

Status: Point in time view as at 02/03/2015.

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SCHEDULES

SCHEDULE 1

Sections 3(2) and 5(3)

PROHIBITED DEGREES OF RELATIONSHIP: ENGLAND AND WALES

Modifications etc. (not altering text)

- C1** Sch. 1 modified (6.4.2010) by [The Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 5, [Sch. 4](#)

PART 1

THE PROHIBITIONS

Absolute prohibitions

- 1 (1) Two people are within prohibited degrees of relationship if one falls within the list below in relation to the other.
- Adoptive child
 - Adoptive parent
 - Child
 - Former adoptive child
 - Former adoptive parent
 - Grandparent
 - Grandchild
 - Parent
 - Parent's sibling
 - Sibling
 - Sibling's child
- (2) In the list “sibling” means a brother, sister, half-brother or half-sister.

Qualified prohibitions

- 2 (1) Two people are within prohibited degrees of relationship if one of them falls within the list below in relation to the other, unless—
- (a) both of them have reached 21 at the time when they register as civil partners of each other, and
 - (b) the younger has not at any time before reaching 18 been a child of the family in relation to the other.
 - Child of former civil partner
 - Child of former spouse
 - Former civil partner of grandparent

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Former civil partner of parent
Former spouse of grandparent
Former spouse of parent
Grandchild of former civil partner
Grandchild of former spouse

- (2) “Child of the family”, in relation to another person, means a person who—
- (a) has lived in the same household as that other person, and
 - (b) has been treated by that other person as a child of his family.

PROSPECTIVE

- 3 Two people are within prohibited degrees of relationship if one falls within column 1 of the table below in relation to the other, unless—
- (a) both of them have reached 21 at the time when they register as civil partners of each other, and
 - (b) the persons who fall within column 2 are dead.

<i>Relationship</i>	<i>Relevant deaths</i>
Former civil partner of child	The child The child’s other parent
Former spouse of child	The child The child’s other parent
Parent of former civil partner	The former civil partner The former civil partner’s other parent
Parent of former spouse	The former spouse The former spouse’s other parent

PART 2

SPECIAL PROVISIONS RELATING TO QUALIFIED PROHIBITIONS

Provisions relating to paragraph 2

- 4 Paragraphs 5 to 7 apply where two people are subject to paragraph 2 but intend to register as civil partners of each other by signing a civil partnership schedule.
- 5 (1) The fact that a notice of proposed civil partnership has been given must not be recorded in the register unless the registration authority—
- (a) is satisfied by the production of evidence that both the proposed civil partners have reached 21, and
 - (b) has received a declaration made by each of the proposed civil partners—
 - (i) specifying their affinal relationship, and
 - (ii) declaring that the younger of them has not at any time before reaching 18 been a child of the family in relation to the other.

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- (2) Sub-paragraph (1) does not apply if a declaration is obtained under paragraph 7.
- (3) A declaration under sub-paragraph (1)(b) must contain such information and must be signed and attested in such manner as may be prescribed by regulations.
- (4) The fact that a registration authority has received a declaration under sub-paragraph (1)(b) must be recorded in the register.
- (5) A declaration under sub-paragraph (1)(b) must be filed and kept by the registration authority.

Commencement Information

- II** Sch. 1 para. 5 wholly in force at 5.12.2005; Sch. 1 para. 5 not in force at Royal Assent see s. 263; Sch. 1 para. 5(3) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 1 para. 5 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

- 6 (1) Sub-paragraph (2) applies if—
- (a) a registration authority receives from a person who is not one of the proposed civil partners a written statement signed by that person which alleges that a declaration made under paragraph 5 is false in a material particular, and
 - (b) the register shows that such a statement has been received.
- (2) The registration authority in whose area it is proposed that the registration take place must not issue a civil partnership schedule unless a ^{F1}... declaration is obtained under paragraph 7.

Textual Amendments

- F1** Words in Sch. 1 para. 6(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 167\(2\)](#); [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

- 7 (1) Either of the proposed civil partners may apply to the High Court [^{F2}or the family court] for a declaration that, given that—
- (a) both of them have reached 21, and
 - (b) the younger of those persons has not at any time before reaching 18 been a child of the family in relation to the other,
- there is no impediment of affinity to the formation of the civil partnership.
- (2) Such an application may be made whether or not any statement has been received by the registration authority under paragraph 6.

Textual Amendments

- F2** Words in Sch. 1 para. 7 inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 167\(3\)](#); [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

- 8 Section 13 (objection to proposed civil partnership) does not apply in relation to a civil partnership to which paragraphs 5 to 7 apply, except so far as an objection

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to the issue of a civil partnership schedule is made under that section on a ground other than the affinity between the proposed civil partners.

PROSPECTIVE

Provisions relating to paragraph 3

- 9 (1) This paragraph applies where two people are subject to paragraph 3 but intend to register as civil partners of each other by signing a civil partnership schedule.
- (2) The fact that a notice of proposed civil partnership has been given must not be recorded in the register unless the registration authority is satisfied by the production of evidence—
- (a) that both the proposed civil partners have reached 21, and
 - (b) that the persons referred to in paragraph 3(b) are dead.

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).

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4 A [^{F3} 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.
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 [^{F3} 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

F3 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”, [^{F4}“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

F4 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](#))

- [^{F5}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—

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

Textual Amendments

F5 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)

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^{F6}, widow or widower], the necessary declaration under section 8 must also—

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- (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.

Textual Amendments

- F6** 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.

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- 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.

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^{F7}, 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.

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Textual Amendments

- F7** 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\(3\)](#)

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, ^[F8]or
 - ^[F9](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;
 - ^{F10}(b)
 - (c) if made to ^[F11]the family court], to be heard and determined otherwise than in open court.

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- (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.

Textual Amendments

- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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

- I2** 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](#)

SCHEDULE 3

Section 5(2)

REGISTRATION BY FORMER SPOUSES ONE OF WHOM HAS CHANGED SEX

Application of Schedule

- 1 This Schedule applies if—
- (a) a court—
 - (i) makes absolute a decree of nullity granted on the ground that an interim gender recognition certificate has been issued to a party to the marriage, or
 - (ii) (in Scotland) grants a decree of divorce on that ground,
 and, on doing so, issues a full gender recognition certificate (under section 5(1) of the Gender Recognition Act 2004 (c. 7)) to that party, and
 - (b) the parties wish to register in England or Wales as civil partners of each other without being delayed by the waiting period.

The relevant period

- 2 For the purposes of this Schedule the relevant period is the period—
- (a) beginning with the issue of the full gender recognition certificate, and
 - (b) ending at the end of 1 month from the day on which it is issued.

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Modifications of standard procedure and procedures for house-bound and detained persons

- 3 If—
- (a) each of the parties gives a notice of proposed civil partnership during the relevant period, and
 - (b) on doing so, each makes an election under this paragraph,
- Chapter 1 of Part 2 applies with the modifications given in paragraphs 4 to 6.
- 4 (1) Omit—
- (a) section 10 (proposed civil partnership to be publicised);
 - (b) section 11 (meaning of “the waiting period”);
 - (c) section 12 (power to shorten the waiting period).
- (2) In section 14 (issue of civil partnership schedule), for subsection (1) substitute—
- “(1) As soon as the notices of proposed civil partnership have been given, the registration authority in whose area it is proposed that the registration take place must, at the request of one or both of the proposed civil partners, issue a document to be known as a “civil partnership schedule”.”
- (3) For section 17 (period during which registration may take place) substitute—
- “17 Period during which registration may take place**
- (1) The proposed civil partners may register as civil partners by signing the civil partnership schedule at any time during the applicable period.
 - (2) If they do not register as civil partners by signing the civil partnership schedule before the end of the applicable period—
 - (a) the notices of proposed civil partnership and the civil partnership schedule are void, and
 - (b) no civil partnership registrar may officiate at the signing of the civil partnership schedule by them.
 - (3) The applicable period, in relation to two people registering as civil partners of each other, is the period of 1 month beginning with—
 - (a) the day on which the notices of proposed civil partnership are given, or
 - (b) if the notices are not given on the same day, the earlier of those days.”
- 5 In section 18 (house-bound persons), in subsection (3)—
- (a) treat the reference to the standard procedure as a reference to the standard procedure as modified by this Schedule, and
 - (b) omit paragraph (c) (which provides for a 3 month registration period).
- 6 In section 19 (detained persons), in subsection (3)—
- (a) treat the reference to the standard procedure as a reference to the standard procedure as modified by this Schedule, and
 - (b) omit paragraph (c) (which provides for a 3 month registration period).

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Modified procedures for certain non-residents

- 7 (1) Sub-paragraphs (5) to (8) apply (in place of section 20) in the following [^{F12}two] cases.
- (2) The first is where—
- (a) two people wish to register as civil partners of each other in England and Wales, and
 - (b) one of them (“A”) resides in Scotland and the other (“B”) resides in England or Wales.
- (3) ^{F13}
- (4) The [^{F14}second] is where—
- (a) two people wish to register as civil partners of each other in England and Wales, and
 - (b) one of them (“A”) is [^{F15}an officer, seaman or marine borne on the books of one of Her Majesty's ships at sea] and the other (“B”) resides in England or Wales.
- (5) A is not required to give a notice of proposed civil partnership to a registration authority in England or Wales in order to register in England or Wales as B’s civil partner.
- ^{F16}(6) B may make the necessary declaration without reference to A's usual place of residence for any period.]
- (7) If, on giving such notice, B makes an election under this paragraph, Chapter 1 of Part 2 applies with the modifications given in paragraphs 4 to 6 and the further modifications in sub-paragraph (8).
- (8) The further modifications are that—
- (a) the civil partnership schedule is not to be issued by a registration authority unless A or B produces to that registration authority a certificate of no impediment issued to A under the relevant provision;
 - (b) the applicable period is the period of one month beginning with the day on which B’s notice is given;
 - (c) section 31 applies as if in subsections (1)(a) and (2)(c) for “each notice” there were substituted “ B’s notice ”.
- (9) “The relevant provision” means—
- (a) if A resides in Scotland, section 97;
 - (b) ^{F17}
 - (c) if A is [^{F18}an officer, seaman or marine borne on the books of one of Her Majesty's ships at sea], section 239.
- (10) ^{F19}

Textual Amendments

F12 Word in Sch. 3 para. 7(1) substituted (5.12.2005) by [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 18(2)** (subject to art. 1(3))

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- F13** Sch. 3 para. 7(3) omitted (5.12.2005) by virtue of [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 18(3)** (subject to art. 1(3))
- F14** Word in Sch. 3 para. 7(4) substituted (5.12.2005) by [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 18(4)(a)** (subject to art. 1(3))
- F15** Words in Sch. 3 para. 7(4) substituted (5.12.2005) by [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 18(4)(b)** (subject to art. 1(3))
- F16** Sch. 3 para. 7(6) substituted (5.12.2005) by [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 18(5)** (subject to art. 1(3))
- F17** Sch. 3 para. 7(9)(b) omitted (5.12.2005) by virtue of [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 18(6)(a)** (subject to art. 1(3))
- F18** Words in Sch. 3 para. 7(9)(c) substituted (5.12.2005) by [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 18(6)(b)** (subject to art. 1(3))
- F19** Sch. 3 para. 7(10) omitted (5.12.2005) by virtue of [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 18(7)** (subject to art. 1(3))

[^{F20}SCHEDULE 3A

MODIFICATIONS IF PROPOSED CIVIL PARTNERSHIP REFERRED UNDER SECTION 12A

Textual Amendments

- F20** Sch. 3A inserted (1.3.2015) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 4 para. 25** (with [Sch. 9 para. 66](#)); [S.I. 2015/371](#), art. 2(1)(f)

Introduction

- 1 (1) These are the modifications subject to which this Act has effect if the registration authority refers a proposed civil partnership to the Secretary of State.
- (2) In this Schedule—
 - “2014 Act” means the [Immigration Act 2014](#);
 - “referred civil partnership” means the proposed civil partnership referred to the Secretary of State.

No civil partnership schedule to be issued until decision about investigation etc

- 2 (1) The duty under section 14(1) to issue a civil partnership schedule in respect of the referred civil partnership does not apply unless and until one of the following events occurs.
- (2) Event 1 occurs if—
 - (a) the Secretary of State gives the registration authority or authorities the section 48 notice, and
 - (b) that notice is of a decision not to investigate whether the referred civil partnership is a sham.
- (3) Event 2 occurs if—
 - (a) the relevant statutory period ends, and

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- (b) the Secretary of State has not given the registration authority or authorities the section 48 notice.
- (4) Event 3 occurs if—
 - (a) the Secretary of State gives the registration authority or authorities the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
 - (c) the Secretary of State gives the registration authority or authorities the section 50 notice, and
 - (d) that notice is of a decision that both of the parties to the referred civil partnership have complied with the investigation.
- (5) Event 4 occurs if—
 - (a) the 70 day period ends, and
 - (b) the Secretary of State has not given the registration authority or authorities the section 50 notice.
- (6) Event 5 occurs if the Secretary of State gives the registration authority or authorities notice that the duty under section 14(1) is applicable.
- (7) The Secretary of State may give a notice for that purpose only if—
 - (a) the Secretary of State has given the registration authority or authorities the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
 - (c) the Secretary of State has given the registration authority or authorities the section 50 notice, and
 - (d) that notice is of a decision that one or both of the parties to the referred civil partnership have not complied with the investigation.
- (8) This paragraph applies in addition to any other requirements applicable to the issue of the civil partnership schedule.
- (9) This paragraph is subject to paragraph 4.
- (10) In this paragraph—
 - “70 day period” has the same meaning as in section 50 of the 2014 Act;
 - “relevant statutory period” has the same meaning as in section 48 of the 2014 Act;
 - “section 48 notice” means notice under section 48(8) of the 2014 Act;
 - “section 50 notice” means notice under section 50(7) of the 2014 Act.

Civil partnership to be investigated: extension of waiting period to 70 days

- 3 (1) The modifications in this paragraph have effect if the Secretary of State gives the registration authority notice under section 48(8) of the 2014 Act of a decision to investigate whether the referred civil partnership is a sham.
- (2) Section 11(b): the reference to the period of 28 days has effect as a reference to the relevant 70 day period.

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- (3) But, for the purposes of section 10, the waiting period is not extended by sub-paragraph (2).
- (4) In this paragraph “relevant 70 day period” means the period—
- (a) beginning the day after notice of the proposed civil partnership is recorded in the register in accordance with section 8(5), and
 - (b) ending at the end of the period of 70 days beginning with that day.

Effect of shortening waiting period

- 4 (1) This paragraph applies if—
- (a) the Secretary of State gives notice under section 12(5) of the grant of an application made under section 12(1) (power to shorten the waiting period) in relation to the referred civil partnership, and
 - (b) that notice is given at a time when the duty under section 14(1) to issue a civil partnership schedule in respect of the referred civil partnership has not arisen in accordance with paragraph 2.
- (2) The duty under section 14(1) to issue a civil partnership schedule in respect of the referred civil partnership arises on the giving of the notice under section 12(5), subject to any other requirements applicable to the issue of the schedule being met.
- (3) But the requirements of paragraph 2 are not applicable in such a case.
- (4) The Secretary of State is not prevented from deciding to conduct, conducting, or continuing, an investigation if a schedule in respect of the referred civil partnership is issued as mentioned in sub-paragraph (2).
- (5) But in such a case, nothing in the 2014 Act requires the Secretary of State to decide whether to conduct, or to continue, an investigation.
- (6) In this paragraph “investigation” means an investigation, conducted following a decision by the Secretary of State under section 48 of the 2014 Act, whether a proposed civil partnership is a sham.]

SCHEDULE 4

Section 71

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—

“18B 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.

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- (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.

18C 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
 - (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),

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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.

- 4 In section 16 of the 1837 Act, after “wife or husband” insert “ or civil partner ”.
- 5 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.

PART 2

ADMINISTRATION OF ESTATES AND FAMILY PROVISION

Public Trustee Act 1906 (c. 55)

- 6 In section 6(1), after “widower, widow” (in both places) insert “ , surviving civil partner ”.

Administration of Estates Act 1925 (c. 23)

- 7 In section 46 (succession to real and personal estate on intestacy), for “husband or wife” (in each place) substitute “ spouse or civil partner ”.
- 8 (1) Amend section 47(1) (meaning of “the statutory trusts”) as follows.
- (2) In paragraph (i), after “or marry under that age” (in the first place) insert “ or form a civil partnership under that age ”.
 - (3) In that paragraph, after “or marry” (in the second place) insert “ , or form a civil partnership, ”.
 - (4) In paragraph (ii), after “marries” insert “ , or forms a civil partnership, ”.
- 9 In section 47A, in subsection (1) and in the proviso to subsection (5), for “husband or wife” substitute “ spouse or civil partner ”.
- 10 In section 48(2), for “husband or wife” (in each place) substitute “ spouse or civil partner ”.
- 11 In section 51(3) (devolution of certain estates vested in infant who dies without having married and without issue), after “without having been married” insert “ or having formed a civil partnership, ”.
- 12 In section 55(1)(xviii) (which defines “valuable consideration” as including marriage), after “includes marriage,” insert “ and formation of a civil partnership, ”.

Intestates' Estates Act 1952 (c. 64)

- 13 (1) Amend section 5 and Schedule 2 (rights of surviving spouse as respects the matrimonial home) as follows.

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- (2) For “husband or wife” (in each place) substitute “ spouse or civil partner ”.
- (3) In section 5, after “matrimonial” insert “ or civil partnership ”.
- (4) In the heading of each—
 - (a) after “spouse” insert “ or civil partner ”, and
 - (b) after “matrimonial” insert “ or civil partnership ”.

Family Provision Act 1966 (c. 35)

- 14 In section 1(1) (fixed net sum payable to surviving spouse of person dying intestate), for “husband or wife” substitute “ spouse or civil partner ”.

Inheritance (Provision for Family and Dependants) Act 1975 (c. 63)

- 15 (1) Amend section 1 (application for financial provision from deceased person’s estate) as follows.
 - (2) For subsection (1)(a) and (b) (application may be made by spouse or by former spouse who has not remarried) substitute—
 - “(a) the spouse or civil partner of the deceased;
 - (b) a former spouse or former civil partner of the deceased, but not one who has formed a subsequent marriage or civil partnership;”.
 - (3) In subsection (1)(ba) (application may be made by person living as husband or wife of the deceased), after “subsection (1A)” insert “ or (1B) ”.
 - (4) In subsection (1)(d) (application may be made by child of the family), after “marriage” (in each place) insert “ or civil partnership ”.
 - (5) After subsection (1A) insert—
 - “(1B) This subsection applies to a person if for the whole of the period of two years ending immediately before the date when the deceased died the person was living—
 - (a) in the same household as the deceased, and
 - (b) as the civil partner of the deceased.”
 - (6) In subsection (2) (meaning of “reasonable financial provision”), after paragraph (a) insert—
 - “(aa) in the case of an application made by virtue of subsection (1)(a) above by the civil partner of the deceased (except where, at the date of death, a separation order under Chapter 2 of Part 2 of the Civil Partnership Act 2004 was in force in relation to the civil partnership and the separation was continuing), means such financial provision as it would be reasonable in all the circumstances of the case for a civil partner to receive, whether or not that provision is required for his or her maintenance;”.
- 16 In section 2(1) (orders which may be made on an application), after paragraph (f) insert—
 - “(g) an order varying any settlement made—
 - (i) during the subsistence of a civil partnership formed by the deceased, or

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- (ii) in anticipation of the formation of a civil partnership by the deceased,
on the civil partners (including such a settlement made by will), the variation being for the benefit of the surviving civil partner, or any child of both the civil partners, or any person who was treated by the deceased as a child of the family in relation to that civil partnership.”
- 17 (1) Amend section 3(2) (application by spouse or former spouse: matters to which court is to have regard) as follows.
- (2) For the words from the beginning to “1(1)(b) of this Act” substitute— “ This subsection applies, without prejudice to the generality of paragraph (g) of subsection (1) above, where an application for an order under section 2 of this Act is made by virtue of section 1(1)(a) or (b) of this Act. ”
- (3) The words from “the court shall, in addition” to the end of paragraph (b) shall become a second sentence of the subsection and, in paragraph (a) of the sentence so formed, after “duration of the marriage” insert “ or civil partnership ”.
- (4) The words from “in the case of an application by the wife or husband” to the end shall become a third sentence of the subsection.
- (5) At the end insert the following sentence— “ In the case of an application by the civil partner of the deceased, the court shall also, unless at the date of the death a separation order under Chapter 2 of Part 2 of the Civil Partnership Act 2004 was in force and the separation was continuing, have regard to the provision which the applicant might reasonably have expected to receive if on the day on which the deceased died the civil partnership, instead of being terminated by death, had been terminated by a dissolution order. ”
- 18 In section 3(2A) (application by person living as husband or wife of deceased: matters to which court is to have regard), in paragraph (a), after “wife” insert “ or civil partner ”.
- 19 In section 6(3) and (10) (variation etc. of orders which cease on occurrence of specified event other than remarriage of former spouse), for “(other than the remarriage of a former wife or former husband)” substitute “ (other than the formation of a subsequent marriage or civil partnership by a former spouse or former civil partner) ”.
- 20 After section 14 insert—

“14A Provision as to cases where no financial relief was granted in proceedings for the dissolution etc. of a civil partnership

- (1) Subsection (2) below applies where—
- (a) a dissolution order, nullity order, separation order or presumption of death order has been made under Chapter 2 of Part 2 of the Civil Partnership Act 2004 in relation to a civil partnership,
- (b) one of the civil partners dies within twelve months from the date on which the order is made, and
- (c) either—
- (i) an application for a financial provision order under Part 1 of Schedule 5 to that Act or a property adjustment order under

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Part 2 of that Schedule has not been made by the other civil partner, or

- (ii) such an application has been made but the proceedings on the application have not been determined at the time of the death of the deceased.

(2) If an application for an order under section 2 of this Act is made by the surviving civil partner, the court shall, notwithstanding anything in section 1 or section 3 of this Act, have power, if it thinks it just to do so, to treat the surviving civil partner as if the order mentioned in subsection (1)(a) above had not been made.

(3) This section shall not apply in relation to a separation order unless at the date of the death of the deceased the separation order was in force and the separation was continuing.”

21 After section 15 insert—

“15ZA Restriction imposed in proceedings for the dissolution etc. of a civil partnership on application under this Act

(1) On making a dissolution order, nullity order, separation order or presumption of death order under Chapter 2 of Part 2 of the Civil Partnership Act 2004, or at any time after making such an order, the court, if it considers it just to do so, may, on the application of either of the civil partners, order that the other civil partner shall not on the death of the applicant be entitled to apply for an order under section 2 of this Act.

(2) In subsection (1) above “the court” means the High Court or, where a county court has jurisdiction by virtue of Part 5 of the Matrimonial and Family Proceedings Act 1984, a county court.

(3) In the case of a dissolution order, nullity order or presumption of death order (“the main order”) an order may be made under subsection (1) above before (as well as after) the main order is made final, but if made before the main order is made final it shall not take effect unless the main order is made final.

(4) Where an order under subsection (1) above made in connection with a dissolution order, nullity order or presumption of death order has come into force with respect to a civil partner, then, on the death of the other civil partner, the court shall not entertain any application for an order under section 2 of this Act made by the surviving civil partner.

(5) Where an order under subsection (1) above made in connection with a separation order has come into force with respect to a civil partner, then, if the other civil partner dies while the separation order is in force and the separation is continuing, the court shall not entertain any application for an order under section 2 of this Act made by the surviving civil partner.”

22 After section 15A insert—

“15B Restriction imposed in proceedings under Schedule 7 to the Civil Partnership Act 2004 on application under this Act

(1) On making an order under paragraph 9 of Schedule 7 to the Civil Partnership Act 2004 (orders for financial provision, property adjustment and pension-

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sharing following overseas dissolution etc. of civil partnership) the court, if it considers it just to do so, may, on the application of either of the civil partners, order that the other civil partner shall not on the death of the applicant be entitled to apply for an order under section 2 of this Act.

- (2) In subsection (1) above “the court” means the High Court or, where a county court has jurisdiction by virtue of Part 5 of the Matrimonial and Family Proceedings Act 1984, a county court.
- (3) Where an order under subsection (1) above has been made with respect to one of the civil partners in a case where a civil partnership has been dissolved or annulled, then, on the death of the other civil partner, the court shall not entertain an application under section 2 of this Act made by the surviving civil partner.
- (4) Where an order under subsection (1) above has been made with respect to one of the civil partners in a case where civil partners have been legally separated, then, if the other civil partner dies while the legal separation is in force, the court shall not entertain an application under section 2 of this Act made by the surviving civil partner.”

- 23 In section 16(1) (power to vary secured periodical payments orders)—
- (a) after “the Matrimonial Causes Act 1973” insert “ or Schedule 5 to the Civil Partnership Act 2004 ”, and
 - (b) after “that Act” insert “ of 1973 or Part 11 of that Schedule ”.
- 24 In section 17(4) (meaning of “maintenance agreement”)—
- (a) for “entered into a marriage” substitute “ formed a marriage or civil partnership ”,
 - (b) after “of the parties to that marriage” insert “ or of the civil partners ”, and
 - (c) after “marriage” (in the third and fourth places) insert “ or civil partnership ”.
- 25 After section 18 insert—

“18A Availability of court’s powers under this Act in applications under paragraphs 60 and 73 of Schedule 5 to the Civil Partnership Act 2004

- (1) Where—
 - (a) a person against whom a secured periodical payments order was made under Schedule 5 to the Civil Partnership Act 2004 has died and an application is made under paragraph 60 of that Schedule for the variation or discharge of that order or for the revival of the operation of any suspended provision of the order, or
 - (b) a party to a maintenance agreement within the meaning of Part 13 of that Schedule has died, the agreement being one which provides for the continuation of payments under the agreement after the death of one of the parties, and an application is made under paragraph 73 of that Schedule for the alteration of the agreement under paragraph 69 of that Schedule,

the court shall have power to direct that the application made under paragraph 60 or 73 of that Schedule shall be deemed to have been accompanied by an application for an order under section 2 of this Act.

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- (2) Where the court gives a direction under subsection (1) above it shall have power, in the proceedings on the application under paragraph 60 or 73 of that Schedule, to make any order which the court would have had power to make under the provisions of this Act if the application under that paragraph had been made jointly with an application for an order under section 2 of this Act; and the court shall have power to give such consequential directions as may be necessary for enabling the court to exercise any of the powers available to the court under this Act in the case of an application for an order under section 2.
- (3) Where an order made under section 15ZA(1) of this Act is in force with respect to a civil partner, the court shall not give a direction under subsection (1) above with respect to any application made under paragraph 60 or 73 of that Schedule by that civil partner on the death of the other civil partner.”
- 26 (1) Amend section 19 (effect, duration and form of orders) as follows.
- (2) In subsection (2)(a), for “former husband or former wife” substitute “ former spouse or former civil partner ”.
- (3) In subsection (2), after paragraph (b) insert “or
- (c) an applicant who was the civil partner of the deceased in a case where, at the date of death, a separation order under Chapter 2 of Part 2 of the Civil Partnership Act 2004 was in force in relation to their civil partnership and the separation was continuing.”.
- (4) In that subsection, in the words after paragraph (b), for “on the remarriage of the applicant” onwards substitute “ on the formation by the applicant of a subsequent marriage or civil partnership, except in relation to any arrears due under the order on the date of the formation of the subsequent marriage or civil partnership. ”
- (5) In subsection (3), after “section 15(1)” insert “ or 15ZA(1) ”.
- 27 (1) Amend section 25 (interpretation) as follows.
- (2) In subsection (1), in the definition of “former wife” and “former husband”, for “ former wife” or “former husband” substitute “ “former spouse” ”.
- (3) In that subsection, before that definition insert—
- ““former civil partner” means a person whose civil partnership with the deceased was during the lifetime of the deceased either—
- (a) dissolved or annulled by an order made under the law of any part of the British Islands, or
- (b) dissolved or annulled in any country or territory outside the British Islands by a dissolution or annulment which is entitled to be recognised as valid by the law of England and Wales;”.
- (4) In subsection (4)—
- (a) before “wife” insert “ spouse, ” and
- (b) in paragraph (b), for “entered into a later marriage” substitute “ formed a subsequent marriage or civil partnership ”.
- (5) For subsection (5) substitute—

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“(4A) For the purposes of this Act any reference to a civil partner shall be treated as including a reference to a person who in good faith formed a void civil partnership with the deceased unless either—

- (a) the civil partnership between the deceased and that person was dissolved or annulled during the lifetime of the deceased and the dissolution or annulment is recognised by the law of England and Wales, or
- (b) that person has during the lifetime of the deceased formed a subsequent civil partnership or marriage.

(5) Any reference in this Act to the formation of, or to a person who has formed, a subsequent marriage or civil partnership includes (as the case may be) a reference to the formation of, or to a person who has formed, a marriage or civil partnership which is by law void or voidable.

(5A) The formation of a marriage or civil partnership shall be treated for the purposes of this Act as the formation of a subsequent marriage or civil partnership, in relation to either of the spouses or civil partners, notwithstanding that the previous marriage or civil partnership of that spouse or civil partner was void or voidable.”

(6) After subsection (6) insert—

“(6A) Any reference in this Act to an order made under, or under any provision of, the Civil Partnership Act 2004 shall be construed as including a reference to anything which is deemed to be an order made (as the case may be) under that Act or provision.”

SCHEDULE 5

Section 72(1)

[^{F21}FINANCIAL RELIEF: PROVISION CORRESPONDING TO PROVISION MADE BY PART 2 OF THE MATRIMONIAL CAUSES ACT 1973]

Textual Amendments

- F21** Sch. 5 title substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 177](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

PART 1

FINANCIAL PROVISION IN CONNECTION WITH DISSOLUTION, NULLITY OR SEPARATION

Circumstances in which orders under this Part may be made

- 1 (1) The court may make any one or more of the orders set out in paragraph 2(1)—
 - (a) on making a dissolution, nullity or separation order, or
 - (b) at any time afterwards.

