
EXPLANATORY NOTE

(This note is not part of the Order)

These rules amend the Family Proceedings Rules (Northern Ireland) 1996 (S.R. 1996 No. 322), which apply to proceedings in the High Court and county court, in consequence of the Civil Partnership Act 2004 (c. 33), the Gender Recognition Act 2004 (c. 7), Council Regulation (EC) No. 2201/2003 of 27th November 2003 (Brussels IIa Regulation) and the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005. They also make a number of minor amendments to forms prescribed by the Family Proceedings Rules to ensure that allegations of domestic violence are raised at the commencement of proceedings under Article 8 of the Children (Northern Ireland) Order 1995.

The Civil Partnership Act 2004 introduces a statutory civil registration procedure to allow same-sex couples to make a formal, legal commitment to each other by entering into a civil partnership. The Rules amend the Family Proceedings Rules to prescribe procedures for proceedings under the Civil Partnership Act. These procedures are similar to those which currently exist for comparable proceedings relating to marriage. In summary, these procedures are prescribed in relation to applications under the following provisions of the 2004 Act:

- section 161 (dissolution order, nullity order, presumption of death order or separation order);
- section 181 (declarations);
- Schedule 15 (financial relief in the High Court or a county court in Northern Ireland); and
- Schedule 17 (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership).

The Gender Recognition Act 2004 provides for transsexual persons to obtain legal recognition in their acquired gender. A person may apply to a Gender Recognition Panel. If the applicant meets the statutory criteria and is unmarried, the Panel will issue to him a full gender recognition certificate. If he is married, the Panel will issue to him an interim gender recognition certificate. The Gender Recognition Act amended the Matrimonial Causes (Northern Ireland) Order 1978 to add two new grounds of nullity, where an interim or full gender recognition certificate has been issued to a party to the marriage. The amendments to the Family Proceedings Rules in consequence of the Gender Recognition Act 2004 make provision:

- in relation to the new grounds of nullity, in particular, require a copy of the relevant gender recognition certificate to be attached to the pleadings in proceedings under either ground and require the Secretary of State to be notified of proceedings brought on the ground of issue of an interim gender recognition certificate;
- for an application for a corrected certificate, where the court has issued a full gender recognition certificate containing an error;
- for an applicant who has been refused a gender recognition certificate to appeal to the High Court on a point of law; and
- for a reference to the High Court by the Secretary of State where he considers an application to have been granted by fraud.

Council Regulation (EC) No. 2201/2003 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility reproduced and repealed Council Regulation (EC) No. 1347/2000 of 29th May extending it to include matters of parental responsibility where there are no matrimonial proceedings. The amendments in consequence of

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Council Regulation (EC) No. 2201/2003 update the Family Proceedings Rules to make reference to the new Council Regulation and the correct Article of it. They also make provision:

- for a stay under the Council Regulation of children proceedings;
- to prescribe the procedure for applications under Article 15 of the new Council Regulation; and
- relating to certificates under Article 41 of the Council Regulation.

The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 amended the definition of the terms “relative” and “cohabitee” in the Family Homes and Domestic Violence Order (Northern Ireland) 1998. The 2005 Order also amended the 1998 Order so as to allow exclusion zones of defined areas to be attached to non-molestation orders and to make it clear that protective orders made ex-parte can only be made for a short period and that, if a court makes such an order, it must specify a date for a full hearing. The Rules make consequential amendments to the Notes for Guidance in Forms F2 and F3 in the Family Proceedings Rules.