

2005 No. 531

CIVIL PARTNERSHIP

**The Civil Partnership (Treatment of Overseas Relationships)
Order (Northern Ireland) 2005**

Made - - - - - *30th November 2005*

Coming into operation *5th December 2005*

The Department of Finance and Personnel, in exercise of the powers conferred on it by sections 215(5) and 259(1) and (2) of the Civil Partnership Act 2004^(a) and of all other powers enabling it in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Civil Partnership (Treatment of Overseas Relationships) Order (Northern Ireland) 2005 and shall come into operation on 5th December 2005.

(2) In this Order—

“the Act of 2004” means the Civil Partnership Act 2004; and

“recognised overseas relationship” means an overseas relationship which is treated as a civil partnership pursuant to chapter 2 of Part 5 of the Act of 2004.

(3) The Interpretation Act (Northern Ireland) 1954^(b) shall apply to this Order as it applies to an Act of the Assembly.

Overseas relationships dissolved etc. before commencement treated as civil partnerships

2. The following provisions are specified for the purpose of section 215(5)(b) of the Act of 2004—

(a) the Fatal Accidents (Northern Ireland) Order 1977^(c);

(b) the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979^(d);

(c) in the case of a marriage solemnised on or after 5th December 2005, Article 18 (Prohibited degrees of relationship) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984^(e);

(a) 2004 c. 33.

(b) 1954 c. 33 (N.I.).

(c) S.I. 1977/1251 (N.I. 18), as amended by section 68 of and Schedule 6 to the Administration of Justice Act 1982 (c. 53), The Damages for Bereavement (Variation of Sum) (Northern Ireland) Order 2002 (S.I. 2002/645) and section 207 of the Civil Partnership Act 2004 (c. 33).

(d) S.I. 1979/924 (N.I. 8), as amended by the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (S.I. 1989/ 677 (N.I. 4)), the Succession (Northern Ireland) Order 1996 (S.I. 1996/3163 (N.I. 26)) and section 195 of and Schedule 14 to the Civil Partnership Act 2004 (c. 33).

(e) S.I. 1984/1984 (N.I. 14). Article 18 was amended by Article 4 of the Family Law (Northern Ireland) Order 1993 (S.I. 1993/1576 (N.I. 6)), section 11 of and paragraph 8 of Schedule 4 to the Gender Recognition Act 2004 (c. 7) and section 261(3) of and paragraph 64 of Schedule 29 to the Civil Partnership Act 2004 (c. 33).

- (d) in the case of a bankruptcy where the bankruptcy order was made on or after 5th December 2005, Article 256A (Bankrupt's home ceasing to form part of estate), Article 286 (Charge on bankrupt's home), Article 286A (Low value home: application for sale, possession or charge), Article 305 (Saving for bankrupt's home) and Article 337 (Inquiry into bankrupt's dealings and property) of the Insolvency (Northern Ireland) Order 1989(a);
- (e) Schedule 1 to the Children (Northern Ireland) Order 1995(b) (FINANCIAL PROVISION FOR CHILDREN);
- (f) Article 11 (Occupation orders where applicant has estate, etc. or has home rights), Article 13 (One former spouse or former civil partner with no existing right to occupy) and Article 15 (Neither spouse or civil partner entitled to occupy) of and Schedule 2 (TRANSFER OF CERTAIN TENANCIES ON DIVORCE ETC. OR ON SEPARATION OF COHABITEES) to the Family Homes and Domestic Violence (Northern Ireland) Order 1998(c);
- (g) in the case of a notice of marriage given on or after 5th December 2005, marriage notices prescribed by the Marriage Regulations (Northern Ireland) 2003(d) under Article 3 (Notice of intention to marry) of the Marriage (Northern Ireland) Order 2003(e);
- (h) in the case of a marriage solemnised on or after 5th December 2005, Article 5 (Power to require evidence) of the Marriage (Northern Ireland) Order 2003(f); and
- (i) section 141 (Power to require evidence of name etc.), section 193 (Applications under section 191 by former civil partners) of and Schedule 12 (PROHIBITED DEGREES OF RELATIONSHIP: NORTHERN IRELAND) to the Act of 2004.

Transitional etc. provision relating to overseas relationships

3.—(1) Section 165 (Time bar on applications for dissolution orders) of the Act of 2004 applies in relation to a recognised overseas relationship registered under the relevant law before 5th December 2005 as though for the words “formation of the civil partnership” there were substituted “registration of the overseas relationship”.

