

## SCHEDULES

### SCHEDULE 4

#### WILLS, ADMINISTRATION OF ESTATES AND FAMILY PROVISION

##### PART 1

##### WILLS

- 1 Amend the Wills Act 1837 (c. 26) as follows.
- 2 After section 18A insert—

##### **“Will to be revoked by civil partnership**

- (1) Subject to subsections (2) to (6), a will is revoked by the formation of a civil partnership between the testator and another person.
- (2) A disposition in a will in exercise of a power of appointment takes effect despite the formation of a subsequent civil partnership between the testator and another person unless the property so appointed would in default of appointment pass to the testator’s personal representatives.
- (3) If it appears from a will—
  - (a) that at the time it was made the testator was expecting to form a civil partnership with a particular person, and
  - (b) that he intended that the will should not be revoked by the formation of the civil partnership,the will is not revoked by its formation.
- (4) Subsections (5) and (6) apply if it appears from a will—
  - (a) that at the time it was made the testator was expecting to form a civil partnership with a particular person, and
  - (b) that he intended that a disposition in the will should not be revoked by the formation of the civil partnership.
- (5) The disposition takes effect despite the formation of the civil partnership.
- (6) Any other disposition in the will also takes effect, unless it appears from the will that the testator intended the disposition to be revoked by the formation of the civil partnership.

##### **Effect of dissolution or annulment of civil partnership on wills**

- (1) This section applies if, after a testator has made a will—
  - (a) a court of civil jurisdiction in England and Wales dissolves his civil partnership or makes a nullity order in respect of it, or

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*Status: This is the original version (as it was originally enacted).*

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- (b) his civil partnership is dissolved or annulled and the dissolution or annulment is entitled to recognition in England and Wales by virtue of Chapter 3 of Part 5 of the Civil Partnership Act 2004.

(2) Except in so far as a contrary intention appears by the will—

- (a) provisions of the will appointing executors or trustees or conferring a power of appointment, if they appoint or confer the power on the former civil partner, take effect as if the former civil partner had died on the date on which the civil partnership is dissolved or annulled, and
- (b) any property which, or an interest in which, is devised or bequeathed to the former civil partner shall pass as if the former civil partner had died on that date.

(3) Subsection (2)(b) does not affect any right of the former civil partner to apply for financial provision under the Inheritance (Provision for Family and Dependents) Act 1975.”

3

The following provisions—

- (a) section 15 of the Wills Act 1837 (c. 26) (avoidance of gifts to attesting witnesses and their spouses), and
- (b) section 1 of the Wills Act 1968 (c. 28) (restriction of operation of section 15),

apply in relation to the attestation of a will by a person to whose civil partner there is given or made any such disposition as is described in section 15 of the 1837 Act as they apply in relation to a person to whose spouse there is given or made any such disposition.

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In section 16 of the 1837 Act, after “wife or husband” insert “or civil partner”.

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Except where a contrary intention is shown, it is presumed that if a testator—

- (a) devises or bequeaths property to his civil partner in terms which in themselves would give an absolute interest to the civil partner, but
- (b) by the same instrument purports to give his issue an interest in the same property,

the gift to the civil partner is absolute despite the purported gift to the issue.