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- (2) The court may make any one or more of the orders set out in paragraph 2(1)(d), (e) and (f)—
- (a) in proceedings for a dissolution, nullity or separation order, before making the order;
 - (b) if proceedings for a dissolution, nullity or separation order are dismissed after the beginning of the trial, either straightaway or within a reasonable period after the dismissal.
- (3) The power of the court to make an order under sub-paragraph (1) or (2)(a) in favour of a child of the family is exercisable from time to time.
- (4) If the court makes an order in favour of a child under sub-paragraph (2)(b), it may from time to time make a further order in the child’s favour of any of the kinds set out in paragraph 2(1)(d), (e) or (f).

The orders: periodical and secured periodical payments and lump sums

- 2 (1) The orders are—
- (a) an order that either civil partner must make to the other such periodical payments for such term as may be specified;
 - (b) an order that either civil partner must secure to the other, to the satisfaction of the court, such periodical payments for such term as may be specified;
 - (c) an order that either civil partner must pay to the other such lump sum or sums as may be specified;
 - (d) an order that one of the civil partners must make —
 - (i) to such person as may be specified for the benefit of a child of the family, or
 - (ii) to a child of the family,
 such periodical payments for such term as may be specified;
 - (e) an order that one of the civil partners must secure—
 - (i) to such person as may be specified for the benefit of a child of the family, or
 - (ii) to a child of the family,
 to the satisfaction of the court, such periodical payments for such term as may be specified;
 - (f) an order that one of the civil partners must pay such lump sum as may be specified—
 - (i) to such person as may be specified for the benefit of a child of the family, or
 - (ii) to a child of the family.
- (2) “Specified” means specified in the order.

Particular provision that may be made by lump sum orders

- 3 (1) An order under this Part requiring one civil partner to pay the other a lump sum may be made for the purpose of enabling the other civil partner to meet any liabilities or expenses reasonably incurred by the other in maintaining—
- (a) himself or herself, or
 - (b) a child of the family,

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before making an application for an order under this Part in his or her favour.

- (2) An order under this Part requiring a lump sum to be paid to or for the benefit of a child of the family may be made for the purpose of enabling any liabilities or expenses reasonably incurred by or for the benefit of the child before making an application for an order under this Part to be met.
- (3) An order under this Part for the payment of a lump sum may—
 - (a) provide for its payment by instalments of such amount as may be specified, and
 - (b) require the payment of the instalments to be secured to the satisfaction of the court.
- (4) Sub-paragraphs (1) to (3) do not restrict the powers to make the orders set out in paragraph 2(1)(c) and (f).
- (5) If the court—
 - (a) makes an order under this Part for the payment of a lump sum, and
 - (b) directs that—
 - (i) payment of the sum or any part of it is to be deferred, or
 - (ii) the sum or any part of it is to be paid by instalments,it may provide for the deferred amount or the instalments to carry interest at such rate as may be specified from such date as may be specified until the date when payment of it is due.
- (6) A date specified under sub-paragraph (5) must not be earlier than the date of the order.
- (7) “Specified” means specified in the order.

When orders under this Part may take effect

- 4 (1) If an order is made under paragraph 2(1)(a), (b) or (c) on or after making a dissolution or nullity order, neither the order nor any settlement made in pursuance of it takes effect unless the dissolution or nullity order has been made final.
- (2) This paragraph does not affect the power of the court to give a direction under paragraph 76 (settlement of instrument by conveyancing counsel).

Restrictions on making of orders under this Part

- 5 The power to make an order under paragraph 2(1)(d), (e) or (f) is subject to paragraph 49(1) and (5) (restrictions on orders in favour of children who have reached 18).

PART 2

PROPERTY ADJUSTMENT ON OR AFTER DISSOLUTION, NULLITY OR SEPARATION

Circumstances in which property adjustment orders may be made

- 6 (1) The court may make one or more property adjustment orders—
 - (a) on making a dissolution, nullity or separation order, or

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(b) at any time afterwards.

(2) In this Schedule “property adjustment order” means a property adjustment order under this Part.

Property adjustment orders

- 7 (1) The property adjustment orders are—
- (a) an order that one of the civil partners must transfer such property as may be specified, being property to which he is entitled—
 - (i) to the other civil partner,
 - (ii) to a child of the family, or
 - (iii) to such person as may be specified for the benefit of a child of the family;
 - (b) an order that a settlement of such property as may be specified, being property to which one of the civil partners is entitled, be made to the satisfaction of the court for the benefit of—
 - (i) the other civil partner and the children of the family, or
 - (ii) either or any of them;
 - (c) an order varying for the benefit of—
 - (i) the civil partners and the children of the family, or
 - (ii) either or any of them,
 a relevant settlement;
 - (d) an order extinguishing or reducing the interest of either of the civil partners under a relevant settlement.
- (2) The court may make a property adjustment order under sub-paragraph (1)(c) even though there are no children of the family.
- (3) In this paragraph—
- “entitled” means entitled in possession or reversion,
 - “relevant settlement” means, in relation to a civil partnership, a settlement made, during its subsistence or in anticipation of its formation, on the civil partners including one made by will or codicil, but not including one in the form of a pension arrangement (within the meaning of Part 4), and
 - “specified” means specified in the order.

When property adjustment orders may take effect

- 8 (1) If a property adjustment order is made on or after making a dissolution or nullity order, neither the property adjustment order nor any settlement made under it takes effect unless the dissolution or nullity order has been made final.
- (2) This paragraph does not affect the power to give a direction under paragraph 76 (settlement of instrument by conveyancing counsel).

Restrictions on making property adjustment orders

- 9 The power to make a property adjustment order under paragraph 7(1)(a) is subject to paragraph 49(1) and (5) (restrictions on making orders in favour of children who have reached 18).

Status: Point in time view as at 02/03/2015.

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PART 3

SALE OF PROPERTY ORDERS

Circumstances in which sale of property orders may be made

- 10 (1) The court may make a sale of property order—
- (a) on making —
 - (i) under Part 1, a secured periodical payments order or an order for the payment of a lump sum, ^{F22}...
 - (ii) a property adjustment order, or
 - [^{F23}(iii) an order under paragraph 38A for a payment in respect of legal services, or]
 - (b) at any time afterwards.
- (2) In this Schedule “sale of property order” means a sale of property order under this Part.

Textual Amendments

F22 Word in Sch. 5 para. 10(1)(a)(i) omitted (1.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 54\(2\), 151\(1\)](#); S.I. 2013/773, art. 2

F23 Sch. 5 para. 10(1)(a)(iii) inserted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 54\(3\), 151\(1\)](#); S.I. 2013/773, art. 2

Sale of property orders

- 11 (1) A sale of property order is an order for the sale of such property as may be specified, being property in which, or in the proceeds of sale of which, either or both of the civil partners has or have a beneficial interest, either in possession or reversion.
- (2) A sale of property order may contain such consequential or supplementary provisions as the court thinks fit.
- (3) A sale of property order may in particular include—
- (a) provision requiring the making of a payment out of the proceeds of sale of the property to which the order relates, and
 - (b) provision requiring any property to which the order relates to be offered for sale to a specified person, or class of persons.
- (4) “Specified” means specified in the order.

When sale of property orders may take effect

- 12 (1) If a sale of property order is made on or after the making of a dissolution or nullity order, it does not take effect unless the dissolution or nullity order has been made final.
- (2) Where a sale of property order is made, the court may direct that—
- (a) the order, or
 - (b) such provision of it as the court may specify,

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is not to take effect until the occurrence of an event specified by the court or the end of a period so specified.

When sale of property orders cease to have effect

- 13 If a sale of property order contains a provision requiring the proceeds of sale of the property to which the order relates to be used to secure periodical payments to a civil partner, the order ceases to have effect—
- (a) on the death of the civil partner, or
 - (b) on the formation of a subsequent civil partnership or marriage by the civil partner.

Protection of third parties

- 14 (1) Sub-paragraphs (2) and (3) apply if—
- (a) a civil partner has a beneficial interest in any property, or in the proceeds of sale of any property, and
 - (b) another person (“A”) who is not the other civil partner also has a beneficial interest in the property or the proceeds.
- (2) Before deciding whether to make a sale of property order in relation to the property, the court must give A an opportunity to make representations with respect to the order.
- (3) Any representations made by A are included among the circumstances to which the court is required to have regard under paragraph 20.

PART 4

PENSION SHARING ORDERS ON OR AFTER DISSOLUTION OR NULLITY ORDER

Circumstances in which pension sharing orders may be made

- 15 (1) The court may make a pension sharing order—
- (a) on making a dissolution or nullity order, or
 - (b) at any time afterwards.
- (2) In this Schedule “pension sharing order” means a pension sharing order under this Part.

Commencement Information

I3 Sch. 5 para. 15 wholly in force at 5.12.2005; Sch. 5 para. 15 not in force at Royal Assent see s. 263; Sch. 5 para. 15(2) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 5 para. 15 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Pension sharing orders

- 16 (1) A pension sharing order is an order which—
- (a) provides that one civil partner's—

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- (i) shareable rights under a specified pension arrangement, or
 - (ii) shareable state scheme rights,are to be subject to pension sharing for the benefit of the other civil partner, and
 - (b) specifies the percentage value to be transferred.
- (2) Shareable rights under a pension arrangement are rights in relation to which pension sharing is available under—
- (a) Chapter 1 of Part 4 of the Welfare Reform and Pensions Act 1999 (c. 30), or
 - (b) corresponding Northern Ireland legislation.
- (3) Shareable state scheme rights are rights in relation to which pension sharing is available under—
- (a) Chapter 2 of Part 4 of the 1999 Act, or
 - (b) corresponding Northern Ireland legislation.
- (4) In this Part “pension arrangement” means—
- (a) an occupational pension scheme,
 - (b) a personal pension scheme,
 - (c) a retirement annuity contract,
 - (d) an annuity or insurance policy purchased, or transferred, for the purpose of giving effect to rights under—
 - (i) an occupational pension scheme, or
 - (ii) a personal pension scheme, and
 - (e) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a pension credit under—
 - (i) section 29(1)(b) of the 1999 Act, or
 - (ii) corresponding Northern Ireland legislation.
- (5) In sub-paragraph (4)—
- “occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993 (c. 48);
 - “personal pension scheme” has the same meaning as in the 1993 Act;
 - “retirement annuity contract” means a contract or scheme approved under Chapter 3 of Part 14 of the Income and Corporation Taxes Act 1988 (c. 1).

Pension sharing orders: apportionment of charges

- 17 If a pension sharing order relates to rights under a pension arrangement, the court may include in the order provision about the apportionment between the civil partners of any charge under—
- (a) section 41 of the 1999 Act (charges in respect of pension sharing costs), or
 - (b) corresponding Northern Ireland legislation.

Restrictions on making of pension sharing orders

- 18 (1) A pension sharing order may not be made in relation to a pension arrangement which—
- (a) is the subject of a pension sharing order in relation to the civil partnership, or
 - (b) has been the subject of pension sharing between the civil partners.

Status: Point in time view as at 02/03/2015.

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- (2) A pension sharing order may not be made in relation to shareable state scheme rights if—
- (a) such rights are the subject of a pension sharing order in relation to the civil partnership, or
 - (b) such rights have been the subject of pension sharing between the civil partners.
- (3) A pension sharing order may not be made in relation to the rights of a person under a pension arrangement if there is in force a requirement imposed by virtue of Part 6 which relates to benefits or future benefits to which that person is entitled under the pension arrangement.

When pension sharing orders may take effect

- 19 (1) A pension sharing order is not to take effect unless the dissolution or nullity order on or after which it is made has been made final.
- (2) No pension sharing order may be made so as to take effect before the end of such period after the making of the order as may be prescribed by regulations made by the Lord Chancellor.
- (3) The power to make regulations under sub-paragraph (2) is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

- I4** Sch. 5 para. 19 wholly in force at 5.12.2005; Sch. 5 para. 19 not in force at Royal Assent see s. 263; Sch. 5 para. 19(2)(3) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 5 para. 19 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

[^{F24}**PART 4A**

PENSION COMPENSATION SHARING ORDERS ON OR AFTER DISSOLUTION OR NULLITY ORDER

Textual Amendments

- F24** Sch. 5 Pt. 4A inserted (6.3.2011 for specified purposes otherwise 6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 15](#); [S.I. 2011/664](#), [art. 2\(2\)\(3\)](#), [Sch.](#)

Circumstances in which pension compensation sharing orders may be made

- 19A (1) The court may make a pension compensation sharing order—
- (a) on making a dissolution or nullity order, or
 - (b) at any time afterwards.
- (2) In this Schedule “pension compensation sharing order” means a pension compensation sharing order under this Part.

Status: Point in time view as at 02/03/2015.

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Pension compensation sharing orders

- 19B (1) A pension compensation sharing order is an order which—
- (a) provides that one civil partner's shareable rights to PPF compensation that derive from rights under a specified pension scheme are to be subject to pension compensation sharing for the benefit of the other civil partner, and
 - (b) specifies the percentage value to be transferred.
- (2) Shareable rights to PPF compensation are rights in relation to which pension compensation sharing is available under—
- (a) Chapter 1 of Part 3 of the Pensions Act 2008, or
 - (b) corresponding Northern Ireland legislation.
- (3) In sub-paragraph (1) “specified” means specified in the order.

Pension compensation sharing orders: apportionment of charges

- 19C The court may include in a pension compensation sharing order provision about the apportionment between the civil partners of any charge under—
- (a) section 117 of the Pensions Act 2008 (charges in respect of pension compensation sharing costs), or
 - (b) corresponding Northern Ireland legislation.

Restrictions on making pension compensation sharing orders

- 19D (1) A pension compensation sharing order may not be made in relation to rights to PPF compensation that—
- (a) are the subject of pension attachment,
 - (b) derive from rights under a pension scheme that were the subject of pension sharing between the civil partners,
 - (c) are the subject of pension compensation attachment, or
 - (d) are or have been the subject of pension compensation sharing between the civil partners.
- (2) For the purposes of sub-paragraph (1)(a), rights to PPF compensation “are the subject of pension attachment” if any of the following three conditions is met.
- (3) The first condition is that—
- (a) the rights derive from rights under a pension scheme in relation to which an order was made under Part 1 imposing a requirement by virtue of paragraph 25(2), and
 - (b) that order, as modified under paragraph 31, remains in force.
- (4) The second condition is that—
- (a) the rights derive from rights under a pension scheme in relation to which an order was made under Part 1 imposing a requirement by virtue of paragraph 25(5), and
 - (b) that order—
 - (i) has been complied with, or
 - (ii) has not been complied with and, as modified under paragraph 32, remains in force.
- (5) The third condition is that—

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- (a) the rights derive from rights under a pension scheme in relation to which an order was made under Part 1 imposing a requirement by virtue of paragraph 26, and
 - (b) that order remains in force.
- (6) For the purposes of sub-paragraph (1)(b), rights under a pension scheme “were the subject of pension sharing between the civil partners” if the rights were at any time the subject of a pension sharing order in relation to the civil partnership or a previous civil partnership between the same parties.
- (7) For the purposes of sub-paragraph (1)(c), rights to PPF compensation “are the subject of pension compensation attachment” if there is in force a requirement imposed by virtue of Part 6 relating to them.
- (8) For the purposes of sub-paragraph (1)(d), rights to PPF compensation “are or have been the subject of pension compensation sharing between the civil partners” if they are or have ever been the subject of a pension compensation sharing order in relation to the civil partnership or a previous civil partnership between the same parties.

When pension compensation sharing orders may take effect

- 19E (1) A pension compensation sharing order is not to take effect unless the dissolution or nullity order on or after which it is made has been made final.
- (2) No pension compensation sharing order may be made so as to take effect before the end of such period after the making of the order as may be prescribed by regulations made by the Lord Chancellor.
- (3) The power to make regulations under sub-paragraph (2) is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

19F In this Schedule—

“PPF compensation” means compensation payable under the pension compensation provisions;

“the pension compensation provisions” means—

- (a) Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) and any regulations or order made under it,
- (b) Chapter 1 of Part 3 of the Pensions Act 2008 (pension compensation sharing) and any regulations or order made under it, and
- (c) any provision corresponding to the provisions mentioned in paragraph (a) or (b) in force in Northern Ireland.]

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PART 5

MATTERS TO WHICH COURT IS TO HAVE REGARD UNDER PARTS 1 TO [F25 4A]

Textual Amendments

F25 Word in Sch. 5 Pt. 5 heading substituted (6.4.2011) by Pensions Act 2008 (c. 30), ss. 120, 149, Sch. 6 para. 16(2); S.I. 2011/664, art. 2(3), Sch. Pt. 2

General

- 20 The court in deciding—
- (a) whether to exercise its powers under—
 - (i) Part 1 (financial provision on dissolution etc.),
 - (ii) Part 2 (property adjustment orders),
 - (iii) Part 3 (sale of property orders), ^{F26} . . .
 - (iv) any provision of Part 4 (pension sharing orders) other than paragraph 17 (apportionment of charges), [^{F27} or]
 - [^{F28}(v) any provision of Part 4A (pension compensation sharing orders) other than paragraph 19C (apportionment of charges), and]
 - (b) if so, in what way,
- must have regard to all the circumstances of the case, giving first consideration to the welfare, while under 18, of any child of the family who has not reached 18.

Textual Amendments

- F26** Word in Sch. 5 para. 20(a)(iii) repealed (6.4.2011) by Pensions Act 2008 (c. 30), ss. 120, 148, 149, Sch. 6 para. 16(3)(a), Sch. 11 Pt. 4; S.I. 2011/664, art. 2(3), Sch. Pt. 2
- F27** Word in Sch. 5 para. 20(a)(iv) substituted (6.4.2011) by Pensions Act 2008 (c. 30), ss. 120, 149, Sch. 6 para. 16(3)(b); S.I. 2011/664, art. 2(3), Sch. Pt. 2
- F28** Sch. 5 para. 20(a)(v) inserted (6.4.2011) by Pensions Act 2008 (c. 30), ss. 120, 149, Sch. 6 para. 16(3)(c); S.I. 2011/664, art. 2(3), Sch. Pt. 2

Particular matters to be taken into account when exercising powers in relation to civil partners

- 21 (1) This paragraph applies to the exercise by the court in relation to a civil partner of its powers under—
- (a) Part 1 (financial provision on dissolution etc.) by virtue of paragraph 2(1) (a), (b) or (c),
 - (b) Part 2 (property adjustment orders),
 - (c) Part 3 (sale of property orders), ^{F29} . . .
 - (d) Part 4 (pension sharing orders) [^{F30}, or]
 - [^{F31}(e) Part 4A (pension compensation sharing orders).]
- (2) The court must in particular have regard to—
- (a) the income, earning capacity, property and other financial resources which each civil partner—

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- (i) has, or
- (ii) is likely to have in the foreseeable future, including, in the case of earning capacity, any increase in that capacity which it would in the opinion of the court be reasonable to expect a civil partner in the civil partnership to take steps to acquire;
- (b) the financial needs, obligations and responsibilities which each civil partner has or is likely to have in the foreseeable future;
- (c) the standard of living enjoyed by the family before the breakdown of the civil partnership;
- (d) the age of each civil partner and the duration of the civil partnership;
- (e) any physical or mental disability of either of the civil partners;
- (f) the contributions which each civil partner has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;
- (g) the conduct of each civil partner, if that conduct is such that it would in the opinion of the court be inequitable to disregard it;
- (h) in the case of proceedings for a dissolution or nullity order, the value to each civil partner of any benefit which, because of the dissolution or annulment of the civil partnership, that civil partner will lose the chance of acquiring.

Textual Amendments

- F29** Word in Sch. 5 para. 21(1)(c) repealed (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 148, 149, [Sch. 6 para. 16\(4\)\(a\)](#), [Sch. 11 Pt. 4](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2
- F30** Word in Sch. 5 para. 21(1)(d) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 16\(4\)\(b\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2
- F31** Sch. 5 para. 21(1)(e) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 16\(4\)\(c\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

Modifications etc. (not altering text)

- C2** Sch. 5 para. 21(2)(d) applied (with modifications) (5.12.2005) by [The Civil Partnership \(Treatment of Overseas Relationships\) Order 2005 \(S.I. 2005/3042\)](#), [art. 3\(3\)](#)

Particular matters to be taken into account when exercising powers in relation to children

- 22 (1) This paragraph applies to the exercise by the court in relation to a child of the family of its powers under—
- (a) Part 1 (financial provision on dissolution etc.) by virtue of paragraph 2(1) (d), (e) or (f),
 - (b) Part 2 (property adjustment orders), or
 - (c) Part 3 (sale of property orders).
- (2) The court must in particular have regard to—
- (a) the financial needs of the child;
 - (b) the income, earning capacity (if any), property and other financial resources of the child;
 - (c) any physical or mental disability of the child;
 - (d) the way in which the child was being and in which the civil partners expected the child to be educated or trained;

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- (e) the considerations mentioned in relation to the civil partners in paragraph 21(2)(a), (b), (c) and (e).
- (3) In relation to the exercise of any of those powers against a civil partner (“A”) in favour of a child of the family who is not A’s child, the court must also have regard to—
- (a) whether A has assumed any responsibility for the child’s maintenance;
 - (b) if so, the extent to which, and the basis upon which, A assumed such responsibility and the length of time for which A discharged such responsibility;
 - (c) whether in assuming and discharging such responsibility A did so knowing that the child was not A’s child;
 - (d) the liability of any other person to maintain the child.

Terminating financial obligations

- 23 (1) Sub-paragraphs (2) and (3) apply if, on or after the making of a dissolution or nullity order, the court decides to exercise its powers under—
- (a) Part 1 (financial provision on dissolution etc.) by virtue of paragraph 2(1)(a), (b) or (c),
 - (b) Part 2 (property adjustment orders),
 - (c) Part 3 (sale of property orders),^{F32} . . .
 - (d) Part 4 (pension sharing orders),^{F33} or
 - ^{F34}(e) Part 4A (pension compensation sharing orders),]
- in favour of one of the civil partners.
- (2) The court must consider whether it would be appropriate to exercise those powers in such a way that the financial obligations of each civil partner towards the other will be terminated as soon after the making of the dissolution or nullity order as the court considers just and reasonable.
- (3) If the court decides to make—
- (a) a periodical payments order, or
 - (b) a secured periodical payments order,
- in favour of one of the civil partners (“A”), it must in particular consider whether it would be appropriate to require the payments to be made or secured only for such term as would in its opinion be sufficient to enable A to adjust without undue hardship to the termination of A’s financial dependence on the other civil partner.
- (4) If—
- (a) on or after the making of a dissolution or nullity order, an application is made by one of the civil partners for a periodical payments or secured periodical payments order in that civil partner’s favour, but
 - (b) the court considers that no continuing obligation should be imposed on either civil partner to make or secure periodical payments in favour of the other,
- the court may dismiss the application with a direction that the applicant is not entitled to make any future application in relation to that civil partnership for an order under Part 1 by virtue of paragraph 2(1)(a) or (b).

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F32** Word in Sch. 5 para. 23(1)(c) repealed (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 16\(5\)\(a\)](#), [Sch. 11 Pt. 4](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2
- F33** Word in Sch. 5 para. 23(1)(d) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 16\(5\)\(b\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2
- F34** Sch. 5 para. 23(1)(e) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 16\(5\)\(c\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

PART 6

MAKING OF PART 1 ORDERS HAVING REGARD TO PENSION BENEFITS

PROSPECTIVE

Pension benefits to be included in matters to which court is to have regard

- 24 (1) The matters to which the court is to have regard under paragraph 21(2)(a) include any pension benefits under a pension arrangement or by way of pension which a civil partner has or is likely to have; and, accordingly, in relation to any pension benefits paragraph 21(2)(a)(ii) has effect as if “in the foreseeable future” were omitted.
- (2) The matters to which the court is to have regard under paragraph 21(2)(h) include any pension benefits which, because of the making of a dissolution or nullity order, a civil partner will lose the chance of acquiring.
- (3) “Pension benefits” means—
- (a) benefits under a pension arrangement, or
 - (b) benefits by way of pension (whether under a pension arrangement or not).

Provisions applying where pension benefits taken into account in decision to make Part 1 order

- 25 (1) This paragraph applies if, having regard to any benefits under a pension arrangement, the court decides to make an order under Part 1.
- (2) To the extent to which the Part 1 order is made having regard to any benefits under a pension arrangement, it may require the person responsible for the pension arrangement, if at any time any payment in respect of any benefits under the arrangement becomes due to the civil partner with pension rights, to make a payment for the benefit of the other civil partner.
- (3) The Part 1 order must express the amount of any payment required to be made by virtue of sub-paragraph (2) as a percentage of the payment which becomes due to the civil partner with pension rights.
- (4) Any such payment by the person responsible for the arrangement—
- (a) discharges so much of his liability to the civil partner with pension rights as corresponds to the amount of the payment, and

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- (b) is to be treated for all purposes as a payment made by the civil partner with pension rights in or towards the discharge of that civil partner's liability under the order.
- (5) If the civil partner with pension rights has a right of commutation under the arrangement, the Part 1 order may require that civil partner to exercise it to any extent.
- (6) This paragraph applies to any payment due in consequence of commutation in pursuance of the Part 1 order as it applies to other payments in respect of benefits under the arrangement.
- (7) The power conferred by sub-paragraph (5) may not be exercised for the purpose of commuting a benefit payable to the civil partner with pension rights to a benefit payable to the other civil partner.
- (8) The powers conferred by sub-paragraphs (2) and (5) may not be exercised in relation to a pension arrangement which—
 - (a) is the subject of a pension sharing order in relation to the civil partnership, or
 - (b) has been the subject of pension sharing between the civil partners.

Modifications etc. (not altering text)

- C3 Sch. 5 para. 25(4) modified (8.8.2006) by [The Dissolution etc. \(Pension Protection Fund\) Regulations 2006 \(S.I. 2006/1934\)](#), [reg. 2](#)

Pensions: lump sums

- 26
- (1) This paragraph applies if the benefits which the civil partner with pension rights has or is likely to have under a pension arrangement include any lump sum payable in respect of that civil partner's death.
 - (2) The court's power under Part 1 to order a civil partner to pay a lump sum to the other civil partner includes the power to make by the order any provision in sub-paragraph (3) to (5).
 - (3) If the person responsible for the pension arrangement has power to determine the person to whom the sum, or any part of it, is to be paid, the court may require him to pay the whole or part of that sum, when it becomes due, to the other civil partner.
 - (4) If the civil partner with pension rights has power to nominate the person to whom the sum, or any part of it, is to be paid, the court may require the civil partner with pension rights to nominate the other civil partner in respect of the whole or part of that sum.
 - (5) In any other case, the court may require the person responsible for the pension arrangement in question to pay the whole or part of that sum, when it becomes due, for the benefit of the other civil partner instead of to the person to whom, apart from the order, it would be paid.
 - (6) Any payment by the person responsible for the arrangement under an order made under Part 1 made by virtue of this paragraph discharges so much of his liability in respect of the civil partner with pension rights as corresponds to the amount of the payment.

Status: Point in time view as at 02/03/2015.

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- (7) The powers conferred by this paragraph may not be exercised in relation to a pension arrangement which—
- (a) is the subject of a pension sharing order in relation to the civil partnership, or
 - (b) has been the subject of pension sharing between the civil partners.

Pensions: supplementary

27 If—

- (a) a Part 1 order made by virtue of paragraph 25 or 26 imposes any requirement on the person responsible for a pension arrangement (“the first arrangement”),
- (b) the civil partner with pension rights acquires rights under another pension arrangement (“the new arrangement”) which are derived (directly or indirectly) from the whole of that civil partner’s rights under the first arrangement, and
- (c) the person responsible for the new arrangement has been given notice in accordance with regulations made by the Lord Chancellor,

the Part 1 order has effect as if it had been made instead in respect of the person responsible for the new arrangement.

Commencement Information

- I5** Sch. 5 para. 27 wholly in force at 5.12.2005; Sch. 5 para. 27 not in force at Royal Assent see s. 263; Sch. 5 para. 27(c) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 5 para. 27 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Regulations

- 28 (1) The Lord Chancellor may by regulations—
- (a) make provision, in relation to any provision of paragraph 25 or 26 which authorises the court making a Part 1 order to require the person responsible for a pension arrangement to make a payment for the benefit of the other civil partner, as to—
 - (i) the person to whom, and
 - (ii) the terms on which,
 the payment is to be made;
 - (b) make provision, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of paragraph 25 or 26 in a Part 1 order, about the rights or liabilities of the payer, the payee or the person to whom the payment was due;
 - (c) require notices to be given in respect of changes of circumstances relevant to Part 1 orders which include provision made by virtue of paragraphs 25 and 26;
 - (d) make provision for the person responsible for a pension arrangement to be discharged in prescribed circumstances from a requirement imposed by virtue of paragraph 25 or 26;
 - (e) make provision about calculation and verification in relation to the valuation of—
 - (i) benefits under a pension arrangement, or

Status: Point in time view as at 02/03/2015.

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- (ii) shareable state scheme rights (within the meaning of paragraph 16(3)),
for the purposes of the court’s functions in connection with the exercise of any of its powers under this Schedule.
- (2) Regulations under sub-paragraph (1)(e) may include—
- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person, and
 - (b) provision by reference to regulations under section 30 or 49(4) of the 1999 Act.
- (3) The power to make regulations under paragraph 27 or this paragraph is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) “Prescribed” means prescribed by regulations.

Commencement Information

- I6** Sch. 5 para. 28 wholly in force at 5.12.2005; Sch. 5 para. 28 not in force at Royal Assent see s. 263; Sch. 5 para. 28 in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 5 para. 28 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Interpretation of provisions relating to pensions

- 29 (1) In this Part “the civil partner with pension rights” means the civil partner who has or is likely to have benefits under a pension arrangement.
- (2) In this Part “pension arrangement” has the same meaning as in Part 4.
- (3) In this Part, references to the person responsible for a pension arrangement are to be read in accordance with section 26 of the Welfare Reform and Pensions Act 1999 (c. 30).

Commencement Information

- I7** Sch. 5 para. 29 wholly in force at 5.12.2005; Sch. 5 para. 29 not in force at Royal Assent see s. 263; Sch. 5 para. 29(2)(3) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 5 para. 29 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

PART 7

PENSION PROTECTION FUND COMPENSATION ETC.

