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES

10. A commentary on the provisions follows.

Article 1: Title, interpretation and commencement

This Article sets out the title to the Order. It also specifies when the provisions come into effect.

Article 2: Physical punishment of children

Article 2 lists those offences which will no longer give rise to a defence of reasonable chastisement. The defence will, however, still be available on a charge of common assault under section 42 of the Offences Against The Person Act 1861 (c.100). It also precludes the use of the defence in a claim for civil damages where the harm caused amounted to actual bodily harm.

Article 3: Marriage between certain persons related by affinity not to be void

Article 3 repeals the provisions of Article 18 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 (S.I. 1984/1984 (N.I. 14)) which offend against the judgment of the European Court of Human Rights in *B and L v UK*. It also removes other references to those provisions in Article 18 and makes consequential repeals of provisions of the Civil Partnership Act 2004 (c.33) which amend Article 18. A savings provision is included in Article 3(4) to ensure that the validity or otherwise of a marriage solemnised before the Order comes into force is not affected by the repeal of provisions of Article 18.

Article 4: Corresponding provision for civil partnership

Article 4 repeals paragraph 3 of Schedule 12 to the Civil Partnership Act 2004 (c.33). This provision contains prohibitions relating to the formation of civil partnerships, but was not commenced as the judgment in *B and L v UK* predated the commencement of that Act on 5th December 2005.

Article 5: Repeal of superseded provisions

Article 5 repeals other provisions amending Article 18 of the 1984 Order which have been superseded by subsequent legislation.

Article 6: Minor correction

Article 6 makes a minor correction to Schedule 16 to the Civil Partnership Act 2004 (c.33) to ensure that courts of summary jurisdiction have a full range of powers to vary orders for financial relief.