

*Status: Point in time view as at 12/07/2016.*

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## SCHEDULES

### SCHEDULE 2

Section 4(2) and 5(3)

#### CIVIL PARTNERSHIPS OF PERSONS UNDER 18: ENGLAND AND WALES

#### PART 1

##### APPROPRIATE PERSONS

- 1 Column 2 of the table specifies the appropriate persons (or person) to give consent to a child whose circumstances fall within column 1 and who intends to register as the civil partner of another—

<i>Case</i>	<i>Appropriate persons</i>
1 The circumstances do not fall within any of items 2 to 8.	Each of the following— (a) any parent of the child who has parental responsibility for him, and (b) any guardian of the child.
2 A special guardianship order is in force with respect to the child and the circumstances do not fall within any of items 3 to 7.	Each of the child's special guardians.
3 A care order has effect with respect to the child and the circumstances do not fall within item 5.	Each of the following— (a) the local authority designated in the order, and (b) each parent, guardian or special guardian (in so far as their parental responsibility has not been restricted under section 33(3) of the 1989 Act).
4 A [ <sup>F1</sup> child arrangements order to which paragraph 2A applies] has effect with respect to the child and the circumstances do not fall within item 5.	Each of the persons with whom the child lives, or is to live, as a result of the order.
5 An adoption agency is authorised to place the child for adoption under section 19 of the 2002 Act.	Either— (a) the adoption agency, or (b) if a care order has effect with respect to the child, the local authority designated in the order.
6 A placement order is in force with respect to the child.	The local authority authorised by the placement order to place the child for adoption.

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7 The child has been placed for adoption with prospective adopters.

The prospective adopters (in so far as their parental responsibility has not been restricted under section 25(4) of the 2002 Act), in addition to any person specified in relation to item 5 or 6.

8 The circumstances do not fall within any of items 2 to 7, but a [<sup>F1</sup>child arrangements order to which paragraph 2A applies] was in force with respect to the child immediately before he reached 16.

The persons with whom the child lived, or was to live, as a result of the order.

#### Textual Amendments

**F1** Words in Sch. 2 para. 1 substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 2 para. 66\(2\)](#); [S.I. 2014/889, art. 4\(f\)](#) (with transitional provisions in [S.I. 2014/1042, arts. 3, 4, 6-10](#))

2 In the table—

“the 1989 Act” means the Children Act 1989 (c. 41) and “guardian of a child”, “parental responsibility”, [<sup>F2</sup>“child arrangements order”,] “special guardian”, “special guardianship order” and “care order” have the same meaning as in that Act;

“the 2002 Act” means the Adoption and Children Act 2002 (c. 38) and “adoption agency”, “placed for adoption”, “placement order” and “local authority” have the same meaning as in that Act;

“appropriate local authority” means the local authority authorised by the placement order to place the child for adoption.

#### Textual Amendments

**F2** Words in Sch. 2 para. 2 substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 2 para. 66\(3\)](#); [S.I. 2014/889, art. 4\(f\)](#) (with transitional provisions in [S.I. 2014/1042, arts. 3, 4, 6-10](#))

[<sup>F3</sup>2A A child arrangements order (as defined by section 8 of the Children Act 1989) is one to which this paragraph applies if the order regulates arrangements that consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom the child is to live, and
- (b) when the child is to live with any person.]

#### Textual Amendments

**F3** Sch. 2 para. 2A inserted (22.4.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 2 para. 66\(4\)](#); [S.I. 2014/889, art. 4\(f\)](#) (with transitional provisions in [S.I. 2014/1042, arts. 3, 4, 6-10](#))

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## PART 2

### OBTAINING CONSENT: GENERAL

#### *Consent of appropriate person unobtainable*

- 3 (1) This paragraph applies if—
- (a) a child and another person intend to register as civil partners of each other under any procedure other than the special procedure, and
  - (b) the registration authority to whom the child gives a notice of proposed civil partnership is satisfied that the consent of a person whose consent is required (“A”) cannot be obtained because A is absent, inaccessible or under a disability.
- (2) If there is any other person whose consent is also required, the registration authority must dispense with the need for A’s consent.
- (3) If no other person’s consent is required—
- (a) the Registrar General may dispense with the need for any consent, or
  - (b) the court may, on an application being made to it, consent to the child registering as the civil partner of the person mentioned in sub-paragraph (1)(a).
- (4) The consent of the court under sub-paragraph (3)(b) has the same effect as if it had been given by A.