PPF compensation to be included in matters to which court is to have regard

- 30 (1) The matters to which a court is to have regard under paragraph 21(2)(a) include any PPF compensation to which a civil partner is or is likely to be entitled; and, accordingly, in relation to any PPF compensation paragraph 21(2)(a)(ii) has effect as if “in the foreseeable future” were omitted.

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The matters to which a court is to have regard under paragraph 21(2)(h) include any PPF compensation which, because of the making of a dissolution or nullity order, a civil partner will lose the chance of acquiring entitlement to.
- (3) ^{F35}

Textual Amendments

F35 Sch. 5 para. 30(3) repealed (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 148, 149, Sch. 6 para. 17(2), [Sch. 11 Pt. 4](#); [S.I. 2011/664](#), [art. 2\(3\)](#), Sch. Pt. 2

Assumption of responsibility by PPF Board in paragraph 25(2) cases

- 31 (1) This paragraph applies to an order under Part 1 so far as it includes provision made by virtue of paragraph 25(2) which—
- (a) imposed requirements on the trustees or managers of an occupational pension scheme for which the Board has assumed responsibility, and
 - (b) was made before the trustees or managers received the transfer notice.
- (2) From the time the trustees or managers of the scheme receive the transfer notice, the order has effect—
- (a) except in descriptions of case prescribed by regulations, with the modifications set out in sub-paragraph (3), and
 - (b) with such other modifications as may be prescribed by regulations.
- (3) The modifications are that—
- (a) references in the order to the trustees or managers of the scheme have effect as references to the Board, and
 - (b) references in the order to any pension or lump sum to which the civil partner with pension rights is or may become entitled under the scheme have effect as references to any PPF compensation to which that person is or may become entitled in respect of the pension or lump sum.

Assumption of responsibility by PPF Board in paragraph 25(5) cases

- 32 (1) This paragraph applies to an order under Part 1 if—
- (a) it includes provision made by virtue of paragraph 25(5) which requires the civil partner with pension rights to exercise his right of commutation under an occupational pension scheme to any extent, and
 - (b) before the requirement is complied with the Board has assumed responsibility for the scheme.
- (2) From the time the trustees or managers of the scheme receive the transfer notice, the order has effect with such modifications as may be prescribed by regulations.

Lump sums: power to modify paragraph 26 in respect of assessment period

- 33 Regulations may modify paragraph 26 in its application to an occupational pension scheme during an assessment period in relation to the scheme.

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Assumption of responsibility by the Board not to affect power of court to vary order etc.

- 34 (1) This paragraph applies where the court makes, in relation to an occupational pension scheme—
- (a) a pension sharing order, or
 - (b) an order including provision made by virtue of paragraph 25(2) or (5).
- (2) If the Board subsequently assumes responsibility for the scheme, that does not affect—
- (a) the powers of the court under paragraph 51 to vary or discharge the order or to suspend or revive any provision of it;
 - (b) on an appeal, the powers of the appeal court to affirm, reinstate, set aside or vary the order.

Attachment of PPF compensation

- 34A (1) This paragraph applies if, having regard to any PPF compensation to which a civil partner is or is likely to be entitled, the court decides to make an order under Part 1.
- (2) To the extent to which the Part 1 order is made having regard to such compensation, it may require the Board, if at any time any payment in respect of PPF compensation becomes due to the civil partner with compensation rights, to make a payment for the benefit of the other civil partner.
- (3) The Part 1 order must express the amount of any payment required to be made by virtue of sub-paragraph (2) as a percentage of the payment which becomes due to the civil partner with compensation rights.
- (4) Any such payment by the Board—
- (a) discharges so much of its liability to the civil partner with compensation rights as corresponds to the amount of the payment, and
 - (b) is to be treated for all purposes as a payment made by the civil partner with compensation rights in or towards the discharge of that civil partner's liability under the order.
- (5) If the civil partner with compensation rights has a right to commute any PPF compensation, the Part 1 order may require that civil partner to exercise it to any extent.
- (6) This paragraph applies to any payment due in consequence of commutation in pursuance of the Part 1 order as it applies to other payments in respect of PPF compensation.
- (7) The power conferred by sub-paragraph (5) may not be exercised for the purpose of commuting a benefit payable to the civil partner with compensation rights to a benefit payable to the other civil partner.
- (8) The powers conferred by sub-paragraphs (2) and (5) may not be exercised in relation to rights to PPF compensation that—
- (a) derive from rights under a pension scheme that were at any time the subject of a pension sharing order in relation to the civil partnership or a previous civil partnership between the same parties, or
 - (b) are or have ever been the subject of a pension compensation sharing order in relation to the civil partnership or a previous civil partnership between the same parties.

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F36}34B(1) Regulations may—

- (a) make provision, in relation to any provision of paragraph 34A which authorises the court making a Part 1 order to require the Board to make a payment for the benefit of the other civil partner, as to the person to whom, and the terms on which, the payment is to be made;
- (b) make provision, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of paragraph 34A in a Part 1 order, about the rights or liabilities of the payer, the payee or the person to whom the payment was due;
- (c) require notices to be given in respect of changes of circumstances relevant to Part 1 orders which include provision made by virtue of paragraph 34A;
- (d) make provision for the Board to be discharged in prescribed circumstances from a requirement imposed by virtue of paragraph 34A;
- (e) make provision about calculation and verification in relation to the valuation of PPF compensation for the purposes of the court's functions in connection with the exercise of any of its powers under this Schedule.

(2) Regulations under sub-paragraph (1)(e) may include—

- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person;
- (b) provision by reference to regulations under section 112 of the Pensions Act 2008.]

Textual Amendments

F36 Sch. 5 para. 34B inserted (6.3.2011 for specified purposes otherwise 6.4.2011) by [Pensions Act 2008](#) (c. 30), ss. 120, 149, [Sch. 6 para. 17\(4\)](#); S.I. 2011/664, [art. 2\(2\)\(3\)](#), Sch.

Regulations

35 Regulations may make such consequential modifications of any provision of, or made by virtue of, this Schedule as appear to the Lord Chancellor necessary or expedient to give effect to the provisions of this Part.

36 (1) In this Part “regulations” means regulations made by the Lord Chancellor.

(2) A power to make regulations under this Part is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

37 (1) In this Part—

“assessment period” means—

- (a) an assessment period within the meaning of Part 2 of the Pensions Act 2004 (pension protection), or
 - (b) an equivalent period under corresponding Northern Ireland legislation;
- “the Board” means the Board of the Pension Protection Fund;

[^{F37}“the civil partner with compensation rights” means the civil partner who is or is likely to be entitled to PPF compensation;]

Status: Point in time view as at 02/03/2015.

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“the civil partner with pension rights” has the meaning given by paragraph 29(1);

“occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993 (c. 48);

[^{F38}prescribed” means prescribed by regulations;]

“transfer notice” has the same meaning as in—

- (a) Chapter 3 of Part 2 of the 2004 Act, or
- (b) corresponding Northern Ireland legislation.

(2) References in this Part to the Board assuming responsibility for a scheme are to the Board assuming responsibility for the scheme in accordance with—

- (a) Chapter 3 of Part 2 of the 2004 Act (pension protection), or
- (b) corresponding Northern Ireland legislation.

Textual Amendments

F37 Sch. 5 para. 37(1): definition of "the civil partner with compensation rights" inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 17\(5\)\(a\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

F38 Sch. 5 para. 37(1): definition of "prescribed" inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 17\(5\)\(b\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

PART 8

MAINTENANCE [^{F39} AND OTHER PAYMENTS] PENDING OUTCOME OF DISSOLUTION, NULLITY OR SEPARATION PROCEEDINGS

Textual Amendments

F39 Words in Sch. 5 Pt. 8 heading inserted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 52\(2\)](#), 151(1); S.I. 2013/773, [art. 2](#)

[^{F40}Maintenance orders]

Textual Amendments

F40 Sch. 5 para. 38 cross-heading inserted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 52\(3\)](#), 151(1); S.I. 2013/773, [art. 2](#)

38[^{F41}(1)] On an application for a dissolution, nullity or separation order, the court may make an order requiring either civil partner to make to the other for the other’s maintenance such periodical payments for such term—

- (a) beginning no earlier than the date on which the application was made, and
 - (b) ending with the date on which the proceedings are determined,
- as the court thinks reasonable.

[^{F42}(2)] An order under this paragraph may not require one civil partner to pay to the other any amount in respect of legal services for the purposes of the proceedings.

Status: Point in time view as at 02/03/2015.

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(3) In sub-paragraph (2) “legal services” has the same meaning as in paragraph 38A.]

Textual Amendments

- F41** Sch. 5 para. 38 renumbered as Sch. 5 para. 38(1) (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 52(4)(a)**, 151(1); S.I. 2013/773, art. 2
- F42** Sch. 5 para. 38(2)(3) inserted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 52(4)(b)**, 151(1); S.I. 2013/773, art. 2

[^{F43}Orders in respect of legal services

Textual Amendments

- F43** Sch. 5 para. 38A and cross-heading inserted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 52(5)**, 151(1); S.I. 2013/773, art. 2

- 38A (1) In proceedings for a dissolution, nullity or separation order, the court may make an order or orders requiring one civil partner to pay to the other (“the applicant”) an amount for the purpose of enabling the applicant to obtain legal services for the purposes of the proceedings.
- (2) The court may also make such an order or orders in proceedings under this Schedule for financial relief in connection with proceedings for a dissolution, nullity or separation order.
- (3) The court must not make an order under this paragraph unless it is satisfied that, without the amount, the applicant would not reasonably be able to obtain appropriate legal services for the purposes of the proceedings or any part of the proceedings.
- (4) For the purposes of sub-paragraph (3), the court must be satisfied, in particular, that—
- (a) the applicant is not reasonably able to secure a loan to pay for the services, and
 - (b) the applicant is unlikely to be able to obtain the services by granting a charge over any assets recovered in the proceedings.
- (5) An order under this paragraph may be made for the purpose of enabling the applicant to obtain legal services of a specified description, including legal services provided in a specified period or for the purposes of a specified part of the proceedings.
- (6) An order under this paragraph may—
- (a) provide for the payment of all or part of the amount by instalments of specified amounts, and
 - (b) require the instalments to be secured to the satisfaction of the court.
- (7) An order under this paragraph may direct that payment of all or part of the amount is to be deferred.
- (8) The court may at any time in the proceedings vary an order made under this paragraph if it considers that there has been a material change of circumstances since the order was made.

Status: Point in time view as at 02/03/2015.

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- (9) For the purposes of the assessment of costs in the proceedings, the applicant's costs are to be treated as reduced by any amount paid to the applicant pursuant to an order under this section for the purposes of those proceedings.
- (10) In this paragraph “legal services”, in relation to proceedings, means the following types of services—
- (a) providing advice as to how the law applies in the particular circumstances,
 - (b) providing advice and assistance in relation to the proceedings,
 - (c) providing other advice and assistance in relation to the settlement or other resolution of the dispute that is the subject of the proceedings, and
 - (d) providing advice and assistance in relation to the enforcement of decisions in the proceedings or as part of the settlement or resolution of the dispute,
- and they include, in particular, advice and assistance in the form of representation and any form of dispute resolution, including mediation.
- (11) In sub-paragraphs (5) and (6) “specified” means specified in the order concerned.]
- [^{F44}38B] (1) When considering whether to make or vary an order under paragraph 38A, the court must have regard to—
- (a) the income, earning capacity, property and other financial resources which each of the applicant and the paying party has or is likely to have in the foreseeable future,
 - (b) the financial needs, obligations and responsibilities which each of the applicant and the paying party has or is likely to have in the foreseeable future,
 - (c) the subject matter of the proceedings, including the matters in issue in them,
 - (d) whether the paying party is legally represented in the proceedings,
 - (e) any steps taken by the applicant to avoid all or part of the proceedings, whether by proposing or considering mediation or otherwise,
 - (f) the applicant's conduct in relation to the proceedings,
 - (g) any amount owed by the applicant to the paying party in respect of costs in the proceedings or other proceedings to which both the applicant and the paying party are or were party, and
 - (h) the effect of the order or variation on the paying party.
- (2) In sub-paragraph (1)(a) “earning capacity”, in relation to the applicant or the paying party, includes any increase in earning capacity which, in the opinion of the court, it would be reasonable to expect the applicant or the paying party to take steps to acquire.
- (3) For the purposes of sub-paragraph (1)(h), the court must have regard, in particular, to whether the making or variation of the order is likely to—
- (a) cause undue hardship to the paying party, or
 - (b) prevent the paying party from obtaining legal services for the purposes of the proceedings.
- (4) The Lord Chancellor may by order amend this paragraph by adding to, omitting or varying the matters mentioned in sub-paragraphs (1) to (3).
- (5) An order under sub-paragraph (4) must be made by statutory instrument.

Status: Point in time view as at 02/03/2015.

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- (6) A statutory instrument containing an order under sub-paragraph (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (7) In this paragraph “legal services” has the same meaning as in paragraph 38A.]

Textual Amendments

F44 Sch. 5 para. 38B inserted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 53, 151\(1\)](#); [S.I. 2013/773](#), art. 2

PART 9

FAILURE TO MAINTAIN: FINANCIAL PROVISION (AND INTERIM ORDERS)

Circumstances in which orders under this Part may be made

- 39 (1) Either civil partner in a subsisting civil partnership may apply to the court for an order under this Part on the ground that the other civil partner (“the respondent”)—
- (a) has failed to provide reasonable maintenance for the applicant, or
 - (b) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family.
- (2) The court must not entertain an application under this paragraph^{F45} unless it has jurisdiction to do so by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.]
- (3) If, on an application under this paragraph, it appears to the court that—
- (a) the applicant or any child of the family to whom the application relates is in immediate need of financial assistance, but
 - (b) it is not yet possible to determine what order, if any, should be made on the application,
- the court may make an interim order.
- (4) If, on an application under this paragraph, the applicant satisfies the court of a ground mentioned in sub-paragraph (1), the court may make one or more of the orders set out in paragraph 41.
- ^{F46}(5) In this paragraph, “the Maintenance Regulation” means Council Regulation (EC) [No 4/2009](#) including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Textual Amendments

F45 Words in Sch. 5 para. 39(2) substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, [Sch. 7 para. 16\(3\)\(a\)](#)

F46 Sch. 5 para. 39(5) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, [Sch. 7 para. 16\(3\)\(b\)](#)

Status: Point in time view as at 02/03/2015.

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Interim orders

- 40 An interim order is an order requiring the respondent to make to the applicant, until the determination of the application, such periodical payments as the court thinks reasonable.

Orders that may be made where failure to maintain established

- 41 (1) The orders are—
- (a) an order that the respondent must make to the applicant such periodical payments for such term as may be specified;
 - (b) an order that the respondent must secure to the applicant, to the satisfaction of the court, such periodical payments for such term as may be specified;
 - (c) an order that the respondent must pay to the applicant such lump sum as may be specified;
 - (d) an order that the respondent must make such periodical payments for such term as may be specified—
 - (i) to such person as may be specified, for the benefit of the child to whom the application relates, or
 - (ii) to the child to whom the application relates;
 - (e) an order that the respondent must secure—
 - (i) to such person as may be specified for the benefit of the child to whom the application relates, or
 - (ii) to the child to whom the application relates,to the satisfaction of the court, such periodical payments for such term as may be specified;
 - (f) an order that the respondent must pay such lump sum as may be specified—
 - (i) to such person as may be specified for the benefit of the child to whom the application relates, or
 - (ii) to the child to whom the application relates.
- (2) In this Part “specified” means specified in the order.

Particular provision that may be made by lump sum orders

- 42 (1) An order under this Part for the payment of a lump sum may be made for the purpose of enabling any liabilities or expenses reasonably incurred in maintaining the applicant or any child of the family to whom the application relates before the making of the application to be met.
- (2) An order under this Part for the payment of a lump sum may—
- (a) provide for its payment by instalments of such amount as may be specified, and
 - (b) require the payment of the instalments to be secured to the satisfaction of the court.
- (3) Sub-paragraphs (1) and (2) do not restrict the power to make an order by virtue of paragraph 41(1)(c) or (f).

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Matters to which the court is to have regard on application under paragraph 39(1)(a)

- 43 (1) This paragraph applies if an application under paragraph 39 is made on the ground mentioned in paragraph 39(1)(a).
- (2) In deciding—
- (a) whether the respondent has failed to provide reasonable maintenance for the applicant, and
 - (b) what order, if any, to make under this Part in favour of the applicant, the court must have regard to all the circumstances of the case including the matters mentioned in paragraph 21(2).
- (3) If an application is also made under paragraph 39 in respect of a child of the family who has not reached 18, the court must give first consideration to the welfare of the child while under 18.
- (4) Paragraph 21(2)(c) has effect as if for the reference in it to the breakdown of the civil partnership there were substituted a reference to the failure to provide reasonable maintenance for the applicant.

Matters to which the court is to have regard on application under paragraph 39(1)(b)

- 44 (1) This paragraph applies if an application under paragraph 39 is made on the ground mentioned in paragraph 39(1)(b).
- (2) In deciding—
- (a) whether the respondent has failed to provide, or to make a proper contribution towards, reasonable maintenance for the child of the family to whom the application relates, and
 - (b) what order, if any, to make under this Part in favour of the child, the court must have regard to all the circumstances of the case.
- (3) Those circumstances include—
- (a) the matters mentioned in paragraph 22(2)(a) to (e), and
 - (b) if the child of the family to whom the application relates is not the child of the respondent, the matters mentioned in paragraph 22(3).
- (4) Paragraph 21(2)(c) (as it applies by virtue of paragraph 22(2)(e)) has effect as if for the reference in it to the breakdown of the civil partnership there were substituted a reference to—
- (a) the failure to provide, or
 - (b) the failure to make a proper contribution towards,
- reasonable maintenance for the child of the family to whom the application relates.

Restrictions on making orders under this Part

- 45 The power to make an order under paragraph 41(1)(d), (e) or (f) is subject to paragraph 49(1) and (5) (restrictions on orders in favour of children who have reached 18).

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PART 10

COMMENCEMENT OF CERTAIN PROCEEDINGS AND DURATION OF CERTAIN ORDERS

Commencement of proceedings for ancillary relief, etc.

- 46 (1) Sub-paragraph (2) applies if an application for a dissolution, nullity or separation order has been made.
- (2) Subject to sub-paragraph (3), proceedings for—
- (a) an order under Part 1 (financial provision on dissolution etc.),
 - (b) a property adjustment order, or
 - (c) an order under Part 8 (maintenance pending outcome of dissolution, nullity or separation proceedings),
- may be begun (subject to and in accordance with rules of court) at any time after the presentation of the application.
- (3) Rules of court may provide, in such cases as may be prescribed by the rules, that—
- (a) an application for any such relief as is mentioned in sub-paragraph (2) must be made in the application or response, and
 - (b) an application for any such relief which—
 - (i) is not so made, or
 - (ii) is not made until after the end of such period following the presentation of the application or filing of the response as may be so prescribed,may be made only with the leave of the court.

Commencement Information

- 18** Sch. 5 para. 46 wholly in force at 5.12.2005; Sch. 5 para. 46 not in force at Royal Assent see s. 263; Sch. 5 para. 46(2) in force for certain purposes and Sch. 5 para. 46(3) in force at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 5 para. 46 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Duration of periodical and secured periodical payments orders for a civil partner

- 47 (1) The court may specify in a periodical payments or secured periodical payments order in favour of a civil partner such term as it thinks fit, except that the term must not—
- (a) begin before the date of the making of an application for the order, or
 - (b) extend beyond the limits given in sub-paragraphs (2) and (3).
- (2) The limits in the case of a periodical payments order are—
- (a) the death of either civil partner;
 - (b) where the order is made on or after the making of a dissolution or nullity order, the formation of a subsequent civil partnership or marriage by the civil partner in whose favour the order is made.
- (3) The limits in the case of a secured periodical payments order are—
- (a) the death of the civil partner in whose favour the order is made;
 - (b) where the order is made on or after the making of a dissolution or nullity order, the formation of a subsequent civil partnership or marriage by the civil partner in whose favour the order is made.

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- (4) In the case of an order made on or after the making of a dissolution or nullity order, sub-paragraphs (1) to (3) are subject to paragraphs 23(3) and 59(4).
- (5) If a periodical payments or secured periodical payments order in favour of a civil partner is made on or after the making of a dissolution or nullity order, the court may direct that that civil partner is not entitled to apply under paragraph 51 for the extension of the term specified in the order.
- (6) If—
- (a) a periodical payments or secured periodical payments order in favour of a civil partner is made otherwise than on or after the making of a dissolution or nullity order, and
 - (b) the civil partnership is subsequently dissolved or annulled but the order continues in force,

the order ceases to have effect (regardless of anything in it) on the formation of a subsequent civil partnership or marriage by that civil partner, except in relation to any arrears due under it on the date of its formation.

Subsequent civil partnership or marriage

- 48 If after the making of a dissolution or nullity order one of the civil partners forms a subsequent civil partnership or marriage, that civil partner is not entitled to apply, by reference to the dissolution or nullity order, for—
- (a) an order under Part 1 in that civil partner's favour, or
 - (b) a property adjustment order,
- against the other civil partner in the dissolved or annulled civil partnership.

*Duration of continuing orders in favour of children,
and age limit on making certain orders in their favour*

- 49 (1) Subject to sub-paragraph (5)—
- (a) no order under Part 1,
 - (b) no property adjustment order made by virtue of paragraph 7(1)(a) (transfer of property), and
 - (c) no order made under Part 9 (failure to maintain) by virtue of paragraph 41, is to be made in favour of a child who has reached 18.
- (2) The term to be specified in a periodical payments or secured periodical payments order in favour of a child may begin with—
- (a) the date of the making of an application for the order or a later date, or
 - (b) a date ascertained in accordance with sub-paragraph (7) or (8).
- (3) The term to be specified in such an order—
- (a) must not in the first instance extend beyond the date of the birthday of the child next following the child's reaching the upper limit of the compulsory school age unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date, and
 - (b) must not in any event, subject to sub-paragraph (5), extend beyond the date of the child's 18th birthday.

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- (4) Sub-paragraph (3)(a) must be read with section 8 of the Education Act 1996 (c. 56) (which applies to determine for the purposes of any enactment whether a person is of compulsory school age).
- (5) Sub-paragraphs (1) and (3)(b) do not apply in the case of a child if it appears to the court that—
- (a) the child is, or will be, or, if an order were made without complying with either or both of those provisions, would be—
 - (i) receiving instruction at an educational establishment, or
 - (ii) undergoing training for a trade, profession or vocation,whether or not the child also is, will be or would be in gainful employment, or
 - (b) there are special circumstances which justify the making of an order without complying with either or both of sub-paragraphs (1) and (3)(b).
- (6) A periodical payments order in favour of a child, regardless of anything in the order, ceases to have effect on the death of the person liable to make payments under the order, except in relation to any arrears due under the order on the date of the death.
- (7) If—
- (a) a maintenance calculation (“the current calculation”) is in force with respect to a child, and
 - (b) an application is made under this Schedule for a periodical payments or secured periodical payments order in favour of that child—
 - (i) in accordance with section 8 of the Child Support Act 1991 (c. 48), and
 - (ii) before the end of 6 months beginning with the making of the current calculation,the term to be specified in any such order made on that application may be expressed to begin on, or at any time after, the earliest permitted date.
- (8) “The earliest permitted date” is whichever is the later of—
- (a) the date 6 months before the application is made, or
 - (b) the date on which the current calculation took effect or, where successive maintenance calculations have been continuously in force with respect to a child, on which the first of those calculations took effect.
- (9) If—
- (a) a maintenance calculation ceases to have effect by or under any provision of the 1991 Act, and
 - (b) an application is made, before the end of 6 months beginning with the relevant date, for a periodical payments or secured periodical payments order in favour of a child with respect to whom that maintenance calculation was in force immediately before it ceased to have effect,
- the term to be specified in any such order made on that application may begin with the date on which that maintenance calculation ceased to have effect or any later date.
- (10) “The relevant date” means the date on which the maintenance calculation ceased to have effect.
- (11) In this paragraph “maintenance calculation” has the same meaning as it has in the 1991 Act by virtue of section 54 of the 1991 Act as read with any regulations in force under that section.

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Modifications etc. (not altering text)

- C4** Sch. 5 para. 49(7)-(11) applied (with modifications) (5.12.2005) (temp.) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 2(5), [Sch. 5 para. 2\(2\)](#)

PART 11

VARIATION, DISCHARGE ETC. OF CERTAIN ORDERS FOR FINANCIAL RELIEF

Orders etc. to which this Part applies

- 50 (1) This Part applies to the following orders—
- (a) a periodical payments order under Part 1 (financial provision on dissolution etc.) or Part 9 (failure to maintain);
 - (b) a secured periodical payments order under Part 1 or 9;
 - (c) an order under Part 8 (maintenance pending outcome of dissolution proceedings etc.);
 - (d) an interim order under Part 9;
 - (e) an order made under Part 1 by virtue of paragraph 3(3) or under Part 9 by virtue of paragraph 42(2) (lump sum by instalments);
 - (f) a deferred order made under Part 1 by virtue of paragraph 2(1)(c) (lump sum for civil partner) which includes provision made by virtue of—
 - (i) paragraph 25(2),^{F47} . . .
 - (ii) paragraph 26,^{[F48} or]
 - ^{[F49}(iii) paragraph 34A(2),]
 (provision in respect of pension rights [^{F50} or pension compensation rights]);
 - (g) a property adjustment order made on or after the making of a separation order by virtue of paragraph 7(1)(b), (c) or (d) (order for settlement or variation of settlement);
 - (h) a sale of property order;
 - (i) a pension sharing order [^{F51}, or a pension compensation sharing order,] made before the dissolution or nullity order has been made final.
- (2) If the court has made an order referred to in sub-paragraph (1)(f)(ii), this Part ceases to apply to the order on the death of either of the civil partners.
- (3) The powers exercisable by the court under this Part in relation to an order are also exercisable in relation to any instrument executed in pursuance of the order.

Textual Amendments

- F47** Word in Sch. 5 para. 50(1)(f)(i) repealed (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 148, 149, [Sch. 6 para. 18\(2\)\(a\)](#), [Sch. 11 Pt. 4](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2
- F48** Word in Sch. 5 para. 50(1)(f)(ii) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(2\)\(b\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2
- F49** Sch. 5 para. 50(1)(f)(iii) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(2\)\(c\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

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- F50** Words in Sch. 5 para. 50(1)(f) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(2\)\(d\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2
- F51** Words in Sch. 5 para. 50(1)(i) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(3\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

Powers to vary, discharge, suspend or revive order

- 51 (1) If the court has made an order to which this Part applies, it may—
- (a) vary or discharge the order,
 - (b) suspend any provision of it temporarily, or
 - (c) revive the operation of any provision so suspended.
- (2) Sub-paragraph (1) is subject to the provisions of this Part and paragraph 47(5).

Power to remit arrears

- 52 (1) If the court has made an order referred to in paragraph 50(1)(a), (b), (c) or (d), it may remit the payment of any arrears due under the order or under any part of the order.
- (2) Sub-paragraph (1) is subject to the provisions of this Part.

Additional powers on discharging or varying a periodical or secured periodical payments order after dissolution of civil partnership

- 53 (1) Sub-paragraph (2) applies if, after the dissolution of a civil partnership, the court—
- (a) discharges a periodical payments order or secured periodical payments order made in favour of a civil partner, or
 - (b) varies such an order so that payments under the order are required to be made or secured only for such further period as is determined by the court.
- (2) The court may make supplemental provision consisting of any of the following—
- (a) an order for the payment of a lump sum in favour of one of the civil partners;
 - (b) one or more property adjustment orders in favour of one of the civil partners;
 - (c) one or more pension sharing orders;
 - [^{F52}(ca) a pension compensation sharing order;]
 - (d) a direction that the civil partner in whose favour the original order discharged or varied was made is not entitled to make any further application for—
 - (i) a periodical payments or secured periodical payments order, or
 - (ii) an extension of the period to which the original order is limited by any variation made by the court.
- (3) The power under sub-paragraph (2) is in addition to any power the court has apart from that sub-paragraph.

Textual Amendments

- F52** Sch. 5 para. 53(2)(ca) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(4\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

- 54 (1) An order for the payment of a lump sum under paragraph 53 may—

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- (a) provide for the payment of it by instalments of such amount as may be specified, and
 - (b) require the payment of the instalments to be secured to the satisfaction of the court.
- (2) Sub-paragraphs (5) and (6) of paragraph 3 (interest on deferred instalments) apply where the court makes an order for the payment of a lump sum under paragraph 53 as they apply where it makes such an order under Part 1.
- (3) If under paragraph 53 the court makes more than one property adjustment order in favour of the same civil partner, each of those orders must fall within a different paragraph of paragraph 7(1) (types of property adjustment orders).
- (4) Part 3 (orders for the sale of property) and paragraph 76 (direction for settlement of instrument) apply where the court makes a property adjustment order under paragraph 53 as they apply where it makes any other property adjustment order.
- (5) Paragraph 18 (restrictions on making of pension sharing order) applies in relation to a pension sharing order under paragraph 53 as it applies in relation to any other pension sharing order.
- [^{F53}(6) Paragraph 19D (restrictions on making pension compensation sharing orders) applies in relation to a pension compensation sharing order under paragraph 53 as it applies in relation to any other pension compensation sharing order.]

Textual Amendments

F53 Sch. 5 para. 54(6) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(5\)](#); [S.I. 2011/664](#), [art. 2\(3\)](#), [Sch. Pt. 2](#)

Variation etc. of periodical or secured periodical payments orders made in cases of failure to maintain

- 55 (1) An application for the variation under paragraph 51 of a periodical payments order or secured periodical payments order made under Part 9 in favour of a child may, if the child has reached 16, be made by the child himself.
- (2) Sub-paragraph (3) applies if a periodical payments order made in favour of a child under Part 9 ceases to have effect—
- (a) on the date on which the child reaches 16, or
 - (b) at any time after that date but before or on the date on which the child reaches 18.
- (3) If, on an application made to the court for an order under this sub-paragraph, it appears to the court that—
- (a) the child is, will be or, if an order were made under this sub-paragraph, would be—
 - (i) receiving instruction at an educational establishment, or
 - (ii) undergoing training for a trade, profession or vocation,
 whether or not the child also is, will be or would be in gainful employment, or
 - (b) there are special circumstances which justify the making of an order under this sub-paragraph,

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the court may by order revive the order mentioned in sub-paragraph (2) from such date as it may specify.