(2) Paragraph 16(2)(d) of Schedule 15 to the Act of 2004 applies to an application under Part 1 of that Schedule or under Part 1 of Schedule 17 to the Act of 2004 which relates to a recognised overseas relationship registered under the relevant law before 5th December 2005 as though for the reference to “the duration of the civil partnership” there were substituted “the duration of the overseas relationship by virtue of which they are treated as having formed a civil partnership”.

(3) Paragraph 5(2)(d) of Schedule 16 to the Act of 2004 applies to an application under Part 1 of that Schedule which relates to a recognised overseas relationship registered under the relevant law before 5th December 2005 as though for the reference to “the duration of the civil partnership” there were substituted “the duration of the overseas relationship by virtue of which they are treated as having formed a civil partnership”.

4. Where—

- (a) a person is treated as a civil partner by virtue of having registered a recognised overseas relationship under the relevant law before 5th December 2005, and

(a) S.I. 1989/2405 (N.I. 19); amended so far as relevant by section 261(3) of and paragraphs 80, 82, 84 and 86 of Schedule 29 to the Civil Partnership Act 2004 (c. 33). Articles 256A and 286A of the Insolvency (Northern Ireland) Order 1989 are inserted by Article 17 of the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)) from a date to be appointed. Article 18 of the Insolvency (Northern Ireland) Order 2005 further amends Articles 256A and 286A. Article 286 of the Insolvency (Northern Ireland) Order 1989 is also further amended by Article 17(2) of the Insolvency (Northern Ireland) Order 2005 from a date to be appointed.

(b) S.I. 1995/755 (N.I. 2). Schedule 1 to the Act is amended by section 25 of and paragraph 30 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and section 202 of the Civil Partnership Act 2004 (c. 33).

(c) S.I. 1998/1071 (N.I. 6). Articles 11, 13 and 15 and Schedule 2 were amended by section 206 of and Schedule 19 to the Civil Partnership Act 2004 (c. 33). Schedule 2 was also amended by Article 12 of the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 (S.I. 2005/1452 (N.I. 7)).

(d) S.R. 2003 No. 468.

(e) S.I. 2003/413 (N.I. 3).

(f) Article 5 is amended by section 261(3) of and paragraph 114 of Schedule 29 to the Civil Partnership Act 2004 (c. 33).

(b) he has, before registering that relationship, made a will,

Article 13A of the Wills and Administration Proceedings (Northern Ireland) Order 1994(a) is not to apply to that will

5.—(1) Section 212 of the Act of 2004 shall apply for the purpose of determining whether a relationship entered into before 5th December 2005 is an overseas relationship as though for the words in subsection (1)(b) from “and” to the end of the subsection there were substituted—

- “(ii) neither of whom is already lawfully married or a party to a recognised overseas relationship registered under the relevant law before the relationship concerned was entered into; and
- (iii) neither of whom is on 5th December 2005 a party to a marriage which on the date of its solemnisation was valid according to the law of Northern Ireland (including its rules of private international law).”.

Sealed with the Official Seal of the Department of Finance and Personnel on 30th November 2005.

(L.S.)

Ethne E Harkness

A senior officer of the Department of Finance and Personnel

(a) S.I. 1994/1899 (N.I. 13). Article 13A was inserted by section 195 of and paragraph 5 of Schedule 14 to the Civil Partnership Act 2004 (c. 33).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision relating to the treatment of overseas relationships treated as civil partnerships by virtue of Chapter 2 of Part 5 to the Civil Partnership Act 2004 (“the 2004 Act”) which were registered in the country where they were entered into before the date on which the 2004 Act comes into force (5th December 2005).

Under section 215 of the 2004 Act an overseas relationship registered abroad before 5th December 2005 will be treated as a civil partnership which was formed on the date when that section comes into force. This means that for most purposes an overseas relationship which was dissolved or annulled before that date will not be treated as a civil partnership under the 2004 Act. Section 215(4) modifies this rule in relation to specified provisions and section 215(5) gives Northern Ireland departments power to specify additional provisions in an order under section 259. Article 2 exercises this power.

Article 3 modifies the application of various provisions of the 2004 Act which refer to the length of the civil partnership concerned, so that they apply in relation to overseas relationships registered before 5th December 2005 in a way which allows consideration of the actual length of the overseas relationship.

Article 4 saves a will, made before 5th December 2005 by a party to an overseas relationship, from becoming invalid on recognition of the relationship as a civil partnership from 5th December 2005.

Article 5 modifies the provision which determines when an overseas relationship formed before 5th December 2005 will be recognised as a civil partnership to ensure that a person cannot be recognised as being a party to more than one civil partnership or as a party to a civil partnership and a marriage, at any one time.

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