#### *Consent of appropriate person refused*

- 4 (1) This paragraph applies if—
- (a) a child and another person intend to register as civil partners of each other under any procedure other than the special procedure, and
  - (b) any person whose consent is required refuses his consent.
- (2) The court may, on an application being made to it, consent to the child registering as the civil partner of the person mentioned in sub-paragraph (1)(a).
- (3) The consent of the court under sub-paragraph (2) has the same effect as if it had been given by the person who has refused his consent.

#### *Declaration*

- 5 If one of the proposed civil partners is a child and is not a surviving civil partner<sup>F4</sup>, widow or widower], the necessary declaration under section 8 must also—
- (a) state in relation to each appropriate person—
    - (i) that that person’s consent has been obtained,
    - (ii) that the need to obtain that person’s consent has been dispensed with under paragraph 3, or
    - (iii) that the court has given consent under paragraph 3 or 4, or
  - (b) state that no person exists whose consent is required to a civil partnership between the child and another person.

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#### Textual Amendments

- F4** Words in Sch. 2 para. 5 inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 1 para. 29(3)**

#### *Forbidding proposed civil partnership*

- 6 (1) This paragraph applies if it has been recorded in the register that a notice of proposed civil partnership between a child and another person has been given.
- (2) Any person whose consent is required to a child and another person registering as civil partners of each other may forbid the issue of a civil partnership schedule by giving any registration authority written notice that he forbids it.
- (3) A notice under sub-paragraph (2) must specify—
- (a) the name of the person giving it,
  - (b) his place of residence, and
  - (c) the capacity, in relation to either of the proposed civil partners, in which he forbids the issue of the civil partnership schedule.
- (4) On receiving the notice, the registration authority must as soon as is practicable record in the register the fact that the issue of a civil partnership schedule has been forbidden.
- (5) If the issue of a civil partnership schedule has been forbidden under this paragraph, the notice of proposed civil partnership and all proceedings on it are void.
- (6) Sub-paragraphs (2) and (5) do not apply if the court has given its consent under paragraph 3 or 4.

#### *Evidence*

- 7 (1) This paragraph applies if, for the purpose of obtaining a civil partnership schedule, a person declares that the consent of any person or persons whose consent is required under section 4 has been given.
- (2) The registration authority may refuse to issue the civil partnership schedule unless satisfied by the production of written evidence that the consent of that person or those persons has in fact been given.

#### *Issue of civil partnership schedule*

- 8 The duty in section 14(1) to issue a civil partnership schedule does not apply if its issue has been forbidden under paragraph 6.
- 9 If a proposed civil partnership is between a child and another person, the civil partnership schedule must contain a statement that the issue of the civil partnership schedule has not been forbidden under paragraph 6.