- (4) A date specified under sub-paragraph (3) must not be earlier than the date of the application under that sub-paragraph.
- (5) If under sub-paragraph (3) the court revives an order it may exercise its power under paragraph 51 in relation to the revived order.

Variation etc. of property adjustment [^{F54}, pension sharing and pension compensation sharing orders]

Textual Amendments

F54 Words in cross-heading before Sch. 5 para. 56 substituted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(6\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

- 56 The court must not exercise the powers conferred by this Part in relation to a property adjustment order falling within paragraph 7(1)(b), (c) or (d) (order for settlement or for variation of settlement) except on an application made in proceedings—
- (a) for the rescission of the separation order by reference to which the property adjustment order was made, or
 - (b) for a dissolution order in relation to the civil partnership.
- 57 (1) In relation to a pension sharing order [^{F55}or pension compensation sharing order] which is made at a time before the dissolution or nullity order has been made final—
- (a) the powers conferred by this Part (by virtue of paragraph 50(1)(i)) may be exercised—
 - (i) only on an application made before the pension sharing order [^{F56}or pension compensation sharing order] has or, but for paragraph (b), would have taken effect, and
 - (ii) only if, at the time when the application is made, the dissolution or nullity order has not been made final, and
 - (b) an application made in accordance with paragraph (a) prevents the pension sharing order [^{F57}or pension compensation sharing order] from taking effect before the application has been dealt with.
- (2) No variation of a pension sharing order [^{F58}or pension compensation sharing order] is to be made so as to take effect before the order is made final.
- (3) The variation of a pension sharing order [^{F59}or pension compensation sharing order] prevents the order taking effect before the end of such period after the making of the variation as may be prescribed by regulations made by the Lord Chancellor.
- (4) The power to make regulations under sub-paragraph (3) is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

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Textual Amendments

- F55** Words in Sch. 5 para. 57(1) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(7\)\(a\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2
- F56** Words in Sch. 5 para. 57(1)(a)(i) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(7\)\(b\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2
- F57** Words in Sch. 5 para. 57(1)(b) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(7\)\(c\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2
- F58** Words in Sch. 5 para. 57(2) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(7\)\(d\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2
- F59** Words in Sch. 5 para. 57(3) inserted (6.3.2011 for specified purposes otherwise 6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(7\)\(e\)](#); S.I. 2011/664, [art. 2\(2\)\(3\)](#), Sch.

Commencement Information

- I9** Sch. 5 para. 57 wholly in force at 5.12.2005; Sch. 5 para. 57 not in force at Royal Assent see s. 263; Sch. 5 para. 57(3)(4) in force for certain purposes at 15.4.2005 by S.I. 2005/1112, [art. 2](#), [Sch. 1](#) and Sch. 5 para. 57 in force otherwise at 5.12.2005 by S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1

- 58 (1) Sub-paragraphs (2) and (3)—
- (a) are subject to paragraphs 53 and 54, and
 - (b) do not affect any power exercisable by virtue of paragraph 50(e), (f), (g) or (i) or otherwise than by virtue of this Part.
- (2) No property adjustment order [^{F60}, pension sharing order or pension compensation sharing order] may be made on an application for the variation of a periodical payments or secured periodical payments order made (whether in favour of a civil partner or in favour of a child of the family) under Part 1.
- (3) No order for the payment of a lump sum may be made on an application for the variation of a periodical payments or secured periodical payments order in favour of a civil partner (whether made under Part 1 or 9).

Textual Amendments

- F60** Words in Sch. 5 para. 58(2) substituted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 18\(8\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

Matters to which court is to have regard in exercising powers under this Part

- 59 (1) In exercising the powers conferred by this Part the court must have regard to all the circumstances of the case, giving first consideration to the welfare, while under 18, of any child of the family who has not reached 18.
- (2) The circumstances of the case include, in particular, any change in any of the matters to which the court was required to have regard when making the order to which the application relates.
- (3) Sub-paragraph (4) applies in the case of—
- (a) a periodical payments order, or
 - (b) a secured periodical payments order,
- made on or after the making of a dissolution or nullity order.

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- (4) The court must consider whether in all the circumstances, and after having regard to any such change, it would be appropriate to vary the order so that payments under the order are required—
 - (a) to be made, or
 - (b) to be secured,only for such further period as will in the opinion of the court be sufficient to enable the civil partner in whose favour the order was made to adjust without undue hardship to the termination of those payments.
- (5) In considering what further period will be sufficient, the court must, if the civil partnership has been dissolved, take into account any proposed exercise by it of its powers under paragraph 53.
- (6) If the civil partner against whom the order was made has died, the circumstances of the case also include the changed circumstances resulting from that civil partner's death.

Variation of secured periodical payments order where person liable has died

- 60 (1) This paragraph applies if the person liable to make payments under a secured periodical payments order has died.
- (2) Subject to sub-paragraph (3), an application under this Part relating to the order (and to any sale of property order which requires the proceeds of sale of property to be used for securing those payments) may be made by—
 - (a) the person entitled to payments under the periodical payments order, or
 - (b) the personal representatives of the deceased person.
- (3) No such application may be made without the leave of the court after the end of 6 months from the date on which representation in regard to the estate of that person is first taken out.
- (4) The personal representatives of the person who has died are not liable for having distributed any part of the estate of the deceased after the end of the 6 month period on the ground that they ought to have taken into account the possibility that the court might allow an application under this paragraph to be made after that period by the person entitled to payments under the order.
- (5) Sub-paragraph (4) does not affect any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.
- [^{F61}(6) The following are to be left out of account when considering for the purposes of sub-paragraph (3) when representation was first taken out—
 - (a) a grant limited to settled land or to trust property,
 - (b) any other grant that does not permit any of the estate to be distributed,
 - (c) a grant limited to real estate or to personal estate, unless a grant limited to the remainder of the estate has previously been made or is made at the same time,
 - (d) a grant, or its equivalent, made outside the United Kingdom (but see sub-paragraph (7)).
- (7) A grant sealed under section 2 of the Colonial Probates Act 1892 counts as a grant made in the United Kingdom for the purposes of sub-paragraph (6), but is to be taken as dated on the date of sealing.]

Status: Point in time view as at 02/03/2015.

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Textual Amendments

F61 Sch. 5 para. 60(6)(7) substituted for Sch. 5 para. 60(6) (1.10.2014) by [Inheritance and Trustees' Powers Act 2014 \(c. 16\)](#), s. 12(2), [Sch. 3 para. 5](#) (with s. 12(4)); S.I. 2014/2039, art. 2

Power to direct when variation etc. is to take effect

- 61 (1) If the court, in exercise of its powers under this Part, decides—
- (a) to vary, or
 - (b) to discharge,
- a periodical payments or secured periodical payments order, it may direct that the variation or discharge is not to take effect until the end of such period as may be specified in the order.
- (2) Sub-paragraph (1) is subject to paragraph 47(1) and (6).
- 62 (1) If—
- (a) a periodical payments or secured periodical payments order in favour of more than one child (“the order”) is in force,
 - (b) the order requires payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them,
 - (c) a maintenance calculation (“the calculation”) is made with respect to one or more, but not all, of the children with respect to whom those payments are to be made, and
 - (d) an application is made, before the end of the period of 6 months beginning with the date on which the calculation was made, for the variation or discharge of the order,
- the court may, in exercise of its powers under this Part to vary or discharge the order, direct that the variation or discharge is to take effect from the date on which the calculation took effect or any later date.
- (2) If—
- (a) an order (“the child order”) of a kind prescribed for the purposes of section 10(1) of the Child Support Act 1991 (c. 48) is affected by a maintenance calculation,
 - (b) on the date on which the child order became so affected there was in force a periodical payments or secured periodical payments order (“the civil partner’s order”) in favour of a civil partner having the care of the child in whose favour the child order was made, and
 - (c) an application is made, before the end of the period of 6 months beginning with the date on which the maintenance calculation was made, for the civil partner’s order to be varied or discharged,
- the court may, in exercise of its powers under this Part to vary or discharge the civil partner’s order, direct that the variation or discharge is to take effect from the date on which the child order became so affected or any later date.
- (3) For the purposes of sub-paragraph (2), an order is affected if it ceases to have effect or is modified by or under section 10 of the 1991 Act.

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- (4) Sub-paragraphs (1) and (2) do not affect any other power of the court to direct that the variation of discharge of an order under this Part is to take effect from a date earlier than that on which the order for variation or discharge was made.
- (5) In this paragraph “maintenance calculation” has the same meaning as it has in the 1991 Act by virtue of section 54 of the 1991 Act as read with any regulations in force under that section.

Modifications etc. (not altering text)

- C5** Sch. 5 para. 62(1)-(5) applied (with modifications) (5.12.2005) (temp.) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 2(5), [Sch. 5 para. 2\(3\)](#)

PART 12

ARREARS AND REPAYMENTS

Payment of certain arrears unenforceable without the leave of the court

PROSPECTIVE

- 63 (1) This paragraph applies if any arrears are due under—
- (a) an order under Part 1 (financial provision on dissolution etc.),
 - (b) an order under Part 8 (maintenance pending outcome of dissolution, nullity or separation proceedings), or
 - (c) an order under Part 9 (failure to maintain),
- and the arrears became due more than 12 months before proceedings to enforce the payment of them are begun.
- (2) A person is not entitled to enforce through the High Court or [^{F62}the family court] the payment of the arrears without the leave of that court.
- (3) The court hearing an application for the grant of leave under this paragraph may—
- (a) refuse leave,
 - (b) grant leave subject to such restrictions and conditions (including conditions as to the allowing of time for payment or the making of payment by instalments) as that court thinks proper, or
 - (c) remit the payment of the arrears or of any part of them.
- (4) An application for the grant of leave under this paragraph must be made in such manner as may be prescribed by rules of court.

Textual Amendments

- F62** Words in Sch. 5 para. 63(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 170](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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Orders for repayment in certain cases of sums paid under certain orders

- 64 (1) This paragraph applies if—
- (a) a person (“R”) is entitled to receive payments under an order listed in sub-paragraph (2), and
 - (b) R’s circumstances or the circumstances of the person (“P”) liable to make payments under the order have changed since the order was made, or the circumstances have changed as a result of P’s death.
- (2) The orders are—
- (a) any order under Part 8 (maintenance pending outcome of dissolution, nullity or separation proceedings);
 - (b) any interim order under Part 9;
 - (c) any periodical payments order;
 - (d) any secured periodical payments order.
- (3) P or P’s personal representatives may (subject to sub-paragraph (7)) apply for an order under this paragraph against R or R’s personal representatives.
- (4) If it appears to the court that, because of the changed circumstances or P’s death, the amount received by R in respect of a relevant period exceeds the amount which P or P’s personal representatives should have been required to pay, it may order the respondent to the application to pay to the applicant such sum, not exceeding the amount of the excess, as it thinks just.
- (5) “Relevant period” means a period after the circumstances changed or (as the case may be) after P’s death.
- (6) An order under this paragraph for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.
- (7) An application under this paragraph—
- (a) may be made in proceedings in the High Court or [^{F63}the family court] for—
 - (i) the variation or discharge of the order listed in sub-paragraph (2), or
 - (ii) leave to enforce, or the enforcement of, the payment of arrears under that order, but
 - (b) if not made in such proceedings, must be made to [^{F63}the family court] ;
- and accordingly references in this paragraph to the court are references to the High Court or [^{F63}the family court], as the circumstances require.
- ^{F64}(8)

Textual Amendments

- F63** Words in Sch. 5 para. 64(7) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 171\(2\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F64** Sch. 5 para. 64(8) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 171\(3\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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Orders for repayment after cessation of order because of subsequent civil partnership etc.

- 65 (1) Sub-paragraphs (3) and (4) apply if—
- (a) a periodical payments or secured periodical payments order in favour of a civil partner (“R”) has ceased to have effect because of the formation of a subsequent civil partnership or marriage by R, and
 - (b) the person liable to make payments under the order (“P”) (or P’s personal representatives) has made payments in accordance with it in respect of a relevant period in the mistaken belief that the order was still subsisting.
- (2) “Relevant period” means a period after the date of the formation of the subsequent civil partnership or marriage.
- (3) P (or P’s personal representatives) is not entitled to bring proceedings in respect of a cause of action arising out of the circumstances mentioned in sub-paragraph (1)(a) and (b) against R (or R’s personal representatives).
- (4) But, on an application under this paragraph by P (or P’s personal representatives) against R (or R’s personal representatives), the court—
- (a) may order the respondent to pay to the applicant a sum equal to the amount of the payments made in respect of the relevant period, or
 - (b) if it appears to the court that it would be unjust to make that order, may—
 - (i) order the respondent to pay to the applicant such lesser sum as it thinks fit, or
 - (ii) dismiss the application.
- (5) An order under this paragraph for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.
- (6) An application under this paragraph—
- (a) may be made in proceedings in the High Court or [^{F65}the family court] for leave to enforce, or the enforcement of, payment of arrears under the order in question, but
 - (b) if not made in such proceedings, must be made to [^{F65}the family court];
- and accordingly references in this paragraph to the court are references to the High Court or [^{F65}the family court], as the circumstances require.
- ^{F66}(7)
- (8) Subject to sub-paragraph (9)—
- (a) [^{F67}an officer of the family court] is not liable for any act done by him [^{F67}, in pursuance of a payments order requiring payments to be made to the court or an officer of the court,] after the date on which that order ceased to have effect because of the formation of a subsequent civil partnership or marriage by the person entitled to payments under it, and
 - (b) the collecting officer under an attachment of earnings order made to secure payments under a payments order is not liable for any act done by him after that date in accordance with any enactment or rule of court specifying how payments made to him in compliance with the attachment of earnings order are to be dealt with.
- (9) Sub-paragraph (8) applies if (and only if) the act—

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- (a) was one which the officer would have been under a duty to do had the payments order not ceased to have effect, and
 - (b) was done before notice in writing of the formation of the subsequent civil partnership or marriage was given to him by or on behalf of—
 - (i) the person entitled to payments under the payments order,
 - (ii) the person liable to make payments under it, or
 - (iii) the personal representatives of either of them.
- (10) In sub-paragraphs (8) and (9) “payments order” means a periodical payments order or secured periodical payments order and “collecting officer”, in relation to an attachment of earnings order, means—
- (a) the officer of the High Court, [^{F68}or
 - (aa) the officer of the family court,]
- to whom a person makes payments in compliance with the order.

Textual Amendments

- F65** Words in Sch. 5 para. 65(6) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 172\(2\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F66** Sch. 5 para. 65(7) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 172\(3\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F67** Words in Sch. 5 para. 65(8)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 172\(4\)\(a\)\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F68** Sch. 5 para. 65(10)(aa) and word substituted for Sch. 5 para. 65(10)(b)(c) (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 172\(5\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

PART 13

CONSENT ORDERS AND MAINTENANCE AGREEMENTS

Consent orders for financial relief

- 66 (1) Regardless of anything in the preceding provisions of this Schedule, on an application for a consent order for financial relief, the court may, unless it has reason to think that there are other circumstances into which it ought to inquire, make an order in the terms agreed on the basis only of such information supplied with the application as is required by rules of court.
- (2) Sub-paragraph (1) applies to an application for a consent order varying or discharging an order for financial relief as it applies to an application for an order for financial relief.
- (3) In this paragraph—
 “consent order”, in relation to an application for an order, means an order in the terms applied for to which the respondent agrees;

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“order for financial relief” means an order under any of Parts 1, 2, 3, 4 and 9.

Meaning of “maintenance agreement” and “financial arrangements”

- 67 (1) In this Part “maintenance agreement” means any agreement in writing between the civil partners in a civil partnership which—
- (a) is made during the continuance or after the dissolution or annulment of the civil partnership and contains financial arrangements, or
 - (b) is a separation agreement which contains no financial arrangements but is made in a case where no other agreement in writing between the civil partners contains financial arrangements.
- (2) In this Part “financial arrangements” means provisions governing the rights and liabilities towards one another when living separately of the civil partners in a civil partnership (including a civil partnership which has been dissolved or annulled) in respect of—
- (a) the making or securing of payments, or
 - (b) the disposition or use of any property,
- including such rights and liabilities with respect to the maintenance or education of a child (whether or not a child of the family).
- (3) “Education” includes training.

Validity of maintenance agreements

- 68 If a maintenance agreement includes a provision purporting to restrict any right to apply to a court for an order containing financial arrangements—
- (a) that provision is void, but
 - (b) any other financial arrangements contained in the agreement—
 - (i) are not void or unenforceable as a result, and
 - (ii) unless void or unenforceable for any other reason, are (subject to paragraphs 69 and 73) binding on the parties to the agreement.

Alteration of agreements by court during lives of parties

- 69 (1) [^{F69}Subject to sub-paragraph (1A),] either party to a maintenance agreement may apply to the court ^{F70}... for an order under this paragraph if—
- (a) the maintenance agreement is for the time being subsisting, and
 - (b) each of the parties to the agreement is for the time being domiciled or resident in England and Wales.
- [^{F71}(1A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—
- (a) the requirement as to domicile or residence in sub-paragraph (1)(b) does not apply to the application or that part of it, but
 - (b) the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.]

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- (2) The court may make an order under this paragraph if it is satisfied that—
- (a) because of a change in the circumstances in the light of which—
 - (i) any financial arrangements contained in the agreement were made, or
 - (ii) financial arrangements were omitted from it,
 the agreement should be altered so as to make different financial arrangements or so as to contain financial arrangements, or
 - (b) that the agreement does not contain proper financial arrangements with respect to any child of the family.
- (3) In sub-paragraph (2)(a) the reference to a change in the circumstances includes a change foreseen by the parties when making the agreement.
- (4) An order under this paragraph may make such alterations in the agreement—
- (a) by varying or revoking any financial arrangements contained in it, or
 - (b) by inserting in it financial arrangements for the benefit of one of the parties to the agreement or of a child of the family,
- as appear to the court to be just having regard to all the circumstances, including, if relevant, the matters mentioned in paragraph 22(3).
- (5) The effect of the order is that the agreement is to be treated as if any alteration made by the order had been made by agreement between the partners and for valuable consideration.
- (6) The power to make an order under this paragraph is subject to [F72]paragraph] 71.
- [F73(7) In this paragraph, “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Textual Amendments

- F69** Words in Sch. 5 para. 69(1) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(4)(a)**
- F70** Words in Sch. 5 para. 69(1) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 173(a)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F71** Sch. 5 para. 69(1A) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(4)(b)**
- F72** Word in Sch. 5 para. 69(6) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 173(b)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F73** Sch. 5 para. 69(7) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(4)(c)**

Restrictions on applications to and orders by magistrates' courts under paragraph 69

F74-70

Status: Point in time view as at 02/03/2015.

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Textual Amendments

- F74** Sch. 5 para. 70 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 174](#); [S.I. 2014/954](#), art. 2(e) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Provisions relating to periodical and secured periodical payments: duration

- 71 (1) If a court decides to make an order under paragraph 69 altering an agreement—
- (a) by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the other party, or
 - (b) by increasing the rate of the periodical payments which the agreement provides shall be made by one of the parties for the maintenance of the other,
- it may specify such term as it thinks fit as the term for which the payments or, as the case may be, the additional payments attributable to the increase are to be made under the altered agreement, except that the term must not extend beyond the limits in sub-paragraphs (2) and (3).
- (2) The limits if the payments are not to be secured are—
- (a) the death of either of the parties to the agreement, or
 - (b) the formation of a subsequent civil partnership or marriage by the party to whom the payments are to be made.
- (3) The limits if the payments are to be secured are—
- (a) the death of the party to whom the payments are to be made, or
 - (b) the formation of a subsequent civil partnership or marriage by that party.
- (4) Sub-paragraph (5) applies if a court decides to make an order under paragraph 69 altering an agreement by—
- (a) inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of a child of the family, or
 - (b) increasing the rate of the periodical payments which the agreement provides shall be made or secured by one of the parties for the maintenance of such a child.
- (5) The court, in deciding the term for which under the agreement as altered by the order—
- (a) the payments are to be made or secured for the benefit of the child, or
 - (b) the additional payments attributable to the increase are to be made or secured for the benefit of the child,
- must apply paragraph 49(2) to (5) (age limits) as if the order in question were a periodical payments or secured periodical payments order in favour of the child.

Saving

- 72 Nothing in paragraphs 68 to 71 affects—
- (a) any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other enactment (including a provision of this Schedule) to make an order containing financial arrangements, or

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- (b) any right of either party to apply for such an order in such proceedings.

Alteration of agreements by court after death of one party

- 73 (1) This paragraph applies if—
- (a) a maintenance agreement provides for the continuation of payments under the agreement after the death of one of the parties, and
 - (b) that party (“A”) dies domiciled in England and Wales.
- (2) Subject to sub-paragraph (4), the surviving party or A’s personal representatives may apply to the ^{F75}... court for an order under paragraph 69.
- (3) If a maintenance agreement is altered by a court on an application made under sub-paragraph (2), the same consequences follow as if the alteration had been made immediately before the death by agreement between the parties and for valuable consideration.
- (4) An application under this paragraph may not, without the leave of the ^{F76}... court, be made after the end of 6 months from the date on which representation in regard to A’s estate is first taken out.
- (5) A’s personal representatives are not liable for having distributed any part of A’s estate after the end of the 6 month period on the ground that they ought to have taken into account the possibility that a court might allow an application by virtue of this paragraph to be made by the surviving party after that period.
- (6) Sub-paragraph (5) does not affect any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.
- (7) Paragraph 60(6) applies for the purposes of sub-paragraph (4) as it applies for the purposes of paragraph 60(3).

Textual Amendments

- F75** Words in Sch. 5 para. 73(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 175\(a\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F76** Words in Sch. 5 para. 73(4) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 175\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

PART 14

MISCELLANEOUS AND SUPPLEMENTARY

Avoidance of transactions intended to prevent or reduce financial relief

- 74 (1) This paragraph applies if proceedings for relief (“financial relief”) are brought by one person (“A”) against another (“B”) under Part 1, 2, 4, 8, 9, or 11 (other than paragraph 60(2)), or paragraph 69.
- (2) If the court is satisfied, on an application by A, that B is, with the intention of defeating A’s claim for financial relief, about to—

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- (a) make any disposition, or
 - (b) transfer out of the jurisdiction or otherwise deal with any property,it may make such order as it thinks fit for restraining B from doing so or otherwise for protecting the claim.
- (3) If the court is satisfied, on an application by A, that—
 - (a) B has, with the intention of defeating A’s claim for financial relief, made a reviewable disposition, and
 - (b) if the disposition were set aside, financial relief or different financial relief would be granted to A,it make an order setting aside the disposition.
- (4) If the court is satisfied, on an application by A in a case where an order has been obtained by A against B under any of the provisions mentioned in sub-paragraph (1), that B has, with the intention of defeating A’s claim for financial relief, made a reviewable disposition, it may make an order setting aside the disposition.
- (5) An application for the purposes of sub-paragraph (3) must be made in the proceedings for the financial relief in question.
- (6) If the court makes an order under sub-paragraph (3) or (4) setting aside a disposition it must give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the making of any payments or the disposal of any property).
- 75 (1) Any reference in paragraph 74 to defeating A’s claim for financial relief is to—
 - (a) preventing financial relief from being granted to A, or to A for the benefit of a child of the family,
 - (b) reducing the amount of any financial relief which might be so granted, or
 - (c) frustrating or impeding the enforcement of any order which might be or has been made at A’s instance under any of those provisions.
- (2) In paragraph 74 and this paragraph “disposition”—
 - (a) does not include any provision contained in a will or codicil, but
 - (b) subject to paragraph (a), includes any conveyance, assurance or gift of property of any description (whether made by an instrument or otherwise).
- (3) Any disposition made by B (whether before or after the commencement of the proceedings for financial relief) is a reviewable disposition for the purposes of paragraphs 74(3) and (4) unless it was made—
 - (a) for valuable consideration (other than formation of a civil partnership), and
 - (b) to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of any intention on B’s part to defeat A’s claim for financial relief.
- (4) If an application is made under paragraph 74 with respect to a disposition which took place less than 3 years before the date of the application or with respect to a disposition or other dealing with property which is about to take place and the court is satisfied—
 - (a) in a case falling within paragraph 74(2) or (3), that the disposition or other dealing would (apart from paragraph 74) have the consequence of defeating A’s claim for financial relief, or

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- (b) in a case falling within paragraph 74(4), that the disposition has had the consequence of defeating A's claim for financial relief,
it is presumed, unless the contrary is shown, that the person who disposed of or is about to dispose of or deal with the property did so or, as the case may be, is about to do so, with the intention of defeating A's claim for financial relief.

Direction for settlement of instrument for securing payments or effecting property adjustment

- 76 (1) This paragraph applies if the court decides to make—
- (a) an order under Part 1 or 9 requiring any payments to be secured, or
 - (b) a property adjustment order.
- (2) The court may direct that the matter be referred to one of the conveyancing counsel of the court for him to settle a proper instrument to be executed by all necessary parties.
- (3) If the order referred to in sub-paragraph (1) is to be made in proceedings for a dissolution, nullity or separation order, the court may, if it thinks fit, defer the making of the dissolution, nullity or separation order until the instrument has been duly executed.

Settlement, etc., made in compliance with a property adjustment order may be avoided on bankruptcy of settlor

- 77 The fact that—
- (a) a settlement, or
 - (b) a transfer of property,
- had to be made in order to comply with a property adjustment order does not prevent the settlement or transfer from being a transaction in respect of which an order may be made under section 339 or 340 of the Insolvency Act 1986 (c. 45) (transfers at an undervalue and preferences).

Payments, etc., under order made in favour of person suffering from mental disorder

- 78 (1) This paragraph applies if—
- (a) the court makes an order under this Schedule requiring—
 - (i) payments (including a lump sum payment) to be made, or
 - (ii) property to be transferred,
to a civil partner, and
 - (b) the court is satisfied that the person in whose favour the order is made is incapable, because of mental disorder, of managing and administering his or her property and affairs.
- (2) “Mental disorder” has the same meaning as in the Mental Health Act 1983 (c. 20).
- (3) Subject to any order, direction or authority made or given in relation to that person under Part 8 of the 1983 Act, the court may order the payments to be made or, as the case may be, the property to be transferred to such persons having charge of that person as the court may direct.

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Appeals relating to pension sharing orders which have taken effect

- 79 (1) Sub-paragraphs (2) and (3) apply if an appeal against a pension sharing order is begun on or after the day on which the order takes effect.
- (2) If the pension sharing order relates to a person's rights under a pension arrangement, the appeal court may not set aside or vary the order if the person responsible for the pension arrangement has acted to his detriment in reliance on the order taking effect.
- (3) If the pension sharing order relates to a person's shareable state scheme rights, the appeal court may not set aside or vary the order if the Secretary of State has acted to his detriment in reliance on the taking effect of the order.
- (4) In determining for the purposes of sub-paragraph (2) or (3) whether a person has acted to his detriment in reliance on the taking effect of the order, the appeal court may disregard any detriment which in its opinion is insignificant.
- (5) Where sub-paragraph (2) or (3) applies, the appeal court may make such further orders (including one or more pension sharing orders) as it thinks fit for the purpose of putting the parties in the position it considers appropriate.
- (6) Paragraph 19 only applies to a pension sharing order under this paragraph if the decision of the appeal court can itself be the subject of an appeal.
- (7) In sub-paragraph (2), the reference to the person responsible for the pension arrangement is to be read in accordance with paragraph 29(3).

[^{F77} Appeals relating to pension compensation sharing orders which have taken effect

Textual Amendments

F77 Sch. 5 para. 79A and cross-heading inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 19](#); [S.I. 2011/664](#), [art. 2\(3\)](#), [Sch. Pt. 2](#)

- 79A (1) This paragraph applies where an appeal against a pension compensation sharing order is begun on or after the day on which the order takes effect.
- (2) If the Board of the Pension Protection Fund has acted to its detriment in reliance on the taking effect of the order the appeal court—
- (a) may not set aside or vary the order;
- (b) may make such further orders (including a pension compensation sharing order) as it thinks fit for the purpose of putting the parties in the position it considers appropriate.
- (3) In determining for the purposes of sub-paragraph (2) whether the Board has acted to its detriment the appeal court may disregard any detriment which in the court's opinion is insignificant.
- (4) Paragraph 19E only applies to a pension compensation sharing order under this paragraph if the decision of the appeal court can itself be the subject of an appeal.]

Interpretation

- 80 (1) References in this Schedule to—
- (a) periodical payments orders,

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- (b) secured periodical payments orders, and
 - (c) orders for the payment of a lump sum,
- are references to such of the orders that may be made under Parts 1 and 9 (other than interim orders) as are relevant in the context of the reference in question.
- (2) In this Schedule “child of the family”, in relation to two people who are civil partners of each other, means—
- (a) a child of both of them, and
 - (b) any other child, other than a child placed with them as foster parents by a local authority or voluntary organisation, who has been treated by both the civil partners as a child of their family.
- (3) In this Schedule “the court” (except where the context otherwise requires) means—
- (a) the High Court, or
 - [^{F78}(b) the family court.]
- (4) References in this Schedule to a subsequent civil partnership include a civil partnership which is by law void or voidable.
- (5) References in this Schedule to a subsequent marriage include a marriage which is by law void or voidable.

Textual Amendments

F78 Sch. 5 para. 80(3)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 176](#); [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

I10 Sch. 5 para. 80 wholly in force at 5.12.2005; Sch. 5 para. 80 not in force at Royal Assent see s. 263; Sch. 5 para. 80(3) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 5 para. 80 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

SCHEDULE 6

Section 72(3)

[^{F79}FINANCIAL RELIEF: PROVISION CORRESPONDING TO PROVISION MADE
 BY THE DOMESTIC PROCEEDINGS AND MAGISTRATES' COURTS ACT 1978]

Textual Amendments

F79 Sch. 6 title substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 200](#); [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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PART 1

FAILURE TO MAINTAIN ETC.: FINANCIAL PROVISION

Circumstances in which orders under this Part may be made

- 1 (1) On an application to it by one of the civil partners, [^{F80}the family court] may make any one or more of the orders set out in paragraph 2 if it is satisfied that the other civil partner—
- (a) has failed to provide reasonable maintenance for the applicant,
 - (b) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family,
 - (c) has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent, or
 - (d) has deserted the applicant.
- (2) The power of the court under sub-paragraph (1) is subject to the following provisions of this Schedule.

