
DRAFT STATUTORY INSTRUMENTS

2005 No.

**The Civil Partnership (Jurisdiction and
Recognition of Judgments) Regulations 2005**

PART 2

Recognition and Refusal of Recognition of Judgments

Definitions for Part 2

6.—(1) In this Part “judgment” means an order for the dissolution or annulment of a civil partnership or the legal separation of civil partners, pronounced by a court of a Member State, however termed by that State.

(2) A “court of a Member State” referred to in paragraph (1) means all the authorities, whether judicial or administrative, in Member States with jurisdiction in those matters falling within the scope of these Regulations.

(3) The “Member States” referred to in paragraph (1) are any of the following States—
Belgium, Cyprus, Czech Republic, Denmark, Germany, Greece, Spain, Estonia, France, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Austria, Poland, Portugal, Slovakia, Slovenia, Finland and Sweden.

Recognition of a judgment

7.—(1) Where a judgment is (or has been) given in respect of a civil partnership, that judgment shall, without any special formalities, be recognised in England and Wales or Northern Ireland.

(2) Any interested party may, in accordance with the procedure set out in rules, apply for a judgment to be, or not to be, recognised.

(3) Where the recognition of a judgment is raised as an incidental issue in proceedings before the court, that court may determine the issue.

Refusal of recognition of a judgment

8.—(1) Recognition of the validity of a judgment may be refused in England and Wales or Northern Ireland if the judgment was obtained at a time when it was irreconcilable with a decision determining the question of the subsistence or validity of the civil partnership—

- (a) previously given by a court of civil jurisdiction in that part of the United Kingdom, or
- (b) previously given by a court elsewhere and recognised or entitled to be recognised in that part of the United Kingdom.

(2) Recognition of the validity of a judgment may be refused in England and Wales or Northern Ireland if the judgment was obtained at a time when, according to the law of that part of the United Kingdom, there was no subsisting civil partnership.

(3) Recognition of the validity of a judgment may be refused if—

- (a) in the case of a judgment obtained by means of proceedings, it was obtained—
 - (i) without such steps having been taken for giving notice of the proceedings to a civil partner as, having regard to the nature of the proceedings and all the circumstances, should reasonably have been taken, or
 - (ii) without a civil partner having been given (for any reason other than lack of notice) such opportunity to take part in the proceedings as, having regard to those matters, he should reasonably have been given, or
 - (b) in the case of a judgment obtained otherwise than by means of proceedings—
 - (i) there is no official document certifying the judgment is effective under the law of the country in which it was obtained, or
 - (ii) where either civil partner was domiciled in another country at the relevant date, there is no official document certifying that the judgment is recognised as valid under the law of that other country, or
 - (c) in either case, recognition of the judgment would be manifestly contrary to public policy.
- (4) In this regulation—
- “official”, in relation to a document certifying that a judgment is effective, or is recognised as valid, under the law of any country, means issued by a person or body appointed or recognised for the purpose under that law;
- “the relevant date” means—
- (a) in the case of a judgment obtained by means of proceedings, the date of the commencement of the proceedings;
 - (b) in the case of a judgment obtained otherwise than by means of proceedings, the date on which it was obtained.

Jurisdiction and review

- 9. The court may not review the jurisdiction of the court which issued the judgment.
- 10. A judgment may not be reviewed as to its substance.

Differences in applicable law

- 11.—(1) The recognition of a judgment in England and Wales may not be refused because the law of England and Wales would not allow dissolution, annulment or legal separation on the same facts.
- (2) The recognition of a judgment in Northern Ireland may not be refused because the law of Northern Ireland would not allow dissolution, annulment or legal separation on the same facts.

Stay of proceedings

- 12. Where recognition is sought of a judgment given in a Member State and an appeal against that judgment has been lodged in a Member State, the court may stay the proceedings.