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### PART 3

#### OBTAINING CONSENT: SPECIAL PROCEDURE

##### *Consent of appropriate person unobtainable or refused*

- 10 (1) Sub-paragraph (2) applies if—
- (a) a child and another person intend to register as civil partners of each other under the special procedure, and
  - (b) the Registrar General is satisfied that the consent of a person (“A”) whose consent is required cannot be obtained because A is absent, inaccessible, or under a disability.
- (2) If this sub-paragraph applies—
- (a) the Registrar General may dispense with the need for A’s consent (whether or not there is any other person whose consent is also required), or
  - (b) the court may, on application being made, consent to the child registering as the civil partner of the person mentioned in sub-paragraph (1)(a).
- (3) The consent of the court under sub-paragraph (2)(b) has the same effect as if it had been given by A.
- (4) Sub-paragraph (5) applies if—
- (a) a child and another person intend to register as civil partners of each other under the special procedure, and
  - (b) any person whose consent is required refuses his consent.
- (5) The court may, on application being made, consent to the child registering as the civil partner of the person mentioned in sub-paragraph (4)(a).
- (6) The consent of the court under sub-paragraph (5) has the same effect as if it had been given by the person who has refused his consent.

##### *Declaration*

- 11 If one of the proposed civil partners is a child and is not a surviving civil partner<sup>F5</sup>, widow or widower], the necessary declaration under section 8 must also—
- (a) state in relation to each appropriate person—
    - (i) that that person’s consent has been obtained,
    - (ii) that the need to obtain that person’s consent has been dispensed with under paragraph 10(2), or
    - (iii) that the court has given consent under paragraph 10(2) or (5), or
  - (b) state that no person exists whose consent is required to a civil partnership between the child and another person.

#### Textual Amendments

- F5** Words in Sch. 2 para. 11 inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), [Sch. 1 para. 29\(3\)](#)

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*Forbidding proposed civil partnership*

- 12 Paragraph 6 applies in relation to the special procedure as if—
- (a) any reference to forbidding the issue of a civil partnership schedule were a reference to forbidding the Registrar General to give authority for the issue of his licence, and
  - (b) sub-paragraph (6) referred to the court giving its consent under paragraph 10(2) or (5).

*Evidence*

- 13 (1) This paragraph applies—
- (a) if a child and another person intend to register as civil partners of each other under the special procedure, and
  - (b) the consent of any person (“A”) is required to the child registering as the civil partner of that person.
- (2) The person giving the notice (under section 21) of proposed civil partnership to the registration authority must produce to the authority such evidence as the Registrar General may require to satisfy him that A’s consent has in fact been given.
- (3) The power to require evidence under sub-paragraph (2) is in addition to the power to require evidence under section 22.

*Issue of Registrar General’s licence*

- 14 The duty of the Registrar General under section 25(3)(b) to give authority for the issue of his licence does not apply if he has been forbidden to do so by virtue of paragraph 12.

**PART 4**

PROVISIONS RELATING TO THE COURT

- 15 (1) For the purposes of Parts 2 and 3 of this Schedule, “the court” means—
- (a) the High Court, [<sup>F6</sup>or]
  - [<sup>F7</sup>(c) the family court.]
- (2) Rules of court may be made for enabling applications under Part 2 or 3 of this Schedule—
- (a) if made to the High Court, to be heard in chambers;
  - <sup>F8</sup>(b) .....
  - (c) if made to [<sup>F9</sup>the family court], to be heard and determined otherwise than in open court.
- (3) Rules of court must provide that, where an application is made in consequence of a refusal to give consent, notice of the application is to be served on the person who has refused consent.

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### Textual Amendments

- F6** Word in Sch. 2 para. 15(1) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 168\(2\)\(a\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F7** Sch. 2 para. 15(1)(c) substituted for Sch. 2 para. 15(1)(b)(c) (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 168\(2\)\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F8** Sch. 2 para. 15(2)(b) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 168\(3\)\(a\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F9** Words in Sch. 2 para. 15(2)(c) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 168\(3\)\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

### Commencement Information

- I1** Sch. 2 para. 15 wholly in force at 5.12.2005; Sch. 2 para. 15 not in force at Royal Assent see s. 263; Sch. 2 para. 15(2)(3) in force at 15.4.2005 by S.I. 2005/1112, [art. 2](#), [Sch. 1](#) and Sch. 2 para. 15(1) in force otherwise at 5.12.2005 by S.I. 2005/3175, [art. 2\(1\)](#), [Sch. 1](#)

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