Textual Amendments

F80 Words in Sch. 6 para. 1(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 179](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

The orders: periodical and secured periodical payments and lump sums

- 2 (1) The orders are—
- (a) an order that the respondent must make to the applicant such periodical payments for such term as may be specified;
 - (b) an order that the respondent must pay to the applicant such lump sum as may be specified;
 - (c) an order that the respondent must make—
 - (i) to the applicant for the benefit of a child of the family to whom the application relates, or
 - (ii) to a child of the family to whom the application relates;such periodical payments for such term as may be specified;
 - (d) an order that the respondent must pay such lump sum as may be specified—
 - (i) to the applicant for the benefit of a child of the family to whom the application relates, or
 - (ii) to such a child of the family to whom the application relates.
- (2) The amount of a lump sum required to be paid under sub-paragraph (1)(b) or (d) must not exceed—
- (a) £1,000, or
 - (b) such larger amount as the Lord Chancellor may from time to time by order fix for the purposes of this sub-paragraph.

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- (3) The power to make an order under sub-paragraph (2) is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) “Specified” means specified in the order.

Particular provision that may be made by lump sum orders

- 3 (1) An order under this Part for the payment of a lump sum may be made for the purpose of enabling any liability or expenses reasonably incurred in maintaining the applicant or any child of the family to whom the application relates before the making of the order to be met.
- (2) Sub-paragraph (1) does not restrict the power to make the orders set out in paragraph 2(1)(b) and (d).

Matters to which court is to have regard in exercising its powers under this Part—general

- 4 If an application is made for an order under this Part, the court, in deciding—
- (a) whether to exercise its powers under this Part, and
 - (b) if so, in what way,
- must have regard to all the circumstances of the case, giving first consideration to the welfare while under 18 of any child of the family who has not reached 18.

Particular matters to be taken into account when exercising powers in relation to civil partners

- 5 (1) This paragraph applies in relation to the exercise by the court of its power to make an order by virtue of paragraph 2(1)(a) or (b).
- (2) The court must in particular have regard to—
- (a) the income, earning capacity, property and other financial resources which each civil partner—
 - (i) has, or
 - (ii) is likely to have in the foreseeable future,
 including, in the case of earning capacity, any increase in that capacity which it would in the opinion of the court be reasonable to expect a civil partner in the civil partnership to take steps to acquire;
 - (b) the financial needs, obligations and responsibilities which each civil partner has or is likely to have in the foreseeable future;
 - (c) the standard of living enjoyed by the civil partners before the occurrence of the conduct which is alleged as the ground of the application;
 - (d) the age of each civil partner and the duration of the civil partnership;
 - (e) any physical or mental disability of either civil partner;
 - (f) the contributions which each civil partner has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;
 - (g) the conduct of each civil partner, if that conduct is such that it would in the opinion of the court be inequitable to disregard it.

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Modifications etc. (not altering text)

- C6 Sch. 5 para. 21(2)(d) applied (with modifications) (5.12.2005) by [The Civil Partnership \(Treatment of Overseas Relationships\) Order 2005 \(S.I. 2005/3042\)](#), [art. 3\(4\)](#)

Particular matters to be taken into account when exercising powers in relation to children

- 6 (1) This paragraph applies in relation to the exercise by the court of its power to make an order by virtue of paragraph 2(1)(c) or (d).
- (2) The court must in particular have regard to—
- (a) the financial needs of the child;
 - (b) the income, earning capacity (if any), property and other financial resources of the child;
 - (c) any physical or mental disability of the child;
 - (d) the standard of living enjoyed by the family before the occurrence of the conduct which is alleged as the ground of the application;
 - (e) the way in which the child was being and in which the civil partners expected the child to be educated or trained;
 - (f) the considerations mentioned in relation to the civil partners in paragraph 5(2)(a) and (b).
- (3) In relation to the exercise of its power to make an order in favour of a child of the family who is not the respondent's child, the court must also have regard to—
- (a) whether the respondent has assumed any responsibility for the child's maintenance;
 - (b) if so, the extent to which, and the basis on which, the respondent assumed that responsibility and the length of time during which the respondent discharged that responsibility;
 - (c) whether in assuming and discharging that responsibility the respondent did so knowing that the child was not the respondent's child;
 - (d) the liability of any other person to maintain the child.

Reconciliation

- 7 (1) If an application is made for an order under this Part—
- (a) the court, before deciding whether to exercise its powers under this Part, must consider whether there is any possibility of reconciliation between the civil partners, and
 - (b) if at any stage of the proceedings on that application it appears to the court that there is a reasonable possibility of such a reconciliation, the court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect a reconciliation.
- (2) If the court adjourns any proceedings under sub-paragraph (1), it may request—
- (a) an officer of the Children and Family Court Advisory and Support Service, or
 - (b) any other person,
- to attempt to effect a reconciliation between the civil partners.

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- (3) If any such request is made, the officer or other person—
- (a) must report in writing to the court whether the attempt has been successful, but
 - (b) must not include in the report any other information.

Refusal of order in case more suitable for High Court

F81g

Textual Amendments

F81 Sch. 6 para. 8 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 180](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

PART 2

ORDERS FOR AGREED FINANCIAL PROVISION

Orders for payments which have been agreed by the parties

- 9 (1) Either civil partner may apply to [^{F82}the family court] for an order under this Part on the ground that that civil partner or the other civil partner has agreed to make such financial provision as may be specified in the application.
- (2) On such an application, the court may order that the applicant or the respondent (as the case may be) is to make the financial provision specified in the application, if—
- (a) it is satisfied that the applicant or the respondent (as the case may be) has agreed to make that provision, and
 - (b) it has no reason to think that it would be contrary to the interests of justice to do so.
- (3) Sub-paragraph (2) is subject to paragraph 12.

Textual Amendments

F82 Words in Sch. 6 para. 9(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 181](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Meaning of “financial provision” and of references to specified financial provision

- 10 (1) In this Part “financial provision” means any one or more of the following—
- (a) the making of periodical payments by one civil partner to the other;
 - (b) the payment of a lump sum by one civil partner to the other;
 - (c) the making of periodical payments by one civil partner to a child of the family or to the other civil partner for the benefit of such a child;

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- (d) the payment by one party of a lump sum to a child of the family or to the other civil partner for the benefit of such a child.
- (2) Any reference in this Part to the financial provision specified in an application or specified by the court is a reference—
- (a) to the type of provision specified in the application or by the court,
 - (b) to the amount so specified as the amount of any payment to be made under the application or order, and
 - (c) in the case of periodical payments, to the term so specified as the term for which the payments are to be made.

Commencement Information

I11 Sch. 6 para. 10 wholly in force at 5.12.2005; Sch. 6 para. 10 not in force at Royal Assent see s. 263; Sch. 6 para. 10 in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 6 para. 10 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Evidence to be produced where respondent not present etc.

- 11 (1) This paragraph applies if—
- (a) the respondent is not present, or
 - (b) is not represented by counsel or a solicitor,
- at the hearing of an application for an order under this Part.
- (2) The court must not make an order under this Part unless there is produced to it such evidence as may be prescribed by rules of court of—
- (a) the consent of the respondent to the making of the order,
 - (b) the financial resources of the respondent, and
 - (c) if the financial provision specified in the application includes or consists of provision in respect of a child of the family to be made by the applicant to the respondent for the benefit of the child or to the child, the financial resources of the child.

Commencement Information

I12 Sch. 6 para. 11 wholly in force at 5.12.2005; Sch. 6 para. 11 not in force at Royal Assent see s. 263; Sch. 6 para. 11(2) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 6 para. 11 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Exercise of powers in relation to children

- 12 (1) This paragraph applies if the financial provision specified in an application under this Part—
- (a) includes, or
 - (b) consists of,
- provision in respect of a child of the family.
- (2) The court must not make an order under this Part unless it considers that the provision which the applicant or the respondent (as the case may be) has agreed to make in

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respect of the child provides for, or makes a proper contribution towards, the financial needs of the child.

Power to make alternative orders

- 13 (1) This paragraph applies if on an application under this Part the court decides—
- (a) that it would be contrary to the interests of justice to make an order for the making of the financial provision specified in the application, or
 - (b) that any financial provision which the applicant or the respondent (as the case may be) has agreed to make in respect of a child of the family does not provide for, or make a proper contribution towards, the financial needs of that child.
- (2) If the court is of the opinion—
- (a) that it would not be contrary to the interests of justice to make an order for the making of some other financial provision specified by the court, and
 - (b) that, in so far as that other financial provision contains any provision for a child of the family, it provides for, or makes a proper contribution towards, the financial needs of that child,
- then, if both the civil partners agree, the court may order that the applicant or the respondent (as the case may be) is to make that other financial provision.

Relationship between this Part and Part 1

- 14 (1) A civil partner who has applied for an order under Part 1 is not precluded at any time before the determination of the application from applying for an order under this Part.
- (2) If—
- (a) an order is made under this Part on the application of either civil partner, and
 - (b) either of them has also made an application for a Part 1 order,
- the application for the Part 1 order is to be treated as if it had been withdrawn.

PART 3

ORDERS OF COURT WHERE CIVIL PARTNERS LIVING APART BY AGREEMENT

Powers of court where civil partners are living apart by agreement

- 15 (1) If—
- (a) the civil partners have been living apart for a continuous period exceeding 3 months, neither civil partner having deserted the other, and
 - (b) one of the civil partners has been making periodical payments for the benefit of the other civil partner or of a child of the family,
- the other civil partner may apply to [^{F83}the family court] for an order under this Part.
- (2) An application made under sub-paragraph (1) must specify the total amount of the payments made by the respondent during the period of 3 months immediately preceding the date of the making of the application.

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(3) If on an application for an order under this Part the court is satisfied that the respondent has made the payments specified in the application, the court may make one or both of the orders set out in paragraph 16.

(4) Sub-paragraph (3) is subject to the provisions of this Schedule.

Textual Amendments

F83 Words in Sch. 6 para. 15(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 182](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

The orders that may be made under this Part

- 16 (1) The orders are—
- (a) an order that the respondent is to make to the applicant such periodical payments for such term as may be specified;
 - (b) an order that the respondent is to make—
 - (i) to the applicant for the benefit of a child of the family to whom the application relates, or
 - (ii) to a child of the family to whom the application relates.such periodical payments for such term as may be specified.
- (2) “Specified” means specified in the order.

Restrictions on orders under this Part

- 17 The court in the exercise of its powers under this Part must not require—
- (a) the respondent to make payments whose total amount during any period of 3 months exceeds the total amount paid by him for the benefit of—
 - (i) the applicant, or
 - (ii) a child of the family,during the period of 3 months immediately preceding the date of the making of the application;
 - (b) the respondent to make payments to or for the benefit of any person which exceed in amount the payments which the court considers that it would have required the respondent to make to or for the benefit of that person on an application under Part 1;
 - (c) payments to be made to or for the benefit of a child of the family who is not the respondent’s child, unless the court considers that it would have made an order in favour of that child on an application under Part 1.

Relationship with powers under Part 1

- 18 (1) Sub-paragraph (2) applies if on an application under this Part the court considers that the orders which it has the power to make under this Part—
- (a) would not provide reasonable maintenance for the applicant, or
 - (b) if the application relates to a child of the family, would not provide, or make a proper contribution towards, reasonable maintenance for that child.

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- (2) The court—
- (a) must refuse to make an order under this Part, but
 - (b) may treat the application as if it were an application for an order under Part 1.

Matters to be taken into consideration

- 19 Paragraphs 4 to 6 apply in relation to an application for an order under this Part as they apply in relation to an application for an order under Part 1, subject to the modification that for the reference in paragraph 5(2)(c) to the occurrence of the conduct which is alleged as the ground of the application substitute a reference to the living apart of the civil partners.

PART 4

INTERIM ORDERS

Circumstances in which interim orders may be made

PROSPECTIVE

- 20 (1) This paragraph applies if an application has been made for an order under Part 1, 2 or 3.
- (2) [^{F84}The family court] may make an interim order—
- (a) at any time before making a final order on, or dismissing, the application,
F85 ...
 - ^{F85}(b)
- ^{F86}(3)
- (4) Not more than one interim order may be made with respect to an application for an order under Part 1, 2 or 3.
- (5) Sub-paragraph (4) does not affect the power of a court to make an interim order on a further application under Part 1, 2 or 3.

Textual Amendments

- F84** Words in Sch. 6 para. 20(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 183\(2\)\(a\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F85** Sch. 6 para. 20(2)(b) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 183\(2\)\(b\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F86** Sch. 6 para. 20(3) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 183\(3\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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Meaning of interim order

- 21 (1) An interim order is an order requiring the respondent to make such periodical payments as the court thinks reasonable—
- (a) to the applicant,
 - (b) to any child of the family who is under 18, or
 - (c) to the applicant for the benefit of such a child.
- (2) In relation to an interim order in respect of an application for an order under Part 2 by the civil partner who has agreed to make the financial provision specified in the application, sub-paragraph (1) applies as if—
- (a) the reference to the respondent were a reference to the applicant, and
 - (b) the references to the applicant were references to the respondent.

When interim order may start

- 22 (1) An interim order may provide for payments to be made from such date as the court may specify, except that the date must not be earlier than the date of the making of the application for an order under Part 1, 2 or 3.
- (2) Sub-paragraph (1) is subject to paragraph 27(7) and (8).

Payments which can be treated as having been paid on account

^{F87}23

Textual Amendments

F87 Sch. 6 para. 23 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 184; S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

When interim order ceases to have effect

- 24 (1) Subject to sub-paragraphs (2) and (3), an interim order made on an application for an order under Part 1, 2 or 3 ceases to have effect on the earliest of the following dates—
- (a) the date, if any, specified for the purpose in the interim order;
 - (b) the date on which the period of 3 months beginning with the date of the making of the interim order ends;
 - (c) the date on which [^{F88}the family court] either makes a final order on, or dismisses, the application.
- (2) If an interim order made under this Part would, but for this sub-paragraph, cease to have effect under sub-paragraph (1)(a) or (b)—
- [^{F89}(a) the family court,]
 - ^{F90}(b)
- may by order provide that the interim order is to continue in force for a further period.
- (3) An order continued in force under sub-paragraph (2) ceases to have effect on the earliest of the following dates—
- (a) the date, if any, specified for the purpose in the order continuing it;

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- (b) the date on which ends the period of 3 months beginning with—
 - (i) the date of the making of the order continuing it, or
 - (ii) if more than one such order has been made with respect to the application, the date of the making of the first such order;
- (c) the date on which the court either makes a final order on, or dismisses, the application.

Textual Amendments

- F88** Words in Sch. 6 para. 24(1)(c) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 185\(2\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F89** Words in Sch. 6 para. 24(2)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 185\(3\)\(a\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F90** Sch. 6 para. 24(2)(b) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 185\(3\)\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Supplementary

25 ^{F91}(1)

- (2) No appeal lies from the making of or refusal to make, the variation of or refusal to vary, or the revocation of or refusal to revoke, an interim order.

Textual Amendments

- F91** Sch. 6 para. 25(1) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 186](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

PART 5

COMMENCEMENT AND DURATION OF ORDERS UNDER PARTS 1, 2 AND 3

Duration of periodical payments order for a civil partner

- 26 (1) The court may specify in a periodical payments order made under paragraph 2(1)(a) or Part 3 in favour of a civil partner such term as it thinks fit, except that the term must not—
- (a) begin before the date of the making of the application for the order, or
 - (b) extend beyond the death of either of the civil partners.
- (2) If—
- (a) a periodical payments order is made under paragraph 2(1)(a) or Part 3 in favour of one of the civil partners, and
 - (b) the civil partnership is subsequently dissolved or annulled but the order continues in force,

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the periodical payments order ceases to have effect (regardless of anything in it) on the formation of a subsequent civil partnership or marriage by that civil partner, except in relation to any arrears due under the order on the date of that event.

Age limit on making orders for financial provision for children and duration of such orders

- 27 (1) Subject to sub-paragraph (5), no order is to be made under paragraph 2(1)(c) or (d) or Part 3 in favour of a child who has reached 18.
- (2) The term to be specified in a periodical payments order made under paragraph 2(1)(c) or Part 3 in favour of a child may begin with—
- (a) the date of the making of an application for the order or a later date, or
 - (b) a date ascertained in accordance with sub-paragraph (7) or (8).
- (3) The term to be specified in such an order—
- (a) must not in the first instance extend beyond the date of the birthday of the child next following his reaching the upper limit of the compulsory school age unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date, and
 - (b) must not in any event, subject to sub-paragraph (5), extend beyond the date of the child's 18th birthday.
- (4) Sub-paragraph (3)(a) must be read with section 8 of the Education Act 1996 (c. 56) (which applies to determine for the purposes of any enactment whether a person is of compulsory school age).
- (5) Sub-paragraphs (1) and (3)(b) do not apply in the case of a child if it appears to the court that—
- (a) the child is, or will be, or, if such an order were made without complying with either or both of those provisions, would be—
 - (i) receiving instruction at an educational establishment, or
 - (ii) undergoing training for a trade, profession or vocation,whether or not also the child is, will be or would be, in gainful employment, or
 - (b) there are special circumstances which justify the making of the order without complying with either or both of sub-paragraphs (1) and (3)(b).
- (6) Any order made under paragraph 2(1)(c) or Part 3 in favour of a child, regardless of anything in the order, ceases to have effect on the death of the person liable to make payments under the order.
- (7) If—
- (a) a maintenance calculation (“current calculation”) is in force with respect to a child, and
 - (b) an application is made for an order under paragraph 2(1)(c) or Part 3—
 - (i) in accordance with section 8 of the Child Support Act 1991 (c. 48), and
 - (ii) before the end of 6 months beginning with the making of the current calculation,

the term to be specified in any such order made on that application may be expressed to begin on, or at any time after, the earliest permitted date.

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- (8) “The earliest permitted date” is whichever is the later of—
- (a) the date 6 months before the application is made, or
 - (b) the date on which the current calculation took effect or, where successive maintenance calculations have been continuously in force with respect to a child, on which the first of those calculations took effect.
- (9) If—
- (a) a maintenance calculation ceases to have effect by or under any provision of the 1991 Act, and
 - (b) an application is made, before the end of 6 months beginning with the relevant date, for a periodical payments order under paragraph 2(1)(c) or Part 3 in favour of a child with respect to whom that maintenance calculation was in force immediately before it ceased to have effect,
- the term to be specified in any such order, or in any interim order under Part 4, made on that application, may begin with the date on which that maintenance calculation ceased to have effect or any later date.
- (10) “The relevant date” means the date on which the maintenance calculation ceased to have effect.
- (11) In this Schedule “maintenance calculation” has the same meaning as it has in the 1991 Act by virtue of section 54 of the 1991 Act as read with any regulations in force under that section.

Modifications etc. (not altering text)

- C7** Sch. 6 para. 27(7)-(11) applied (with modifications) (5.12.2005) (temp.) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 2(5), [Sch. 5 para. 2\(4\)](#)

Application of paragraphs 26 and 27 to Part 2 orders

- 28 (1) Subject to sub-paragraph (3), paragraph 26 applies in relation to an order under Part 2 which requires periodical payments to be made to a civil partner for his own benefit as it applies in relation to an order under paragraph 2(1)(a).
- (2) Subject to sub-paragraph (3), paragraph 27 applies in relation to an order under Part 2 for the making of financial provision in respect of a child of the family as it applies in relation to an order under paragraph 2(1)(c) or (d).
- (3) If—
- (a) the court makes an order under Part 2 which contains provision for the making of periodical payments, and
 - (b) by virtue of paragraph 14, an application for an order under Part 1 is treated as if it had been withdrawn,
- the term which may be specified under Part 2 as the term for which the payments are to be made may begin with the date of the making of the application for the order under Part 1 or any later date.

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Effect on certain orders of parties living together

- 29 (1) Sub-paragraph (2) applies if periodical payments are required to be made to a civil partner (whether for the civil partner's own benefit or for the benefit of a child of the family)—
- (a) by an order made under Part 1 or 2, or
 - (b) by an interim order made under Part 4 (otherwise than on an application under Part 3).
- (2) The order is enforceable even though—
- (a) the civil partners are living with each other at the date of the making of the order, or
 - (b) if they are not living with each other at that date, they subsequently resume living with each other;
- but the order ceases to have effect if after that date the parties continue to live with each other, or resume living with each other, for a continuous period exceeding 6 months.
- (3) Sub-paragraph (4) applies if—
- (a) an order is made under Part 1 or 2 which requires periodical payments to be made to a child of the family, or
 - (b) an interim order is made under Part 4 (otherwise than on an application under Part 3) which requires periodical payments to be made to a child of the family.
- (4) Unless the court otherwise directs, the order continues to have effect and is enforceable even if—
- (a) the civil partners are living with each other at the date of the making of the order, or
 - (b) if they are not living with each other at that date, they subsequently resume living with each other.
- (5) An order made under Part 3, and any interim order made on an application for an order under that Part, ceases to have effect if the civil partners resume living with each other.
- (6) If an order made under this Schedule ceases to have effect under—
- (a) sub-paragraph (2) or (5), or
 - (b) a direction given under sub-paragraph (4),
- [^{F92}the family court] may, on an application made by either civil partner, make an order declaring that the order ceased to have effect from such date as the court may specify.

Textual Amendments

- F92** Words in Sch. 6 para. 29(6) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 187](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

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PART 6

VARIATION ETC. OF ORDERS

Power to vary, revoke, suspend or revive order

- 30 (1) If [^{F93}the family court] has made an order for the making of periodical payments under Part 1, 2 or 3, the court may, on an application made under this Part—
- (a) vary or revoke the order,
 - (b) suspend any provision of it temporarily, or
 - (c) revive any provision so suspended.
- (2) If [^{F93}the family court] has made an interim order under Part 4, the court may, on an application made under this Part—
- (a) vary or revoke the order,
 - (b) suspend any provision of it temporarily, or
 - (c) revive any provision so suspended,
- except that it may not by virtue of this sub-paragraph extend the period for which the order is in force.

Textual Amendments

F93 Words in Sch. 6 para. 30(1)(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 188](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

Powers to order lump sum on variation

- 31 (1) If [^{F94}the family court] has made an order under paragraph 2(1)(a) or (c) for the making of periodical payments, the court may, on an application made under this Part, make an order for the payment of a lump sum under paragraph 2(1)(b) or (d).
- (2) If [^{F94}the family court] has made an order under Part 2 for the making of periodical payments by a civil partner the court may, on an application made under this Part, make an order for the payment of a lump sum by that civil partner—
- (a) to the other civil partner, or
 - (b) to a child of the family or to that other civil partner for the benefit of that child.
- (3) Where the court has power by virtue of this paragraph to make an order for the payment of a lump sum—
- (a) the amount of the lump sum must not exceed the maximum amount that may at that time be required to be paid under Part 1, but
 - (b) the court may make an order for the payment of a lump sum not exceeding that amount even if the person required to pay it was required to pay a lump sum by a previous order under this Schedule.
- (4) Where—
- (a) the court has power by virtue of this paragraph to make an order for the payment of a lump sum, and

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- (b) the respondent or the applicant (as the case may be) has agreed to pay a lump sum of an amount exceeding the maximum amount that may at that time be required to be paid under Part 1,
the court may, regardless of sub-paragraph (3), make an order for the payment of a lump sum of that amount.

Textual Amendments

F94 Words in Sch. 6 para. 31(1)(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 189](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

Power to specify when order as varied is to take effect

- 32 An order made under this Part which varies an order for the making of periodical payments may provide that the payments as so varied are to be made from such date as the court may specify, except that, subject to paragraph 33, the date must not be earlier than the date of the making of the application under this Part.
- 33 (1) If—
- (a) there is in force an order (“the order”)—
 - (i) under paragraph 2(1)(c),
 - (ii) under Part 2 making provision of a kind set out in paragraph 10(1)(c) (regardless of whether it makes provision of any other kind mentioned in paragraph 10(1)(c)),
 - (iii) under paragraph 16(1)(b), or
 - (iv) which is an interim order under Part 4 under which the payments are to be made to a child or to the applicant for the benefit of a child,
 - (b) the order requires payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them,
 - (c) a maintenance calculation (“the calculation”) is made with respect to one or more, but not all, of the children with respect to whom those payments are to be made, and
 - (d) an application is made, before the end of 6 months beginning with the date on which the calculation was made, for the variation or revocation of the order,
- the court may, in exercise of its powers under this Part to vary or revoke the order, direct that the variation or revocation is to take effect from the date on which the calculation took effect or any later date.
- (2) If—
- (a) an order (“the child order”) of a kind prescribed for the purposes of section 10(1) of the Child Support Act 1991 is affected by a maintenance calculation,
 - (b) on the date on which the child order became so affected there was in force an order (“the civil partner’s order”)—
 - (i) under paragraph 2(1)(a),
 - (ii) under Part 2 making provision of a kind set out in paragraph 10(1)(a) (regardless of whether it makes provision of any other kind mentioned in paragraph 10(1)(a)),
 - (iii) under paragraph 16(1)(a), or

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- (iv) which is an interim order under Part 4 under which the payments are to be made to the applicant (otherwise than for the benefit of a child), and
- (c) an application is made, before the end of 6 months beginning with the date on which the maintenance calculation was made, for the civil partner's order to be varied or revoked,
- the court may, in exercise of its powers under this Part to vary or revoke the civil partner's order, direct that the variation or revocation is to take effect from the date on which the child order became so affected or any later date.
- (3) For the purposes of sub-paragraph (2), an order is affected if it ceases to have effect or is modified by or under section 10 of the 1991 Act.

Modifications etc. (not altering text)

- C8** Sch. 6 para. 33(1)-(3) applied (with modifications) (5.12.2005) (temp.) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 2(5), [Sch. 5 para. 2\(5\)](#)

Matters to which court is to have regard in exercising powers under this Part

- 34 (1) In exercising the powers conferred by this Part the court must, so far as it appears to the court just to do so, give effect to any agreement which has been reached between the civil partners in relation to the application.
- (2) If—
- (a) there is no such agreement, or
- (b) if the court decides not to give effect to the agreement,
- the court must have regard to all the circumstances of the case, giving first consideration to the welfare while under 18 of any child of the family who has not reached 18.
- (3) Those circumstances include any change in any of the matters—
- (a) to which the court was required to have regard when making the order to which the application relates, or
- (b) in the case of an application for the variation or revocation of an order made under Part 2 or on an appeal made by virtue of paragraph 46, to which the court would have been required to have regard if that order had been made under Part 1.

Variation of orders for periodical payments: further provisions

- 35 (1) The power of the court under paragraphs 30 to 34 to vary an order for the making of periodical payments includes power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under section [F95]1(4) and (4A) of the Maintenance Enforcement Act 1991].
- (2) Sub-paragraph (1) is subject to paragraph 37.

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Textual Amendments

- F95** Words in Sch. 6 para. 35(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 11 para. 190](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

F9636

Textual Amendments

- F96** Sch. 6 para. 36 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 11 para. 191](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

37 (1) Before varying the order by exercising one of its powers under section [^{F97}1(4) and (4A) of the 1991] Act, the court must have regard to any representations made by the parties to the application.

F98(2)

Textual Amendments

- F97** Words in Sch. 6 para. 37(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 11 para. 192\(a\)](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))
- F98** Sch. 6 para. 37(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 11 para. 192\(b\)](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

38 (1) Section [^{F99}1(6) of the 1991] Act (power of court to order that account be opened) applies for the purposes of [^{F100}paragraph 35] as it applies for the purposes of section [^{F101}1 of the 1991 Act].

(2) None of the powers of the court ^{F102}... conferred by paragraphs 35 to 37 and subparagraph (1) is exercisable in relation to an order under this Schedule for the making of periodical payments [^{F103}unless, at the time when the order was made, the person required to make the payments was ordinarily resident in England and Wales.]

Textual Amendments

- F99** Words in Sch. 6 para. 38(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 11 para. 193\(a\)\(i\)](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))
- F100** Words in Sch. 6 para. 38(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 11 para. 193\(a\)\(ii\)](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))
- F101** Words in Sch. 6 para. 38(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 11 para. 193\(a\)\(iii\)](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

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- F102** Words in Sch. 6 para. 38(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 193\(b\)\(i\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F103** Words in Sch. 6 para. 38(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 193\(b\)\(ii\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Persons who may apply under this Part

- 39 An application under paragraph 30 [^{F104}or 31] may be made—
- (a) if it is for the variation or revocation of an order under Part 1, 2, 3 or 4 for periodical payments, by either civil partner, and
 - (b) if it is for the variation of an order under paragraph 2(1)(c) or Part 2 or 3 for periodical payments to or in respect of a child, also by the child himself, if he has reached 16.

Textual Amendments

- F104** Words in Sch. 6 para. 39 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 194](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Revival of orders for periodical payments

- 40 (1) If an order made by [^{F105}the family court] under this Schedule for the making of periodical payments to or in respect of a child (other than an interim order) ceases to have effect—
- (a) on the date on which the child reaches 16, or
 - (b) at any time after that date but before or on the date on which he reaches 18, the child may apply to the court which made the order for an order for its revival.
- (2) If on such an application it appears to the court that—
- (a) the child is, will be or (if an order were made under this sub-paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment, or
 - (b) there are special circumstances which justify the making of an order under this sub-paragraph,
- the court may by order revive the order from such date as the court may specify, not being earlier than the date of the making of the application.
- (3) Any order revived under this paragraph may be varied or revoked under paragraphs 30 to 34 in the same way as it could have been varied or revoked had it continued in being.

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F105 Words in Sch. 6 para. 40(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 195](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

Variation of instalments of lump sum

F106 41

Textual Amendments

F106 Sch. 6 para. 41 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 196](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

Supplementary provisions with respect to variation and revocation of orders

F107 42

Textual Amendments

F107 Sch. 6 para. 42 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 196](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

PART 7

ARREARS AND REPAYMENTS

Enforcement etc. of orders for payment of money

43 Section 32 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22) applies in relation to orders under this Schedule as it applies in relation to orders under Part 1 of that Act.

Orders for repayment after cessation of order because of subsequent civil partnership etc.

- 44 (1) Sub-paragraphs (3) and (4) apply if—
- (a) an order made under paragraph 2(1)(a) or Part 2 or 3 has, under paragraph 26(2), ceased to have effect because of the formation of a subsequent civil partnership or marriage by the party (“R”) in whose favour it was made, and
 - (b) the person liable to make payments under the order (“P”) made payments in accordance with it in respect of a relevant period in the mistaken belief that the order was still subsisting.
- (2) “Relevant period” means a period after the date of the formation of the subsequent civil partnership or marriage.

Status: Point in time view as at 02/03/2015.

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- (3) No proceedings in respect of a cause of action arising out of the circumstances mentioned in sub-paragraph (1)(a) and (b) is maintainable by P (or P’s personal representatives) against R (or R’s personal representatives).
- (4) But on an application made under this paragraph by P (or P’s personal representatives) against R (or R’s personal representatives) [^{F108}the family court] —
 - (a) may order the respondent to pay to the applicant a sum equal to the amount of the payments made in respect of the relevant period, or
 - (b) if it appears to the court that it would be unjust to make that order, may—
 - (i) order the respondent to pay to the applicant such lesser sum as it thinks fit, or
 - (ii) dismiss the application.
- (5) An order under this paragraph for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.
- (6) An application under this paragraph—
 - (a) may [^{F109}(but need not)] be made in proceedings ^{F110}... for leave to enforce, or the enforcement of, the payment of arrears under an order made under paragraph 2(1)(a) or Part 2 or 3, ^{F111}...
 - ^{F111}(b)
 - ^{F111} ...
- ^{F112}(7)
- (8) Subject to sub-paragraph (9)—
 - (a) [^{F113}an officer of the family court] is not liable for any act done by him^{F114}, in pursuance of an order under paragraph 2(1)(a), or Part 2 or 3, requiring payments to be made to the court or an officer of the court,] after the date on which that order ceased to have effect because of the formation of a subsequent civil partnership or marriage by the person entitled to payments under it, and
 - (b) the collecting officer under an attachment of earnings order made to secure payments under [^{F115}an order] under paragraph 2(1)(a), or Part 2 or 3, is not liable for any act done by him^{F116}, after the date on which that order ceased to have effect because of the formation of a subsequent civil partnership or marriage by the person entitled to payments under it,] in accordance with any enactment or rule of court specifying how payments made to him in compliance with the attachment of earnings order are to be dealt with.
- (9) Sub-paragraph (8) applies if (but only if) the act—
 - (a) was one which he would have been under a duty to do had the order under paragraph 2(1)(a) or Part 2 or 3 not ceased to have effect, and
 - (b) was done before notice in writing of the formation of the subsequent civil partnership or marriage was given to him by or on behalf of—
 - (i) the person entitled to payments under the order,
 - (ii) the person liable to make payments under it, or
 - (iii) the personal representatives of either of them.
- (10) In this paragraph “collecting officer”, in relation to an attachment of earnings order, means—

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- (a) the officer of the High Court, or
 - (b) the officer designated by the Lord Chancellor,
- to whom a person makes payments in compliance with the order.

Textual Amendments

- F108** Words in Sch. 6 para. 44(4) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 197\(2\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F109** Words in Sch. 6 para. 44(6) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 197\(3\)\(a\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F110** Words in Sch. 6 para. 44(6) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 197\(3\)\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F111** Words in Sch. 6 para. 44(6) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 197\(3\)\(c\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F112** Sch. 6 para. 44(7) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 197\(4\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F113** Words in Sch. 6 para. 44(8)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 197\(5\)\(a\)\(i\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F114** Words in Sch. 6 para. 44(8)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 197\(5\)\(a\)\(ii\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F115** Words in Sch. 6 para. 44(8)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 197\(5\)\(b\)\(i\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F116** Words in Sch. 6 para. 44(8)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 197\(5\)\(b\)\(ii\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

PART 8

SUPPLEMENTARY

Restrictions on making of orders under this Schedule: welfare of children

45

If—

- (a) an application is made by a civil partner for an order under Part 1, 2 or 3, and
- (b) there is a child of the family who is under 18,

the court must not dismiss or make a final order on the application until it has decided whether to exercise any of its powers under the Children Act 1989 (c. 41) with respect to the child.

Status: Point in time view as at 02/03/2015.

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Constitution of courts, powers of High Court and county court in relation to orders and appeals

- 46 The following provisions of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22) apply in relation to an order under this Schedule relating to a civil partnership as they apply in relation to an order under Part 1 of that Act relating to a marriage—
- (a) section 28 (powers of the High Court and [^{F117}the family court] in relation to certain orders),
 - ^{F118}(b)
 - ^{F118}(c)

Textual Amendments

F117 Words in Sch. 6 para. 46(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 198\(a\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F118 Sch. 6 para. 46(b)(c) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 198\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Provisions as to jurisdiction and procedure

- 47 ^{F119}(1)
- [^{F120}(1A) If an application or part of an application for an order under this Schedule relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, [^{F121}the family court] may not entertain that application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.]
- (2) Any jurisdiction conferred on [^{F122}the family court] by this Schedule is exercisable even if any party to the proceedings is not domiciled in England and Wales.
 - [^{F123}(3) The Lord Chancellor may make a determination for the purposes of subparagraph (1) only with the concurrence of the Lord Chief Justice.
 - (4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.]
 - [^{F124}(5) In this paragraph “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Textual Amendments

F119 Sch. 6 para. 47(1) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 199\(2\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Status: Point in time view as at 02/03/2015.

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- F120** Sch. 6 para. 47(1A) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(5)(b)**
- F121** Words in Sch. 6 para. 47(1A) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 199(3)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F122** Words in Sch. 6 para. 47(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 199(4)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F123** Sch. 6 para. 47(3)(4) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, **Sch. 1 para. 23**
- F124** Sch. 6 para. 47(5) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(5)(c)**

Meaning of “child of the family”

- 48 In this Schedule “child of the family”, in relation to two people who are civil partners of each other, means—
- (a) a child of both of them, and
 - (b) any other child, other than a child placed with them as foster parents by a local authority or voluntary organisation, who has been treated by both the civil partners as a child of their family.

SCHEDULE 7

Section 72(4)

FINANCIAL RELIEF IN ENGLAND AND WALES AFTER OVERSEAS DISSOLUTION ETC. OF A CIVIL PARTNERSHIP

PART 1

FINANCIAL RELIEF

Part applies where civil partnership has been dissolved etc. overseas

- 1 (1) This Part of this Schedule applies where—
- (a) a civil partnership has been dissolved or annulled, or the civil partners have been legally separated, by means of judicial or other proceedings in an overseas country, and
 - (b) the dissolution, annulment or legal separation is entitled to be recognised as valid in England and Wales.
- (2) This Part of this Schedule applies even if the date of the dissolution, annulment or legal separation is earlier than the date on which the Part comes into force.
- (3) In this Schedule “overseas country” means a country or territory outside the British Islands.
- (4) In this Part of this Schedule “child of the family” means—
- (a) a child of both of the civil partners, and

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- (b) any other child, other than a child placed with them as foster parents or by a local authority or voluntary organisation, who has been treated by both the civil partners as a child of their family.

Either civil partner may make application for financial relief

- 2 (1) Either of the civil partners may make an application to the court for an order under paragraph 9 or 13.
- (2) The rights conferred by sub-paragraph (1) are subject to—
- (a) paragraph 3 (civil partner may not apply after forming subsequent civil partnership etc.), and
- (b) paragraph 4 (application may not be made until leave to make it has been granted).
- (3) An application for an order under paragraph 9 or 13 must be made in a manner prescribed by rules of court.

Commencement Information

I13 Sch. 7 para. 2 wholly in force at 5.12.2005; Sch. 7 para. 2 not in force at Royal Assent see s. 263; Sch. 7 para. 2(3) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 7 para. 2 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

No application after formation of subsequent civil partnership or marriage

- 3 (1) If—
- (a) the civil partnership has been dissolved or annulled, and
- (b) after the dissolution or annulment, one of the civil partners forms a subsequent civil partnership or marriage,
- that civil partner shall not be entitled to make, in relation to the civil partnership, an application for an order under paragraph 9 or 13.
- (2) The reference in sub-paragraph (1) to the forming of a subsequent civil partnership or marriage includes a reference to the forming of a civil partnership or marriage which is by law void or voidable.

Leave of court required for making of application

- 4 (1) No application for an order under paragraph 9 or 13 shall be made unless the leave of the court has been obtained in accordance with rules of court.
- (2) The court shall not grant leave under this paragraph unless it considers that there is substantial ground for the making of an application for such an order.
- (3) The court may grant leave under this paragraph notwithstanding that an order has been made by a court in a country outside England and Wales requiring the other civil partner to make any payment, or transfer any property, to the applicant or to a child of the family.
- (4) Leave under this paragraph may be granted subject to such conditions as the court thinks fit.

Status: Point in time view as at 02/03/2015.

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Commencement Information

114 Sch. 7 para. 4 wholly in force at 5.12.2005; Sch. 7 para. 4 not in force at Royal Assent see s. 263; Sch. 7 para. 4(1) in force for certain purposes at 15.4.2005 by S.I. 2005/1112, **art. 2**, **Sch. 1** and Sch. 7 para. 4 in force otherwise at 5.12.2005 by S.I. 2005/3175, **art. 2(1)**, **Sch. 1**

Interim orders for maintenance

- 5 (1) Where—
- (a) leave is granted under paragraph 4, and
 - (b) it appears to the court that the civil partner who applied for leave, or any child of the family, is in immediate need of financial assistance,
- the court may, subject to sub-paragraph (4), make an interim order for maintenance.
- (2) An interim order for maintenance is one requiring the other civil partner to make—
- (a) to the applicant, or
 - (b) to the child,
- such periodical payments as the court thinks reasonable for such term as the court thinks reasonable.
- (3) The term must be one—
- (a) beginning not earlier than the date of the grant of leave, and
 - (b) ending with the date of the determination of the application made under the leave.
- (4) If it appears to the court that the court will, in the event of an application being made under the leave, have jurisdiction to entertain the application only under paragraph 7(4), the court shall not make an interim order under this paragraph.
- (5) An interim order under this paragraph may be made subject to such conditions as the court thinks fit.

Paragraphs 7 and 8 apply where application made for relief under paragraph 9 or 13

- 6 Paragraphs 7 and 8 apply where—
- (a) one of the civil partners has been granted leave under paragraph 4, and
 - (b) acting under the leave, that civil partner makes an application for an order under paragraph 9 or 13.

Jurisdiction of the court

- 7 (1) ^{F125}Subject to sub-paragraph (6),] the court shall have jurisdiction to entertain the application only if one or more of the following jurisdictional requirements is satisfied.
- (2) The first requirement is that either of the civil partners—
- (a) was domiciled in England and Wales on the date when the leave was applied for, or
 - (b) was domiciled in England and Wales on the date when the dissolution, annulment or legal separation took effect in the overseas country in which it was obtained.

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- (3) The second is that either of the civil partners—
- (a) was habitually resident in England and Wales throughout the period of one year ending with the date when the leave was applied for, or
 - (b) was habitually resident in England and Wales throughout the period of one year ending with the date on which the dissolution, annulment or legal separation took effect in the overseas country in which it was obtained.
- (4) The third is that either or both of the civil partners had, at the date when the leave was applied for, a beneficial interest in possession in a dwelling-house situated in England or Wales which was at some time during the civil partnership a civil partnership home of the civil partners.
- (5) In sub-paragraph (4) “possession” includes receipt of, or the right to receive, rents and profits, but here “rent” does not include mortgage interest.
- [^{F126}(6) If an application or part of an application relates to a matter where jurisdiction falls to be determined by the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, those requirements are to determine whether the court has jurisdiction to entertain the application or that part of it.
- (7) In sub-paragraph (6) “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Textual Amendments

- F125** Words in Sch. 7 para. 7(1) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(6)(a)(i)**
- F126** Sch. 7 para. 7(6)(7) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(6)(a)(ii)**

Duty of the court to consider whether England and Wales is appropriate venue for application

- 8 (1) Before deciding the application, the court must consider whether in all the circumstances of the case it would be appropriate for an order of the kind applied for to be made by a court in England and Wales.
- (2) [^{F127}Subject to sub-paragraph (4),] if the court is not satisfied that it would be appropriate, the court shall dismiss the application.
- (3) The court must, in particular, have regard to the following matters—
- (a) the connection which the civil partners have with England and Wales;
 - (b) the connection which the civil partners have with the country in which the civil partnership was dissolved or annulled or in which they were legally separated;
 - (c) the connection which the civil partners have with any other country outside England and Wales;
 - (d) any financial benefit which, in consequence of the dissolution, annulment or legal separation—
 - (i) the applicant, or

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- (ii) a child of the family,
has received, or is likely to receive, by virtue of any agreement or the operation of the law of a country outside England and Wales;
 - (e) in a case where an order has been made by a court in a country outside England and Wales requiring the other civil partner—
 - (i) to make any payment, or
 - (ii) to transfer any property,for the benefit of the applicant or a child of the family, the financial relief given by the order and the extent to which the order has been complied with or is likely to be complied with;
 - (f) any right which the applicant has, or has had, to apply for financial relief from the other civil partner under the law of any country outside England and Wales and, if the applicant has omitted to exercise that right, the reason for that omission;
 - (g) the availability in England and Wales of any property in respect of which an order under this Schedule in favour of the applicant could be made;
 - (h) the extent to which any order made under this Schedule is likely to be enforceable;
 - (i) the length of time which has elapsed since the date of the dissolution, annulment or legal separation.
- [^{F128}(4) If the court has jurisdiction in relation to the application or part of it by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the court may not dismiss the application or that part of it on the ground mentioned in sub-paragraph (2) if to do so would be inconsistent with the jurisdictional requirements of that Regulation and that Schedule.
- (5) In sub-paragraph (4) “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Textual Amendments

- F127** Words in Sch. 7 para. 8(2) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, [Sch. 7 para. 16\(6\)\(b\)\(i\)](#)
- F128** Sch. 7 para. 8(4)(5) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, [Sch. 7 para. 16\(6\)\(b\)\(ii\)](#)

*Orders for financial provision, property adjustment [^{F129},
pension sharing and pension compensation sharing]*

Textual Amendments

- F129** Words in Sch. 7 para. 9 cross-heading substituted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 20\(1\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

- 9 (1) Sub-paragraphs (2) and (3) apply where one of the civil partners has made an application for an order under this paragraph.

Status: Point in time view as at 02/03/2015.

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- (2) If the civil partnership has been dissolved or annulled, the court may on the application make any one or more of the orders which it could make under Part 1, 2 [F130, 4 or 4A] of Schedule 5 (financial provision, property adjustment [F131, pension sharing and pension compensation sharing]) if a dissolution order or nullity order had been made in respect of the civil partnership under Chapter 2 of Part 2 of this Act.
- (3) If the civil partners have been legally separated, the court may on the application make any one or more of the orders which it could make under Part 1 or 2 of Schedule 5 (financial provision and property adjustment) if a separation order had been made in respect of the civil partners under Chapter 2 of Part 2 of this Act.
- (4) Where under sub-paragraph (2) or (3) the court makes—
- (a) an order which, if made under Schedule 5, would be a secured periodical payments order,
 - (b) an order for the payment of a lump sum, or
 - (c) an order which, if made under that Schedule, would be a property adjustment order,
- then, on making that order or at any time afterwards, the court may make any order which it could make under Part 3 of Schedule 5 (sale of property) if the order under sub-paragraph (2) or (3) had been made under that Schedule.
- (5) The powers under sub-paragraphs (2) to (4) are subject to paragraph 11.

Textual Amendments

F130 Words in Sch. 7 para. 9(2) substituted (6.4.2011) by [Pensions Act 2008 \(c. 30\), ss. 120, 149, Sch. 6 para. 20\(2\)\(a\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

F131 Words in Sch. 7 para. 9(2) substituted (6.4.2011) by [Pensions Act 2008 \(c. 30\), ss. 120, 149, Sch. 6 para. 20\(2\)\(b\)](#); S.I. 2011/664, [art. 2\(3\)](#), Sch. Pt. 2

Matters to which court is to have regard in exercising its powers under paragraph 9

- 10 (1) The court, in deciding—
- (a) whether to exercise its powers under paragraph 9, and
 - (b) if so, in what way,
- must act in accordance with this paragraph.
- (2) The court must have regard to all the circumstances of the case, giving first consideration to the welfare, while under 18, of any child of the family who has not reached 18.
- (3) The court, in exercising its powers under paragraph 9 in relation to one of the civil partners—
- (a) must in particular have regard to the matters mentioned in paragraph 21(2) of Schedule 5, and
 - (b) shall be under duties corresponding to those imposed by sub-paragraphs (2) and (3) of paragraph 23 of that Schedule (duties to consider termination of financial obligations) where it decides to exercise under paragraph 9 powers corresponding to the powers referred to in those sub-paragraphs.

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- (4) The matters to which the court is to have regard under sub-paragraph (3)(a), so far as relating to paragraph 21(2)(a) of Schedule 5 (regard to be had to financial resources), include—
- (a) any benefits under a pension arrangement which either of the civil partners has or is likely to have, and
 - (b) any PPF compensation to which a civil partner is or is likely to be entitled, (whether or not in the foreseeable future).
- (5) The matters to which the court is to have regard under sub-paragraph (3)(a), so far as relating to paragraph 21(2)(h) of Schedule 5 (regard to be had to benefits that cease to be acquirable), include—
- (a) any benefits under a pension arrangement which, because of the dissolution or annulment of the civil partnership, one of the civil partners will lose the chance of acquiring, and
 - (b) any PPF compensation which, because of the making of the dissolution or nullity order, a civil partner will lose the chance of acquiring entitlement to.
- (6) The court, in exercising its powers under paragraph 9 in relation to a child of the family, must in particular have regard to the matters mentioned in paragraph 22(2) of Schedule 5.
- (7) The court, in exercising its powers under paragraph 9 against a civil partner (“A”) in favour of a child of the family who is not A’s child, must also have regard to the matters mentioned in paragraph 22(3) of Schedule 5.
- (8) Where an order has been made by a court outside England and Wales for—
- (a) the making of payments, or
 - (b) the transfer of property,
- by one of the civil partners, the court in considering in accordance with this paragraph the financial resources of the other civil partner, or of a child of the family, shall have regard to the extent to which that order has been complied with or is likely to be complied with.
- (9) In this paragraph—
- (a) “pension arrangement” has the same meaning as in Part 4 of Schedule 5,
 - (b) references to benefits under a pension arrangement include any benefits by way of pension, whether under a pension arrangement or not, and
 - (c) “PPF compensation” has the same meaning as in ^{F132} . . . Schedule 5.

Textual Amendments

F132 Words in Sch. 7 para. 10(9)(c) repealed (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 148, 149, Sch. 6 para. 20(3), [Sch. 11 Pt. 4](#); [S.I. 2011/664](#), [art. 2\(3\)](#), Sch. Pt. 2

Commencement Information

I15 Sch. 7 para. 10 wholly in force at 6.4.2006; Sch. 7 para. 10 not in force at Royal Assent see s. 263; Sch. 7 para. 10(1)(2)(3)(4)(a)(5)(a)(6)(7)(8)(9)(a)(b) in force at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#) and Sch. 7 para. 10(4)(b)(5)(b)(9)(c) in force at 6.4.2006 by [S.I. 2006/639](#), [art. 2\(b\)](#)

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Restriction of powers under paragraph 9 where jurisdiction depends on civil partnership home in England or Wales

- 11 (1) Sub-paragraphs (2) to (4) apply where the court has jurisdiction to entertain an application for an order under paragraph 9 only because a dwelling-house which was a civil partnership home of the civil partners is situated in England or Wales.
- (2) The court may make under paragraph 9 any one or more of the following orders (but no other)—
- (a) an order that one of the civil partners shall pay to the other a specified lump sum;
 - (b) an order that one of the civil partners shall pay to a child of the family, or to a specified person for the benefit of a child of the family, a specified lump sum;
 - (c) an order that one of the civil partners shall transfer that civil partner's interest in the dwelling-house, or a specified part of that interest—
 - (i) to the other,
 - (ii) to a child of the family, or
 - (iii) to a specified person for the benefit of a child of the family;
 - (d) an order that a settlement of the interest of one of the civil partners in the dwelling-house, or a specified part of that interest, be made to the satisfaction of the court for the benefit of any one or more of—
 - (i) the other civil partner and the children of the family, or
 - (ii) either or any of them;
 - (e) an order varying for the benefit of any one or more of—
 - (i) the civil partners and the children of the family, or
 - (ii) either or any of them,
 a relevant settlement so far as that settlement relates to an interest in the dwelling-house;
 - (f) an order extinguishing or reducing the interest of either of the civil partners under a relevant settlement so far as that interest is an interest in the dwelling-house;
 - (g) an order for the sale of the interest of one of the civil partners in the dwelling-house.
- (3) Where under paragraph 9 the court makes just one order for the payment of a lump sum by one of the civil partners, the amount of the lump sum must not exceed the amount specified in sub-paragraph (5).
- (4) Where under paragraph 9 the court makes two or more orders each of which is an order for the payment of a lump sum by the same civil partner, the total of the amounts of the lump sums must not exceed the amount specified in sub-paragraph (5).
- (5) That amount is—
- (a) if the interest of the paying civil partner in the dwelling-house is sold in pursuance of an order made under sub-paragraph (2)(g), the amount of the proceeds of sale of that interest after deducting from those proceeds any costs incurred in the sale of that interest;
 - (b) if that interest is not so sold, the amount which in the opinion of the court represents the value of that interest.
- (6) Where the interest of one of the civil partners in the dwelling-house is held jointly or in common with any other person or persons—

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- (a) the reference in sub-paragraph (2)(g) to the interest of one of the civil partners shall be construed as including a reference to the interest of that other person, or the interest of those other persons, in the dwelling-house, and
- (b) the reference in sub-paragraph (5)(a) to the amount of the proceeds of a sale ordered under sub-paragraph (2)(g) shall be construed as a reference to that part of those proceeds which is attributable to the interest of that civil partner in the dwelling-house.

(7) In sub-paragraph (2)—

“relevant settlement” means a settlement made, during the subsistence of the civil partnership or in anticipation of its formation, on the civil partners, including one made by will or codicil;

“specified” means specified in the order.

Consent orders under paragraph 9

- 12 (1) On an application for a consent order under paragraph 9, the court may make an order in the terms agreed on the basis only of the prescribed information furnished with the application.
- (2) Sub-paragraph (1) does not apply if the court has reason to think that there are other circumstances into which it ought to inquire.
- (3) Sub-paragraph (1) applies to an application for a consent order varying or discharging an order under paragraph 9 as it applies to an application for such an order.
- (4) Sub-paragraph (1) applies despite paragraph 10.
- (5) In this paragraph—
- “consent order”, in relation to an application for an order, means an order in the terms applied for to which the respondent agrees;
- “prescribed” means prescribed by rules of court.

Commencement Information

I16 Sch. 7 para. 12 wholly in force at 5.12.2005; Sch. 7 para. 12 not in force at Royal Assent see s. 263; Sch. 7 para. 12(1)(5) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 7 para. 12 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Orders for transfers of tenancies of dwelling-houses

- 13 (1) This paragraph applies if—
- (a) an application is made by one of the civil partners for an order under this paragraph, and
 - (b) one of the civil partners is entitled, either in his own right or jointly with the other civil partner, to occupy a dwelling-house in England or Wales by virtue of a tenancy which is a relevant tenancy within the meaning of Schedule 7 to the Family Law Act 1996 (c. 27).
- (2) The court may make in relation to that dwelling-house any order which it could make under Part 2 of that Schedule (order transferring tenancy or switching statutory

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tenants) if it had power to make a property adjustment order under Part 2 of Schedule 5 to this Act with respect to the civil partnership.

- (3) The provisions of paragraphs 10, 11 and 14(1) of Schedule 7 to the Family Law Act 1996 (payments by transferee, pre-transfer liabilities and right of landlord to be heard) apply in relation to any order under this paragraph as they apply to any order under Part 2 of that Schedule.

Application to orders under paragraphs 5 and 9 of provisions of Schedule 5

- 14 (1) The following provisions of Schedule 5 apply in relation to an order made under paragraph 5 or 9 of this Schedule as they apply in relation to a like order made under that Schedule—
- (a) paragraph 3(1) to (3) and (7) (lump sums);
 - (b) paragraph 11(2) to (4), 12(2), 13 and 14 (orders for sale);
 - (c) paragraphs 17, 18 and 19(2) and (3) (pension sharing);
 - [^{F133}(ca) paragraphs 19C, 19D and 19E(2) and (3) (pension compensation sharing);]
 - (d) paragraphs 25 and 26 (orders under Part 1 relating to pensions);
 - (e) paragraphs 31 to [^{F134}34 and 35 to 37] (orders under Part 1 relating to pensions where Board has assumed responsibility for scheme);
 - [^{F135}(ea) paragraph 34A (orders under Part 1 relating to pension compensation attachment);]
 - (f) paragraphs 47(1) to (4) and (6) and 49 (duration of orders);
 - (g) paragraphs 50 to 54 and 57 to 62, except paragraph 50(1)(g) (variation etc. of orders);
 - (h) paragraphs 63 to 65 (arrear and repayments);
 - (i) paragraphs 76 to [^{F136}79A] (drafting of instruments, bankruptcy, mental disorder [^{F137}, pension-sharing appeals and pension compensation-sharing appeals]).
- (2) Sub-paragraph (1)(d) [^{F138}and (ea)] does not apply where the court has jurisdiction to entertain an application for an order under paragraph 9 only because a dwelling-house which was a civil partnership home of the civil partners is situated in England or Wales.
- (3) Paragraph 27 of Schedule 5 (change of pension arrangement under which rights are shared) applies in relation to an order made under paragraph 9 of this Schedule by virtue of sub-paragraph (1)(d) above as it applies to an order made under Part 1 of Schedule 5 by virtue of paragraph 25 or 26 of that Schedule.
- (4) The Lord Chancellor may by regulations make for the purposes of this Schedule provision corresponding to any provision which may be made by him under paragraph 28(1) to (3) of Schedule 5 (supplementary provision about orders relating to pensions under Part 1 of that Schedule) [^{F139}or under paragraphs 34B to 36 of that Schedule (supplementary provision about orders relating to pension compensation)].
- (5) The power to make regulations under this paragraph is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

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Textual Amendments

- F133** Sch. 7 para. 14(1)(ca) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 20\(4\)\(a\)](#); [S.I. 2011/664](#), [art. 2\(3\)](#), Sch. Pt. 2
- F134** Words in Sch. 7 para. 14(1)(e) substituted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 20\(4\)\(b\)](#); [S.I. 2011/664](#), [art. 2\(3\)](#), Sch. Pt. 2
- F135** Sch. 7 para. 14(1)(ea) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 20\(4\)\(c\)](#); [S.I. 2011/664](#), [art. 2\(3\)](#), Sch. Pt. 2
- F136** Word in Sch. 7 para. 14(1)(i) substituted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 20\(4\)\(d\)](#); [S.I. 2011/664](#), [art. 2\(3\)](#), Sch. Pt. 2
- F137** Words in Sch. 7 para. 14(1)(i) substituted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 20\(4\)\(e\)](#); [S.I. 2011/664](#), [art. 2\(3\)](#), Sch. Pt. 2
- F138** Words in Sch. 7 para. 14(2) inserted (6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 20\(4\)\(f\)](#); [S.I. 2011/664](#), [art. 2\(3\)](#), Sch. Pt. 2
- F139** Words in Sch. 7 para. 14(4) added (6.3.2011 for specified purposes otherwise 6.4.2011) by [Pensions Act 2008 \(c. 30\)](#), ss. 120, 149, [Sch. 6 para. 20\(4\)\(g\)](#); [S.I. 2011/664](#), [art. 2\(2\)\(3\)](#), Sch.

Modifications etc. (not altering text)

- C9** Sch. 7 para. 14 wholly in force at 5.12.2005; Sch. 7 para. 14 not in force at Royal Assent see s. 263; Sch. 7 para. 14(4)(5) in force at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 7 para. 14 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Avoidance of transactions designed to defeat claims under paragraphs 5 and 9

- 15 (1) Sub-paragraphs (2) and (3) apply where one of the civil partners (“A”) is granted leave under paragraph 4 to make an application for an order under paragraph 9.
- (2) If the court is satisfied, on application by A, that the other civil partner (“B”) is, with the intention of defeating a claim by A, about to—
- make any disposition, or
 - transfer out of the jurisdiction, or otherwise deal with, any property,
- it may make such order as it thinks fit for restraining B from doing so or otherwise for protecting the claim.
- (3) If the court is satisfied, on application by A—
- that the other civil partner (“B”) has, with the intention of defeating a claim by A, made a reviewable disposition, and
 - that, if the disposition were set aside—
 - financial relief under paragraph 5 or 9, or
 - different financial relief under paragraph 5 or 9,would be granted to A,
- it may make an order setting aside the disposition.
- (4) If—
- an order under paragraph 5 or 9 has been made by the court at the instance of one of the civil partners (“A”), and
 - the court is satisfied, on application by A, that the other civil partner (“B”) has, with the intention of defeating a claim by A, made a reviewable disposition,
- the court may make an order setting aside the disposition.

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- (5) Where the court has jurisdiction to entertain an application for an order under paragraph 9 only under paragraph 7(4), it shall not make any order under sub-paragraph (2), (3) or (4) in respect of any property other than the dwelling-house concerned.
- (6) Where the court makes an order under sub-paragraph (3) or (4) setting aside a disposition, it shall give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the making of any payments or the disposal of any property).
- (7) For the purposes of sub-paragraphs (3) and (4), but subject to sub-paragraph (8), any disposition made by B is a “reviewable disposition” (whether made before or after the commencement of A’s application under that sub-paragraph).
- (8) A disposition made by B is not a reviewable disposition for those purposes if made for valuable consideration (other than formation of a civil partnership) to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of any intention on the part of B to defeat A’s claim.
- (9) A reference in this paragraph to defeating a claim by one of the civil partners is a reference to—
 - (a) preventing financial relief being granted, or reducing the amount of financial relief which might be granted, under paragraph 5 or 9 at the instance of that civil partner, or
 - (b) frustrating or impeding the enforcement of any order which might be, or has been, made under paragraph 5 or 9 at the instance of that civil partner.

Presumptions for the purposes of paragraph 15

- 16 (1) Sub-paragraph (3) applies where—
- (a) an application is made under paragraph 15(2) or (3) by one of the civil partners with respect to—
 - (i) a disposition which took place less than 3 years before the date of the application, or
 - (ii) a disposition or other dealing with property which is about to take place, and
 - (b) the court is satisfied that the disposition or other dealing would (apart from paragraph 15 and this paragraph of this Schedule) have the consequence of defeating a claim by the applicant.
- (2) Sub-paragraph (3) also applies where—
- (a) an application is made under paragraph 15(4) by one of the civil partners with respect to a disposition which took place less than 3 years before the date of the application, and
 - (b) the court is satisfied that the disposition has had the consequence of defeating a claim by the applicant.
- (3) It shall be presumed, unless the contrary is shown, that the person who—
- (a) disposed of, or
 - (b) is about to dispose of or deal with the property,
- did so, or (as the case may be) is about to do so, with the intention of defeating the applicant’s claim.

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- (4) A reference in this paragraph to defeating a claim by one of the civil partners has the meaning given by paragraph 15(9).

PART 2

STEPS TO PREVENT AVOIDANCE PRIOR TO APPLICATION FOR LEAVE UNDER PARAGRAPH 4

Prevention of transactions intended to defeat prospective claims under paragraphs 5 and 9

- 17 (1) If it appears to the court, on application by one of the persons (“A”) who formed a civil partnership—
- (a) that the civil partnership has been dissolved or annulled, or that the civil partners have been legally separated, by means of judicial or other proceedings in an overseas country,
 - (b) that A intends to apply for leave to make an application for an order under paragraph 9 as soon as he or she has been habitually resident in England and Wales for the period of one year, and
 - (c) that the other civil partner (“B”) is, with the intention of defeating A’s claim, about to—
 - (i) make any disposition, or
 - (ii) transfer out of the jurisdiction, or otherwise deal with, any property,the court may make such order as it thinks fit for restraining B from taking such action as is mentioned in paragraph (c).
- (2) Sub-paragraph (1) applies even if the date of the dissolution, annulment or legal separation is earlier than the date on which that sub-paragraph comes into force.
- (3) Sub-paragraph (4) applies where—
- (a) an application is made under sub-paragraph (1) with respect to—
 - (i) a disposition which took place less than 3 years before the date of the application, or
 - (ii) a disposition or other dealing with property which is about to take place, and
 - (b) the court is satisfied that the disposition or other dealing would (apart from this paragraph of this Schedule) have the consequence of defeating a claim by the applicant.
- (4) It shall be presumed, unless the contrary is shown, that the person who—
- (a) disposed of, or
 - (b) is about to dispose of or deal with the property,
- did so, or (as the case may be) is about to do so, with the intention of defeating the applicant’s claim.
- (5) A reference in this paragraph to defeating a person’s claim is a reference to preventing financial relief being granted, or reducing the amount of financial relief which might be granted, under paragraph 5 or 9 at the instance of that person.

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PART 3

SUPPLEMENTARY

Paragraphs 15 to 17: meaning of “disposition” and saving

- 18 (1) In paragraphs 15 to 17 “disposition” does not include any provision contained in a will or codicil but, with that exception, includes any conveyance, assurance or gift of property of any description, whether made by an instrument or otherwise.
- (2) The provisions of paragraphs 15 to 17 are without prejudice to any power of the High Court to grant injunctions under section 37 of the [F140 Senior Courts Act 1981](c. 54).

Textual Amendments

F140 Words in Sch. 7 Pt. 3 para. 18(2) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 1\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

Interpretation of Schedule

- 19 In this Schedule—
- “the court” means the High Court [F141 or the family court];
- “dwelling-house” includes—
- any building, or part of a building, which is occupied as a dwelling, and
 - any yard, garden, garage or outhouse belonging to, and occupied with, the dwelling-house;
- “overseas country” has the meaning given by paragraph 1(3).

Textual Amendments

F141 Words in Sch. 7 para. 19 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 201](#); S.I. 2014/954, [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

SCHEDULE 8

Section 81

HOUSING AND TENANCIES

Law of Property Act 1925 (c. 20)

- 1 (1) Amend section 149(6) (which includes provision for a lease determinable on marriage of the lessee to take effect as a lease for 90 years determinable by notice after the lessee’s marriage) as follows.
- (2) After “or on the marriage of the lessee,” insert “ or on the formation of a civil partnership between the lessee and another person, ”.
- (3) For “after the death or marriage (as the case may be) of the original lessee, or of the survivor of the original lessees,” substitute “ after (as the case may be) the death

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or marriage of, or the formation of a civil partnership by, the original lessee or the survivor of the original lessees, ”.

Landlord and Tenant Act 1954 (c. 56)

- 2 In paragraph 1(e) of Schedule 3 (grounds for possession: premises required as residence for landlord or family member), for the words from “as a residence” to “spouse, and” substitute “as a residence for—
- (i) himself,
 - (ii) any son or daughter of his over eighteen years of age,
 - (iii) his father or mother, or
 - (iv) the father, or mother, of his spouse or civil partner,
- and ”.

Leasehold Reform Act 1967 (c. 88)

- 3 In section 1(1ZC)(c) (which refers to section 149(6) of the Law of Property Act 1925), after “terminable after a death or marriage” insert “ or the formation of a civil partnership ”.
- 4 In section 1B (which refers to a tenancy granted so as to become terminable by notice after a death or marriage), for “a death or marriage” substitute “ a death, a marriage or the formation of a civil partnership ”.
- 5 (1) Amend section 3(1) (meaning of “long tenancy”) as follows.
- (2) In the words describing section 149(6) of the Law of Property Act 1925, after “terminable after a death or marriage” insert “ or the formation of a civil partnership ”.
 - (3) In the proviso (exclusion of certain tenancies terminable by notice after death or marriage)—
 - (a) for “a death or marriage” substitute “ a death, a marriage or the formation of a civil partnership ”, and
 - (b) in paragraph (a), after “marriage of” insert “ , or the formation of a civil partnership by, ”.
- 6 (1) Amend section 7 (rights of members of family succeeding to tenancy on death) as follows.
- (2) In subsection (7) (“family member”), for “wife or husband” (in each place) substitute “ spouse or civil partner ”.
 - (3) In subsection (8) (surviving spouse’s rights on intestacy)—
 - (a) in paragraph (a), for “wife or husband” substitute “ spouse or civil partner ”, and
 - (b) in paragraph (b), for “husband or wife” substitute “ spouse or civil partner ”.
- 7 In section 18(3) (members of landlord’s family whose residential rights exclude enfranchisement or extension), for “wife or husband” (in each place) substitute “ spouse or civil partner ”.

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Caravan Sites Act 1968 (c. 52)

- 8 In section 3(2) (“occupier” includes surviving spouse of deceased occupier), for “or widower” (in each place) substitute “, widower or surviving civil partner”.

Rent (Agriculture) Act 1976 (c. 80)

- 9 (1) Amend section 3 (protected occupiers by succession) as follows.
- (2) For subsection (2) (succession by surviving spouse) substitute—
- “(2) Where the original occupier was a person who died leaving a surviving partner who was residing in the dwelling-house immediately before the original occupier’s death then, after the original occupier’s death, if the surviving partner has, in relation to the dwelling-house, a relevant licence or tenancy, the surviving partner shall be a protected occupier of the dwelling-house.”
- (3) In subsection (3) (succession by other family members)—
- (a) for “surviving spouse” substitute “ surviving partner ”,
- (b) for “his” (in each place) substitute “ the original occupier's ”, and
- (c) for “him” substitute “ the original occupier ”.
- (4) After subsection (3) insert—
- “(3A) In subsections (2) and (3) above “surviving partner” means surviving spouse or surviving civil partner.”
- 10 (1) Amend section 4 (statutory tenants and tenancies) as follows.
- (2) For subsection (3) (surviving spouse’s statutory tenancy) substitute—
- “(3) If the original occupier was a person who died leaving a surviving partner who was residing in the dwelling-house immediately before the original occupier’s death then, after the original occupier’s death, unless the surviving partner is a protected occupier of the dwelling-house by virtue of section 3(2) above, the surviving partner shall be the statutory tenant if and so long as he occupies the dwelling-house as his residence.”
- (3) In subsection (4) (statutory tenancy for other family members)—
- (a) for “surviving spouse” substitute “ surviving partner ”,
- (b) for “his” (in each place) substitute “ the original occupier's ”, and
- (c) for “him” substitute “ the original occupier ”.
- (4) For subsection (5A) (references to original occupier’s spouse include person living with occupier as his or her wife or husband) substitute—
- “(5ZA) In subsections (3) and (4) above “surviving partner” means surviving spouse or surviving civil partner.
- (5A) For the purposes of subsection (3) above—
- (a) a person who was living with the original occupier as his or her husband or wife shall be treated as the spouse of the original occupier, and

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- (b) a person who was living with the original occupier as if they were civil partners shall be treated as the civil partner of the original occupier,
and, subject to subsection (5B) below, “surviving spouse” and “surviving civil partner” in subsection (5ZA) above shall be construed accordingly.”
- 11 In section 31(3)(c) (power of Secretary of State and National Assembly for Wales to require information about occupiers of housing accommodation associated with agricultural or forestry land), after “who has been married to” insert “, or has been the civil partner of, ”.
- 12 In paragraph 1 of Case 9 in Part 1 of Schedule 4 (discretionary grounds for possession: dwelling required as residence for member of landlord’s family), after “husband” (in each place) insert “ or civil partner ”.

Rent Act 1977 (c. 42)

- 13 (1) In Part 1 of Schedule 1 (statutory tenants by succession), amend paragraph 2 (succession by surviving spouse) as follows.
- (2) In sub-paragraph (1), after “surviving spouse” insert “, or surviving civil partner, ”.
- (3) For sub-paragraph (2) substitute—
- “(2) For the purposes of this paragraph—
- (a) a person who was living with the original tenant as his or her wife or husband shall be treated as the spouse of the original tenant, and
- (b) a person who was living with the original tenant as if they were civil partners shall be treated as the civil partner of the original tenant.”
- (4) In sub-paragraph (3), for the words after “the county court” substitute “ shall for the purposes of this paragraph be treated (according to whether that one of them is of the opposite sex to, or of the same sex as, the original tenant) as the surviving spouse or the surviving civil partner. ”
- 14 In Schedule 15 (grounds for possession), in Case 9 in Part 1 (dwelling required as residence for landlord or member of his family), for “wife or husband” substitute “ spouse or civil partner ”.

Protection from Eviction Act 1977 (c. 43)

- 15 In section 4(2)(b) (special provisions for agricultural employees: “occupier” includes surviving spouse of former tenant), for “widow or widower” (in each place) substitute “ surviving spouse or surviving civil partner ”.

Housing Act 1980 (c. 51)

- 16 In section 54(2) (protected shorthold tenancy etc. may not be assigned except in pursuance of certain orders), after paragraph (c) insert “, or
- (d) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).”

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- 17 In section 76(3) (which amends provisions of the Rent (Agriculture) Act 1976 replaced by this Schedule), for “sections 3(2) and (3)(a) and 4(3) and (4)(a)” substitute “ sections 3(3)(a) and 4(4)(a) ”.

Housing Act 1985 (c. 68)

- 18 In sections 39(2)(b) and 160(2)(b) (meaning of “qualifying person” in definition of “exempted disposal”), after “the spouse or a former spouse” insert “ , or the civil partner or a former civil partner, ”.

- 19 In section 39(3) (disposals exempt if in pursuance of certain orders), after paragraph (d) insert “, or

(e) Part 2 or 3 of Schedule 5, or paragraph 9 of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders, or orders for the sale of property, in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).”

- 20 In section 87(a) (entitlement of tenant’s spouse to succeed to secure tenancy), after “spouse” insert “ or civil partner ”.

- 21 (1) Amend section 88 (cases where secure tenant is a successor) as follows.

(2) In subsection (1)(d), for “(2) and (3)” substitute “ (2) to (3) ”.

(3) After subsection (2) insert—

“(2A) A tenant to whom the tenancy was assigned in pursuance of an order under Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.) is a successor only if the other civil partner was a successor.”

- 22 (1) Amend section 89 (succession to periodic secured tenancy) as follows.

(2) In subsection (2)(a) (tenant’s spouse is preferred successor), after “spouse” insert “ or civil partner ”.

(3) In subsection (3)(a), after “parents)” in sub-paragraph (iii) insert “, or

(iv) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).”

- 23 In section 90(3)(a) (secure tenancy for term certain does not cease to be secure tenancy if vested under certain orders), after sub-paragraph (iii) insert—

“(iv) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.), or”.

- 24 In section 91(3)(b) (assignments not prohibited if in pursuance of certain orders), after “parents)” in sub-paragraph (iii) insert “, or

(iv) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).”

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- 25 In section 99B(2)(e) (subsection applies to assignees in pursuance of certain orders), after “parents)” in sub-paragraph (iii) insert “, or
(iv) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.)”.
- 26 In section 101(3)(c) (assignees in pursuance of certain orders are qualifying successors), after “parents)” in sub-paragraph (iii) insert “, or
(iv) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.)”.
- 27 (1) Amend sections 113 and 186 (meaning of “member of a person’s family” in Parts 3 and 4) as follows.
(2) In subsection (1)(a)—
(a) after “spouse” insert “ or civil partner ”, and
(b) after “live together as husband and wife” insert “ or as if they were civil partners ”.
(3) In subsection (2)(a), after “a relationship by marriage” insert “ or civil partnership ”.
- 28 In section 123(2)(a) (family members with whom right to buy may be exercised), after “is his spouse” insert “, is his civil partner ”.
- 29 In section 130(3) (persons whose receipt of discount results in reduction of subsequent discount)—
(a) in paragraph (b), after “spouse” insert “, or civil partner, ” and
(b) in paragraph (c), after “deceased spouse” insert “, or deceased civil partner, ”.
- 30 In section 160(3) (right to buy: disposals in pursuance of certain orders are exempted), after paragraph (d) insert “, or
(e) Part 2 or 3 of Schedule 5, or paragraph 9 of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders, or orders for the sale of property, in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.)”.
- 31 In section 171B(4)(b) (persons who become tenants in pursuance of certain orders are qualifying successors), after sub-paragraph (iv) insert “or
(v) an order under Part 2 of Schedule 5, or a property adjustment order under paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.)”.
- 32 In section 554(2A) (grant by registered social landlords to former owner-occupier of defective dwelling), for paragraph (b) substitute—
“(b) is the spouse or civil partner, or a former spouse or former civil partner, or the surviving spouse or surviving civil partner, of a person falling within paragraph (a); or”.
- 33 In Part 1 of Schedule 2 (secure tenancies: grounds for possession if court considers possession reasonable), in ground 2A (violence by member of a couple)—

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- (a) for “a married couple or” substitute “ a married couple, a couple who are civil partners of each other, ” and
- (b) after “as husband or wife” insert “ or a couple living together as if they were civil partners ”.
- 34 In paragraphs 2, 5 and 5A of Schedule 4 (qualifying period for right to buy and discount)—
- (a) after “deceased spouse” in paragraph (c) of each of those paragraphs insert “ , or deceased civil partner, ” and
- (b) after “spouse” (in each other place) insert “ or civil partner ”.
- 35 (1) Amend Schedule 6A (redemption of landlord’s share) as follows.
- (2) In paragraph 1(2)(a) (meaning of “excluded disposal”), after “spouse” insert “ or civil partner ”.
- (3) In paragraph 1(2)(c) (disposals excluded if in pursuance of certain orders), after sub-paragraph (iv) insert “or
- (v) Part 2 or 3 of Schedule 5, or paragraph 9 of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders, or orders for the sale of property, in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.),”.
- (4) In paragraphs 4(3)(b) and 12(1), (2) and (3)(d), for “qualifying spouse” substitute “ qualifying partner ”.
- (5) In paragraph 12(2) (which will define “qualifying partner”), for paragraph (c) and the words after that paragraph substitute—
- “(c) he—
- (i) is the spouse, the civil partner, a former spouse, a former civil partner, the surviving spouse, the surviving civil partner, a surviving former spouse or a surviving former civil partner of the person who immediately before that time was entitled to the interest to which this paragraph applies or, as the case may be, the last remaining such interest, or
- (ii) is the surviving spouse, the surviving civil partner, a surviving former spouse or a surviving former civil partner of a person who immediately before his death was entitled to such an interest.”

Agricultural Holdings Act 1986 (c. 5)

- 36 (1) In sections 35(2) and 49(3) (interpretation respectively of sections 36 to 48, and sections 49 to 58, etc.), amend the definition of “close relative” as follows.
- (2) In paragraph (a), for “or husband” substitute “ , husband or civil partner ”.
- (3) In paragraph (d), after “marriage” (in each place) insert “ or civil partnership ”.
- 37 In section 36 (eligible person may apply for new tenancy on death of tenant), after subsection (4) insert—
- “(4A) In the case of the deceased’s civil partner the reference in subsection (3)
- (a) above to the relative’s agricultural work shall be read as a reference to

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- agricultural work carried out by either the civil partner or the deceased (or both of them).”
- 38 In section 50 (eligible person may apply for new tenancy on retirement of tenant), after subsection (3) insert—
- “(3A) In the case of the civil partner of the retiring tenant the reference in subsection (2)(a) above to the relative’s agricultural work shall be read as a reference to agricultural work carried out by either the civil partner or the retiring tenant (or both of them).”
- 39 (1) Amend Schedule 6 (eligibility to apply for new tenancy under Part 4) as follows.
- (2) In paragraph 1(2) (control of body corporate by deceased’s close relative)—
- (a) after “or his spouse” insert “ or his civil partner ”, and
- (b) after “together” insert “ or he and his civil partner together ”.
- (3) In paragraph 1 (preliminary), after sub-paragraph (3) insert—
- “(4) Any reference in this Schedule to the civil partner of a close relative of the deceased does not apply in relation to any time when the relative’s civil partnership is subject to—
- (a) a separation order under Chapter 2 of Part 2 of the Civil Partnership Act 2004, or
- (b) a dissolution order, nullity order or presumption of death order that is a conditional order under that Chapter.”
- (4) In paragraph 6(2) (no disregard of occupation by relative under tenancy granted by his spouse), after “spouse” insert “ or civil partner ”.
- (5) In paragraph 9(1)(a) (occupation by spouse of relative treated as occupation by relative), after “spouse” insert “ , or civil partner, ”.
- (6) In paragraph 9(2) (cases involving joint occupation by spouse, or controlled body, and another)—
- (a) for the words from “joint occupation of land” to “sub-paragraphs” substitute “joint occupation of land by—
- (a) his spouse or civil partner or a body corporate, and
- (b) any other person or persons,
- sub-paragraphs ”, and
- (b) after “spouse” (in the second place) insert “ or civil partner, ”.
- (7) In paragraph 10(3)(a) (meaning of “connected person”), after “spouse” insert “ or civil partner ”.
- (8) In the italic heading before each of paragraphs 9 and 10, after “spouse” insert “ , civil partner ”.

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Landlord and Tenant Act 1987 (c. 31)

PROSPECTIVE

- 40 (1) Amend section 4 (meaning of “relevant disposal” for purposes of tenants' rights of first refusal) as follows.
- (2) In subsection (2)(c) (disposals in pursuance of certain orders not relevant disposals), after sub-paragraph (vi) insert—
- “(vii) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of a civil partnership, etc.), or
- (viii) Part 3 of Schedule 5, or paragraph 9(4) of Schedule 7, to the Civil Partnership Act 2004 (orders for the sale of property in connection with civil partnership proceedings or after overseas dissolution of a civil partnership, etc.) where the order includes provision requiring the property concerned to be offered for sale to a person or class of persons specified in the order;”.
- (3) In subsection (5)(a)—
- (a) after “spouse” insert “ or civil partner ”, and
- (b) after “live together as husband and wife” insert “ or as if they were civil partners ”.
- (4) In subsection (6)(a), after “a relationship by marriage” insert “ or civil partnership ”.

Housing Act 1988 (c. 50)

- 41 (1) Amend section 17 (succession to assured periodic tenancy by spouse) as follows.
- (2) In subsection (1), after “spouse” (in each place) insert “ or civil partner ”.
- (3) For subsection (4) substitute—
- “(4) For the purposes of this section—
- (a) a person who was living with the tenant as his or her wife or husband shall be treated as the tenant’s spouse, and
- (b) a person who was living with the tenant as if they were civil partners shall be treated as the tenant’s civil partner.”
- (4) In subsection (5), for the words after “the county court” substitute “ shall for the purposes of this section be treated (according to whether that one of them is of the opposite sex to, or of the same sex as, the tenant) as the tenant’s spouse or the tenant’s civil partner. ”
- 42 In section 82(1)(b) (after disposal by housing action trust, legal assistance may be given to surviving spouse of pre-disposal tenant), for “or widower” substitute “ , widower or surviving civil partner ”.
- 43 (1) Amend Schedule 2 (assured tenancies: grounds for possession) as follows.

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- (2) In Part 1 (cases where court must order possession), in paragraph (b) of Ground 1 (landlord previously resident or requiring premises as residence for himself or his spouse), for “his or his spouse's” substitute “ his, his spouse’s or his civil partner's ”.
 - (3) In Part 2 (cases where court may order possession), in Ground 14A (violence by member of a couple)—
 - (a) for “a married couple or” substitute “ a married couple, a couple who are civil partners of each other, ” and
 - (b) after “as husband or wife” insert “ or a couple living together as if they were civil partners ”.
- 44 (1) Amend paragraph 3 of Schedule 3 (agricultural worker condition where dwelling occupied by surviving spouse or family member of previous qualifying occupier) as follows.
 - (2) In sub-paragraphs (1)(c)(i), (3)(a) and (6), for “widow or widower” substitute “ surviving partner ”.
 - (3) For sub-paragraph (2) substitute—

“(2) For the purposes of sub-paragraph (1)(c)(i) above and sub-paragraph (3) below—

 - (a) “surviving partner” means widow, widower or surviving civil partner; and
 - (b) a surviving partner of the previous qualifying occupier of the dwelling-house is a qualifying surviving partner if that surviving partner was residing in the dwelling-house immediately before the previous qualifying occupier’s death.”
 - (4) For sub-paragraph (5) (person living as wife or husband with previous occupier) substitute—

“(5) For the purposes of sub-paragraph (2)(a) above—

 - (a) a person who, immediately before the previous qualifying occupier’s death, was living with the previous occupier as his or her wife or husband shall be treated as the widow or widower of the previous occupier, and
 - (b) a person who, immediately before the previous qualifying occupier’s death, was living with the previous occupier as if they were civil partners shall be treated as the surviving civil partner of the previous occupier.”
- 45 (1) Amend paragraph 4 of Schedule 11 (exempted disposals by housing action trusts) as follows.
 - (2) In sub-paragraph (2)(b) (meaning of “qualifying person” in definition of “exempted disposal”), after “the spouse or a former spouse” insert “ , or the civil partner or a former civil partner, ”.
 - (3) In sub-paragraph (4) (disposals in pursuance of certain orders), after paragraph (d) insert “ , or
 - (e) Part 2 or 3 of Schedule 5, or paragraph 9 of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders, or orders for the sale of property, in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).”

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Local Government and Housing Act 1989 (c. 42)

- 46 In paragraph 5(1)(c) of Schedule 10 (long residential tenancies: grounds for possession: premises required as residence for landlord or family member), for the words from “as a residence” to “mother and,” substitute “as a residence for—
- (i) himself,
 - (ii) any son or daughter of his over eighteen years of age,
 - (iii) his father or mother, or
 - (iv) the father, or mother, of his spouse or civil partner,
- and, ”.

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

- 47 (1) Amend section 7 (meaning of “long lease”) as follows.
- (2) In subsection (1)(b) (which refers to section 149(6) of the Law of Property Act 1925), after “terminable after a death or marriage” insert “ or the formation of a civil partnership ”.
- (3) In subsection (2) (exclusion of certain leases terminable by notice after death or marriage)—
- (a) for “a death or marriage” substitute “ a death, a marriage or the formation of a civil partnership ”, and
 - (b) in paragraph (a), after “marriage of” insert “ , or the formation of a civil partnership by, ”.
- 48 In section 10(5) (members of family of resident landlord), for “wife or husband” (in each place) substitute “ spouse or civil partner ”.

Agricultural Tenancies Act 1995 (c. 8)

- 49 In section 7(3) (which refers to section 149(6) of the Law of Property Act 1925), after “marriage of” insert “ , or formation of a civil partnership by, ”.

Housing Act 1996 (c. 52)

- 50 (1) Amend section 15 (relevant and exempted disposals) as follows.
- (2) In subsection (5)(b) (meaning of “qualifying person” in the definition of “exempted disposal”), after “the spouse or a former spouse” insert “ , or the civil partner or a former civil partner, ”.
- (3) In subsection (6) (disposals in pursuance of certain orders are exempt), after paragraph (d) insert “; or
- (e) Part 2 or 3 of Schedule 5, or paragraph 9 of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders, or orders for the sale of property, in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).”
- 51 (1) Amend sections 62 and 140 (meaning of “member of a person’s family” in Part 1 and in Chapter 1 of Part 5) as follows.
- (2) In subsection (1)(a)—
- (a) after “spouse” insert “ or civil partner ”, and

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- (b) after “live together as husband and wife” insert “ or as if they were civil partners ”.
- (3) In subsection (2)(a), after “a relationship by marriage” insert “ or civil partnership ”.
- 52 In section 132 (introductory tenancies: cases where tenant is successor), after subsection (2) insert—
- “(2A) A tenant to whom the tenancy was assigned in pursuance of an order under Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.) is a successor only if the other civil partner was a successor.”
- 53 (1) Amend section 133 (succession to introductory tenancy) as follows.
- (2) In subsection (2)(a) (spouse of deceased tenant is preferred successor), after “spouse” insert “ or civil partner ”.
- (3) In subsection (3)(a) (tenancy ceases to be introductory on vesting otherwise than in pursuance of certain orders), after “parents” in sub-paragraph (iii) insert “, or
- (iv) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.)”.
- 54 In section 134(2)(a) (introductory tenancy may not be assigned except in pursuance of certain orders), after “parents” in sub-paragraph (iii) insert “, or
- (iv) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.)”.
- 55 In section 143H(5)(a) (two or more successors to demoted tenancy), for “spouse or (if the tenant has no spouse)” substitute “ spouse or civil partner or (if the tenant has neither spouse nor civil partner) ”.
- 56 In section 143I(3) (tenancy does not cease to be demoted tenancy if vested pursuant to certain orders), after paragraph (c) insert—
- “(d) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.)”.
- 57 For paragraphs (a) and (b) of section 143J(5) (successor by assignment to secure tenancy terminated by demotion order) substitute—
- “(a) the tenancy was assigned—
- (i) in proceedings under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc.), or
- (ii) in proceedings under Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil

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- partnership proceedings or after overseas dissolution of civil partnership, etc.),
- (b) where the tenancy was assigned as mentioned in paragraph (a)(i), neither he nor the other party to the marriage was a successor, and
- (c) where the tenancy was assigned as mentioned in paragraph (a)(ii), neither he nor the other civil partner was a successor.”
- 58 In section 143K(2) (demoted tenancy may be assigned only in pursuance of certain orders), after paragraph (c) insert—
- “(d) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).”
- 59 (1) Amend section 143P (meaning of “member of another’s family”) as follows.
- (2) In subsection (1)(a), after “spouse” insert “ or civil partner ”.
- (3) In subsection (3)(a), after “marriage” insert “ or civil partnership ”.
- 60 In section 160 (cases where provisions about allocations do not apply), in each of subsections (2)(e) and (3)(d) (cases where secure or introductory tenancy vests etc. in pursuance of certain orders), after sub-paragraph (iii) insert “, or
- (iv) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).”
- 61 (1) Amend section 178 (meaning of “associated person” in Part 7) as follows.
- (2) In subsection (1), after paragraph (a) insert—
- “(aa) they are or have been civil partners of each other;”.
- (3) In subsection (1), after paragraph (e) insert—
- “(ea) they have entered into a civil partnership agreement between them (whether or not that agreement has been terminated);”.
- (4) In subsection (3), after the definition of “child” insert—
- ““civil partnership agreement” has the meaning given by section 73 of the Civil Partnership Act 2004;”.
- (5) In subsection (3), for the definition of “cohabitants” substitute—
- ““cohabitants” means—
- (a) a man and a woman who, although not married to each other, are living together as husband and wife, or
- (b) two people of the same sex who, although not civil partners of each other, are living together as if they were civil partners;
- and “former cohabitants” shall be construed accordingly;”.
- (6) In subsection (3), in each of paragraphs (a) and (b) of the definition of “relative”, for “spouse or former spouse” substitute “ spouse, civil partner, former spouse or former civil partner ”.
- (7) In paragraph (b) of that definition, for “affinity” substitute “ marriage or civil partnership ”.

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Housing Grants, Construction and Regeneration Act 1996 (c. 53)

- 62 In section 30(6)(a) (power to provide for financial position of others to be taken into account in means-testing applicant for grant), after “his spouse,” insert “ his civil partner, ”.
- 63 (1) In section 54(3) (disposals in pursuance of certain orders are exempt) as it has effect by virtue of article 11(2) of the 2002 Order (saving for certain purposes of repealed provisions), after paragraph (d) insert “; or
- (e) Part 2 or 3 of Schedule 5, or paragraph 9 of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders, or orders for the sale of property, in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).”
- (2) In sub-paragraph (1) “the 2002 Order” means the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860).

Commonhold and Leasehold Reform Act 2002 (c. 15)

- 64 In section 76(2)(c) (which refers to section 149(6) of the Law of Property Act 1925), after “terminable after a death or marriage” insert “ or the formation of a civil partnership ”.
- 65 In section 77(1) (“long lease”: exclusion of certain leases terminable by notice after death or marriage)—
- (a) for “a death or marriage” substitute “ a death, a marriage or the formation of a civil partnership ”, and
- (b) in paragraph (a), after “marriage of” insert “ , or the formation of a civil partnership by, ”.
- 66 In paragraph 3(8) of Schedule 6 (members of freeholder’s family whose occupation of premises excludes premises from right to manage), after “spouse” (in each place) insert “ or civil partner ”.

SCHEDULE 9

Section 82

FAMILY HOMES AND DOMESTIC VIOLENCE

PART 1

AMENDMENTS OF THE FAMILY LAW ACT 1996 (C. 27)

- 1 (1) Amend section 30 (rights concerning matrimonial home where one spouse has no estate, etc.) as follows.
- (2) In subsection (1)—
- (a) in paragraph (a)—
- (i) after “one spouse” insert “ or civil partner (“A”) ”, and
- (ii) for “that spouse” substitute “ A ”.
- (b) in paragraph (b), after “other spouse” insert “ or civil partner (“B”) ”.
- (3) In subsection (2)—

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- (a) for “the spouse not so entitled” substitute “ B ”,
 - (b) for (“matrimonial home rights”)” substitute “ (“home rights”) ”, and
 - (c) in paragraph (a), for “the other spouse” substitute “ A ”.
- (4) In subsection (3)—
- (a) for “a spouse” and for “that spouse” substitute “ B ”, and
 - (b) for “the other spouse” (in both places) substitute “ A ”.
- (5) In subsection (4)—
- (a) for “A spouse's” substitute “ B's ”,
 - (b) in paragraph (a), for “by the other spouse as the other spouse's” substitute “ by A as A's ”, and
 - (c) in paragraph (b)—
 - (i) for “the spouse occupies the dwelling-house as that spouse's” substitute “ B occupies the dwelling-house as B's ”, and
 - (ii) for “by the other spouse as the other spouse's” substitute “ by A as A's ”.
- (6) In subsection (5)—
- (a) for “a spouse (“the first spouse”)” substitute “ B ”, and
 - (b) in paragraph (b), for “the other spouse (“the second spouse”)” substitute “ A ”,
 - (c) for “the second spouse” substitute “ A ”, and
 - (d) for “the first spouse against the second spouse” substitute “ B against A ”.
- (7) In subsection (6)—
- (a) for “a spouse” substitute “ B ”, and
 - (b) for “the other spouse” (in both places) substitute “ A ”.
- (8) In subsection (7), for the words from first “which” to the end substitute “which—
- (a) in the case of spouses, has at no time been, and was at no time intended by them to be, a matrimonial home of theirs; and
 - (b) in the case of civil partners, has at no time been, and was at no time intended by them to be, a civil partnership home of theirs.”
- (9) In subsection (8)—
- (a) for “A spouse’s matrimonial home rights” substitute “ B’s home rights ”,
 - (b) in paragraph (a), after “marriage” insert “ or civil partnership ”, and
 - (c) in paragraph (b), for “the other spouse” substitute “ A ”.
- (10) In subsection (9)—
- (a) for “a spouse” (in both places) substitute “ a person ”, and
 - (b) for “matrimonial home rights” substitute “ home rights ”.
- (11) In the heading to section 30, for “matrimonial home where one spouse” substitute “ home where one spouse or civil partner ” and, in the preceding cross-heading, after “matrimonial” insert “ or civil partnership ”.
- 2 (1) Amend section 31 (effect of matrimonial home rights as charge on dwelling-house) as follows.

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- (2) In subsection (1) for “marriage, one spouse” substitute “ marriage or civil partnership, A ”.
 - (3) In subsection (2) for “The other spouse’s matrimonial home rights” substitute “ B’s home rights ”.
 - (4) In subsection (3)—
 - (a) in paragraph (a), for “the spouse so entitled” substitute “ A ”, and
 - (b) in paragraph (b), after “marriage” insert “ or of the formation of the civil partnership ”.
 - (5) In subsection (4)—
 - (a) for “a spouse’s matrimonial home rights” substitute “ B’s home rights ”,
 - (b) for “the other spouse” substitute “ A ”, and
 - (c) for “either of the spouses” substitute “ A or B ”.
 - (6) In subsection (5) for “the other spouse” substitute “ A ”.
 - (7) In subsection (7) for “the spouses” substitute “ A and B ”.
 - (8) In subsection (8)—
 - (a) for “a spouse’s matrimonial home rights” substitute “ B’s home rights ”,
 - (b) in paragraph (a), for “the other spouse” substitute “ A ”, and
 - (c) in paragraph (b), after “marriage” insert “ or civil partnership ”.
 - (9) In subsection (9)—
 - (a) in paragraph (a), for “a spouse’s matrimonial home rights” substitute “ B’s home rights ”, and
 - (b) for “the other spouse” (in both places) substitute “ A ”.
 - (10) In subsection (10)—
 - (a) for “a spouse” and for “that spouse” substitute “ A ”, and
 - (b) in paragraph (b), for “a spouse’s matrimonial home rights” substitute “ B’s home rights ”.
 - (11) For subsection (12)(a) substitute—

“(a) B’s home rights are a charge on the estate of A or of trustees of A, and”.
 - (12) In the heading to section 31, for “matrimonial home rights” substitute “ home rights ”.
- 3 For section 32 (further provisions relating to matrimonial home rights) substitute—
- “32 Further provisions relating to home rights**
- Schedule 4 (provisions supplementary to sections 30 and 31) has effect.”
- 4 (1) Amend section 33 (occupation orders where applicant has estate or interest etc. or has matrimonial home rights) as follows.
 - (2) In subsection (1)(a)(ii), for “matrimonial home rights” substitute “ home rights ”.
 - (3) After subsection (2) insert—

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“(2A) If a civil partnership agreement (as defined by section 73 of the Civil Partnership Act 2004) is terminated, no application under this section may be made by virtue of section 62(3)(eza) by reference to that agreement after the end of the period of three years beginning with the day on which it is terminated.”

- (4) In subsection (3)(e)—
- (a) for “matrimonial home rights” substitute “ home rights ”, and
 - (b) after “spouse” insert “ or civil partner ”.
- (5) In subsection (4), for “matrimonial home rights” substitute “ home rights ”.
- (6) In subsection (5)—
- (a) for “matrimonial home rights” substitute “ home rights ”,
 - (b) after “is the other spouse” insert “ or civil partner ”,
 - (c) after “during the marriage” insert “ or civil partnership ”,
 - (d) in paragraph (a), after “spouse” insert “ or civil partner ”, and
 - (e) in paragraph (b), after “marriage” insert “ or civil partnership ”.
- (7) In the heading to section 33, for “matrimonial home rights” substitute “ home rights ”.
- 5 In section 34 (effect of order under section 33 where rights are charge on dwelling-house), in subsection (1)—
- (a) for “a spouse’s matrimonial home rights” substitute “ B’s home rights ”, and
 - (b) for “the other spouse” (in each place) substitute “ A ”.
- 6 (1) Amend section 35 (one former spouse with no existing right to occupy) as follows.
- (2) In subsection (1)(a) and (b), after “former spouse” insert “ or former civil partner ”.
- (3) For subsection (1)(c) substitute—
- “(c) the dwelling-house—
- (i) in the case of former spouses, was at any time their matrimonial home or was at any time intended by them to be their matrimonial home, or
 - (ii) in the case of former civil partners, was at any time their civil partnership home or was at any time intended by them to be their civil partnership home.”
- (4) In subsection (2), after “former spouse” (in both places) insert “ or former civil partner ”.
- (5) In subsection (6)(f), after “marriage” insert “ or civil partnership ”.
- (6) After subsection (6)(g)(i), insert—
- “(ia) for a property adjustment order under Part 2 of Schedule 5 to the Civil Partnership Act 2004;”.
- (7) In subsection (9)(a), after “former spouses” insert “ or former civil partners ”.
- (8) In subsections (11) and (12), after “former spouse” insert “ or former civil partner ”.
- (9) For subsection (13)(a) and (b) substitute—
- “(a) as if he were B (the person entitled to occupy the dwelling-house by virtue of that section); and

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- (b) as if the respondent were A (the person entitled as mentioned in subsection (1)(a) of that section).”
- (10) In the heading to section 35, after “former spouse” insert “ or former civil partner ”.
- 7 In section 36 (one cohabitant or former cohabitant with no existing right to occupy), for subsection (13)(a) and (b) substitute—
- “(a) as if he were B (the person entitled to occupy the dwelling-house by virtue of that section); and
- (b) as if the respondent were A (the person entitled as mentioned in subsection (1)(a) of that section).”
- 8 (1) Amend section 37 (neither spouse entitled to occupy) as follows.
- (2) After subsection (1) insert—
- “(1A) This section also applies if—
- (a) one civil partner or former civil partner and the other civil partner or former civil partner occupy a dwelling-house which is or was the civil partnership home; but
- (b) neither of them is entitled to remain in occupation—
- (i) by virtue of a beneficial estate or interest or contract; or
- (ii) by virtue of any enactment giving him the right to remain in occupation.”
- (3) In subsection (3)(b), for “spouses” substitute “ parties ”.
- (4) In the heading to section 37, after “spouse” insert “ or civil partner ”.
- 9 In section 42 (non-molestation orders), after subsection (4) insert—
- “(4ZA) If a civil partnership agreement (as defined by section 73 of the Civil Partnership Act 2004) is terminated, no application under this section may be made by virtue of section 62(3)(eza) by reference to that agreement after the end of the period of three years beginning with the day on which it is terminated.”
- 10 (1) In section 44 (evidence of agreement to marry), after subsection (2) insert—
- “(3) Subject to subsection (4), the court shall not make an order under section 33 or 42 by virtue of section 62(3)(eza) unless there is produced to it evidence in writing of the existence of the civil partnership agreement (as defined by section 73 of the Civil Partnership Act 2004).
- (4) Subsection (3) does not apply if the court is satisfied that the civil partnership agreement was evidenced by—
- (a) a gift by one party to the agreement to the other as a token of the agreement, or
- (b) a ceremony entered into by the parties in the presence of one or more other persons assembled for the purpose of witnessing the ceremony.”
- (2) In the heading to section 44, after “marry” insert “ or form a civil partnership ”.
- 11 In section 49 (variation and discharge of orders), in subsection (3)—
- (a) for “a spouse’s matrimonial home rights” substitute “ B’s home rights are, under section 31, ”, and

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- (b) for “the other spouse” (in each place) substitute “ A ”.
- 12 (1) Amend section 54 (dwelling-house subject to mortgage) as follows.
- (2) In subsections (3)(a) and (4), for “matrimonial home rights” substitute “ home rights ”.
- (3) In subsection (5), after “spouse, former spouse” insert “ , civil partner, former civil partner ”.
- 13 (1) Amend section 62 (meaning of “cohabitants”, “relevant child” and “associated persons”) as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “two persons who, although not married to each other, are living together as husband and wife or (if of the same sex) in an equivalent relationship;” substitute “ two persons who are neither married to each other nor civil partners of each other but are living together as husband and wife or as if they were civil partners; ”, and
- (b) in paragraph (b), after “have subsequently married each other” insert “ or become civil partners of each other ”.
- (3) After subsection (3)(a) insert—
- “(aa) they are or have been civil partners of each other;”.
- (4) After subsection (3)(e) insert—
- “(eza) they have entered into a civil partnership agreement (as defined by section 73 of the Civil Partnership Act 2004) (whether or not that agreement has been terminated);”.

Commencement Information

I17 Sch. 9 para. 13 wholly in force at 5.12.2005; Sch. 9 para. 13 not in force at Royal Assent see s. 263; Sch. 9 para. 13(1)(2)(b)(3)(4) in force at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#); Sch. 9 para. 13(2)(a) in force at 5.12.2005 immediately after s. 3 of the [Domestic Violence, Crime and Victims Act 2004](#) (c. 28) by [S.I. 2005/3175](#), [art. 2\(8\)](#)

- 14 (1) Amend section 63 (interpretation of Part 4) as follows.
- (2) In subsection (1), after the definition of “health” insert—
- ““home rights” has the meaning given by section 30;”.
- (3) Omit the definition of “matrimonial home rights” in that subsection.
- (4) In the definition of relative in that subsection—
- (a) in paragraphs (a) and (b), for “spouse or former spouse” substitute “ spouse, former spouse, civil partner or former civil partner ”,
- (b) in paragraph (b), for “by affinity)” substitute “ by marriage or civil partnership) ”, and
- (c) after “were married to each other” insert “ or were civil partners of each other ”.
- (5) After subsection (2)(i) insert—
- “(j) Schedules 5 to 7 to the Civil Partnership Act 2004.”

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- 15 (1) Amend Schedule 4 (provisions supplementary to sections 30 and 31) as follows.
 - (2) In paragraph 2, after “spouse” (in both places) insert “ or civil partner ”.
 - (3) In paragraph 3(1) and (3), after “spouse” insert “ or civil partner ”.
 - (4) In paragraph 4(1), for “spouse’s matrimonial home rights” substitute “ spouse’s or civil partner’s home rights ”.
 - (5) For paragraphs 4(1)(a) to (c) substitute—
 - “(a) in the case of a marriage—
 - (i) by the production of a certificate or other sufficient evidence, that either spouse is dead,
 - (ii) by the production of an official copy of a decree or order of a court, that the marriage has been terminated otherwise than by death, or
 - (iii) by the production of an order of the court, that the spouse’s home rights constituting the charge have been terminated by the order, and
 - (b) in the case of a civil partnership—
 - (i) by the production of a certificate or other sufficient evidence, that either civil partner is dead,
 - (ii) by the production of an official copy of an order or decree of a court, that the civil partnership has been terminated otherwise than by death, or
 - (iii) by the production of an order of the court, that the civil partner’s home rights constituting the charge have been terminated by the order.”
 - (6) In paragraph 4(2)—
 - (a) in paragraph (a)—
 - (i) after “marriage” insert “ or civil partnership ”, and
 - (ii) after “spouse” insert “ or civil partner ”, and
 - (b) in paragraph (b), after “spouse” insert “ or civil partner ”.
 - (7) In paragraph 4(3), after “spouse” insert “ or civil partner ”.
 - (8) In the heading to paragraph 4, after “marriage” insert “ or civil partnership ”.
 - (9) In paragraph 5(1), for “spouse entitled to matrimonial home rights” substitute “ spouse or civil partner entitled to home rights ”.
 - (10) In paragraph 5(2)—
 - (a) for “matrimonial home rights” substitute “ home rights ”, and
 - (b) in paragraph (a), after “spouse” insert “ or civil partner ”.
 - (11) In the heading to paragraph 5, for “matrimonial home rights” substitute “ home rights ”.
 - (12) In paragraph 6, after “spouse” (in both places) insert “ or civil partner ”.
- 16 (1) Amend Schedule 7 (transfer of certain tenancies on divorce etc. or on separation of cohabitants) as follows.
 - (2) In paragraph 1, before the definition of “cohabitant” insert—

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““civil partner”, except in paragraph 2, includes (where the context requires) former civil partner;”.

(3) In paragraph 2(1), after “spouse” (in both places) insert “ or civil partner ”.

(4) For paragraph 2(2) substitute—

“(2) The court may make a Part II order—

- (a) on granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter (whether, in the case of a decree of divorce or nullity of marriage, before or after the decree is made absolute), or
- (b) at any time when it has power to make a property adjustment order under Part 2 of Schedule 5 to the Civil Partnership Act 2004 with respect to the civil partnership.”

(5) Omit “or” at the end of paragraph 4(a) and insert—

“(aa) in the case of civil partners, a civil partnership home; or”.

(6) In paragraph 5(a), after “spouses” insert “ , civil partners ”.

(7) In paragraph 6—

- (a) after “spouse” (in the first place) insert “ , a civil partner ”, and
- (b) after “spouse” (in the second place) insert “ , civil partner ”.

(8) In paragraph 7(1) and (2), after “spouse” (in each place) insert “ , civil partner ”.

(9) For paragraph 7(3) to (4) substitute—

“(3) If the spouse, civil partner or cohabitant so entitled is a successor within the meaning of Part 4 of the Housing Act 1985—

- (a) his former spouse (or, in the case of judicial separation, his spouse),
- (b) his former civil partner (or, if a separation order is in force, his civil partner), or
- (c) his former cohabitant,

is to be deemed also to be a successor within the meaning of that Part.

(3A) If the spouse, civil partner or cohabitant so entitled is a successor within the meaning of section 132 of the Housing Act 1996—

- (a) his former spouse (or, in the case of judicial separation, his spouse),
- (b) his former civil partner (or, if a separation order is in force, his civil partner), or
- (c) his former cohabitant,

is to be deemed also to be a successor within the meaning of that section.

(4) If the spouse, civil partner or cohabitant so entitled is for the purposes of section 17 of the Housing Act 1988 a successor in relation to the tenancy or occupancy—

- (a) his former spouse (or, in the case of judicial separation, his spouse),
- (b) his former civil partner (or, if a separation order is in force, his civil partner), or
- (c) his former cohabitant,

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is to be deemed to be a successor in relation to the tenancy or occupancy for the purposes of that section.”

- (10) In paragraph 7(5)(a), after “spouse” insert “, civil partner”.
- (11) Omit paragraph 7(6).
- (12) In paragraph 8(1) and (2)(a) and (b), after “spouse” insert “, civil partner”.
- (13) In paragraph 8(3), after “surviving spouse” insert “ or surviving civil partner”.
- (14) In paragraphs 9(1), (2)(a) and (b) and (3) (in both places) and 10(1) (in both places), after “spouse” insert “, civil partner”.
- (15) In paragraph 11(1), after “spouses” insert “, civil partners”.
- (16) In paragraph 11(2), after “spouse” insert “, civil partner”.
- (17) For paragraph 12 and the heading preceding it, substitute—

“Date when order made between spouses or civil partners takes effect

- 12 The date specified in a Part II order as the date on which the order is to take effect must not be earlier than—
 - (a) in the case of a marriage in respect of which a decree of divorce or nullity has been granted, the date on which the decree is made absolute;
 - (b) in the case of a civil partnership in respect of which a dissolution or nullity order has been made, the date on which the order is made final.”

- (18) For paragraph 13 and the heading preceding it substitute—

“Effect of remarriage or subsequent civil partnership

- 13 (1) If after the grant of a decree dissolving or annulling a marriage either spouse remarries or forms a civil partnership, that spouse is not entitled to apply, by reference to the grant of that decree, for a Part II order.
 - (2) If after the making of a dissolution or nullity order either civil partner forms a subsequent civil partnership or marries, that civil partner is not entitled to apply, by reference to the making of that order, for a Part II order.
 - (3) In sub-paragraphs (1) and (2)—
 - (a) the references to remarrying and marrying include references to cases where the marriage is by law void or voidable, and
 - (b) the references to forming a civil partnership include references to cases where the civil partnership is by law void or voidable.”
- (19) In paragraph 15(1)—
 - (a) after “spouse” insert “ or civil partner”, and
 - (b) for “spouse’s matrimonial home rights” substitute “ spouse’s or civil partner’s home rights”.
 - (20) In paragraph 15(2), after “spouse” insert “, civil partner”.

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PART 2

CONSEQUENTIAL AMENDMENTS

Land Compensation Act 1973 (c. 26)

- 17 (1) Amend section 29A (spouses having statutory rights of occupation) as follows.
- (2) In subsection (1)—
- (a) for “one spouse (“A”)” substitute “one spouse or civil partner (“A”)”, and
 - (b) for “the other spouse (“B”) acquires matrimonial home rights” substitute “the other spouse or civil partner (“B”) acquires home rights”.
- (3) In subsection (2) for “matrimonial home rights” substitute “home rights”.
- (4) In the heading to section 29A, after “spouses” insert “and civil partners”.

Housing Act 1985 (c. 68)

- 18 (1) Amend section 85 (extended discretion of court in certain proceedings for possession) as follows.
- (2) In subsection (5)—
- (a) in paragraph (a) for “tenant’s spouse or former spouse, having matrimonial home rights” substitute “tenant’s spouse or former spouse, or civil partner or former civil partner, having home rights”,
 - (b) after “the spouse or former spouse” insert “, or the civil partner or former civil partner, ”, and
 - (c) for “those matrimonial home rights” substitute “those home rights”.
- (3) In subsection (5A)—
- (a) in paragraph (a), for “former spouse of the tenant” substitute “former spouse or former civil partner of the tenant”, and
 - (b) in paragraph (b) and in the words following paragraph (c) after “former spouse,” insert “former civil partner, ”.
- 19 In section 99B (persons qualifying for compensation) in subsection (2)(f), after “spouse, former spouse,” insert “civil partner, former civil partner, ”.
- 20 In section 101 (rent not to be increased on account of tenant’s improvements) in subsection (3)(d), after “spouse, former spouse,” insert “civil partner, former civil partner, ”.

Insolvency Act 1986 (c. 45)

- 21 (1) Amend section 336 (rights of occupation etc. of bankrupt’s spouse) as follows.
- (2) In subsection (1), for “matrimonial home rights” substitute “home rights”.
- (3) In subsection (2)—
- (a) for “a spouse’s matrimonial home rights” substitute “a spouse’s or civil partner’s home rights”, and
 - (b) after “the other spouse” (in each place) insert “or civil partner”.

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- (4) In subsection (4)(b) and (c) after “spouse or former spouse” insert “ or civil partner or former civil partner ”.
- (5) In the heading to section 336 after “spouse” insert “ or civil partner ”.
- 22 (1) Amend section 337 (rights of occupation of bankrupt) as follows.
- (2) In subsection (2), for “spouse (if any) has matrimonial home rights” substitute “ spouse or civil partner (if any) has home rights ”.
- (3) In subsection (3)—
- (a) in paragraph (a), for “matrimonial home rights” substitute “ home rights ”, and
 - (b) in paragraph (c), after “spouse” insert “ or civil partner ”.

Housing Act 1988 (c. 50)

- 23 (1) Amend section 9 (extended discretion of court in possession claims) as follows.
- (2) In subsection (5)—
- (a) for “tenant’s spouse or former spouse, having matrimonial home rights” substitute “ tenant’s spouse or former spouse, or civil partner or former civil partner, having home rights ”,
 - (b) after “the spouse or former spouse” insert “ , or the civil partner or former civil partner ”, and
 - (c) for “those matrimonial home rights” substitute “ those home rights ”.
- (3) In subsection (5A)—
- (a) for “former spouse of the tenant” substitute “ former spouse or former civil partner of the tenant ”,
 - (b) for “cohabitant, former cohabitant or former spouse” (in both places) substitute “ former spouse, former civil partner, cohabitant or former cohabitant ”.

Commonhold and Leasehold Reform Act 2002 (c. 15)

- 24 (1) Amend section 61 (matrimonial rights) as follows.
- (2) For “matrimonial home rights (within the meaning of section 30(2) of the Family Law Act 1996 (c. 27) (matrimonial home))” substitute “ home rights (within the meaning of section 30(2) of the Family Law Act 1996 (c. 27) (rights in respect of matrimonial or civil partnership home)) ”.
- (3) In the heading to section 61 for “Matrimonial” substitute “ Home ”.

PART 3

TRANSITIONAL PROVISION

- 25 (1) Any reference (however expressed) in any enactment, instrument or document (whether passed or made before or after the passing of this Act)—
- (a) to rights of occupation under, or within the meaning of, the Matrimonial Homes Act 1983 (c. 19), or

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(b) to matrimonial home rights under, or within the meaning of, Part 4 of the Family Law Act 1996 (c. 27),

is to be construed, so far as is required for continuing the effect of the enactment, instrument or document, as being or as the case requires including a reference to home rights under, or within the meaning of, Part 4 of the 1996 Act as amended by this Schedule.

(2) Any reference (however expressed) in Part 4 of the 1996 Act or in any other enactment, instrument or document (including any enactment amended by this Schedule) to home rights under, or within the meaning of, Part 4 of the 1996 Act is to be construed as including, in relation to times, circumstances and purposes before the commencement of this Schedule, references to rights of occupation under, or within the meaning of, the 1983 Act and to matrimonial home rights under, or within the meaning of, Part 4 of the 1996 Act without the amendments made by this Schedule.

[^{F142}SCHEDULE 10

(introduced by section 86)

FORBIDDEN DEGREES OF RELATIONSHIP: SCOTLAND

Textual Amendments

F142 Sch. 10 substituted (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), ss. [24\(22\)](#), 36; S.S.I. 2014/287, art. 3, sch.

(1) ***Relationships by consanguinity***

Parent
Child
Grandparent
Grandchild
Sibling
Aunt or uncle
Niece or nephew
Great-grandparent
Great-grandchild

(2) ***Relationships by affinity referred to in section 86(3)***

Child of former spouse
Child of former civil partner
Former spouse of parent
Former civil partner of parent
Former spouse of grandparent
Former civil partner of grandparent
Grandchild of former spouse
Grandchild of former civil partner.]

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

^{F143}SCHEDULE 10A

section 88F(7)

MODIFICATIONS IF PROPOSED CIVIL PARTNERSHIP REFERRED UNDER SECTION 88F

Textual Amendments

F143 Sch. 10A inserted for specified purposes (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Scotland\) Order 2015 \(S.I. 2015/396\)](#), art. 1(2), **Sch. 3 para. 3** (with art. 1(3)(5))

Introduction

1. (1) These are the modifications subject to which this Act has effect if the district registrar refers a proposed civil partnership to the Secretary of State.
- (2) In this Schedule “referred civil partnership” means the proposed civil partnership referred to the Secretary of State.

No civil partnership schedule to be completed until decision about investigation etc

2. (1) The duty under section 94 (civil partnership schedule) to complete a civil partnership schedule in respect of the referred civil partnership does not apply unless and until one of the following events occurs.
- (2) Event 1 occurs if—
 - (a) the Secretary of State gives the district registrar the section 48 notice, and
 - (b) the notice is of a decision not to investigate whether the referred civil partnership is a sham.
- (3) Event 2 occurs if—
 - (a) the relevant statutory period ends, and
 - (b) the Secretary of State has not given the district registrar the section 48 notice.
- (4) Event 3 occurs if—
 - (a) the Secretary of State gives the district registrar the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
 - (c) the Secretary of State gives the district registrar the section 50 notice, and
 - (d) that notice is of a decision that both of the parties to the referred civil partnership have complied with the investigation.
- (5) Event 4 occurs if—
 - (a) the 70 day period ends, and
 - (b) the Secretary of State has not given the district registrar the section 50 notice.
- (6) Event 5 occurs if the Secretary of State gives the district registrar notice that the duty under section 94 is applicable.
- (7) The Secretary of State may give a notice for that purpose only if—
 - (a) the Secretary of State has given the district registrar the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) the Secretary of State has given the district registrar the section 50 notice, and
 - (d) that notice is of a decision that one or both of the parties to the referred civil partnership have not complied with the investigation.
- (8) This paragraph applies in addition to any other requirements applicable to the completion of the civil partnership schedule.
- (9) This paragraph is subject to paragraph 4.
- (10) In this paragraph—
- “70 day period” has the same meaning as in section 50(11) of the 2014 Act;
 - “relevant statutory period” has the same meaning as in section 62 of the 2014 Act;
 - “section 48 notice” means notice under section 48(8D) of the 2014 Act;
 - “section 50 notice” means notice under section 50(7) of the 2014 Act.

Civil partnership to be investigated: extension of 28 day period to 70 days

3. (1) The modifications in this paragraph have effect if the Secretary of State gives the district registrar notice under section 48(8D) of the 2014 Act of a decision to investigate whether the referred civil partnership is a sham.
- (2) Section 91(1) has effect as if—
- (a) for the words from “being” to “section 90” there were substituted “being a date before the expiry of the relevant 70 day period”, and
 - (b) the words from “; and if a date” to the end were omitted.
- (3) Section 94 has effect as if for paragraph (b) there were substituted—
- “(b) the relevant 70 day period has expired.”.
- (4) In sections 91 and 94 (as modified by this paragraph) and in paragraph 4 “relevant 70 day period” means the period—
- (a) beginning the day after the particulars of the proposed civil partnership are entered in the civil partnership book in accordance with section 89 (civil partnership notice book), and
 - (b) ending at the end of the period of 70 days beginning with that day.
- (5) This paragraph is subject to paragraph 4.

Effect of reducing statutory period

4. (1) Where—
- (a) either—
 - (i) a district registrar is authorised to fix a date for the date of registration of the referred civil partnership that is 28 days or fewer after publication by the district registrar under section 90(1), or
 - (ii) in the case of a referred civil partnership to which paragraph 3 applies, the district registrar is authorised to fix a date for the date of registration before the expiry of the relevant 70 day period, and
 - (b) the authorisation mentioned in sub-paragraph (i) or, as the case may be, (ii) of paragraph (a) is given at a time when the duty under section 94 to complete

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a civil partnership schedule in respect of the referred civil partnership has not arisen in accordance with paragraph 2,

the duty under section 94 to complete the civil partnership schedule arises on the giving of the authorisation, subject to any other requirements applicable to the completion of the schedule being met.

- (2) But the requirements of paragraph 2 are not applicable in such a case.
- (3) The Secretary of State is not prevented from deciding to conduct, conducting, or continuing, an investigation if the civil partnership schedule is completed as mentioned in sub-paragraph (1).
- (4) But in such a case, nothing in the 2014 Act requires the Secretary of State to decide whether to conduct, or to continue, an investigation.
- (5) In this paragraph “investigation” means an investigation, conducted following a decision by the Secretary of State under section 48 of the 2014 Act, whether a proposed civil partnership is a sham.]

SCHEDULE 11

Section 125

FINANCIAL PROVISION IN SCOTLAND AFTER OVERSEAS PROCEEDINGS

PART 1

INTRODUCTORY

- 1 (1) This Schedule applies where—
 - (a) a civil partnership has been dissolved or annulled in a country or territory outside the British Islands by means of judicial or other proceedings (here the “overseas proceedings”), and
 - (b) the dissolution or annulment (here the “overseas determination”) is entitled to be recognised as valid in Scotland.
- (2) This Schedule applies even if the date of the overseas determination is earlier than the date on which this Schedule comes into force.

PART 2

CIRCUMSTANCES IN WHICH COURT MAY ENTERTAIN APPLICATION FOR FINANCIAL PROVISION

- 2 (1) Subject to [^{F144}sub-paragraphs (3A) and (4)], if the jurisdictional requirements and the conditions set out in sub-paragraphs (2) and (3), respectively, are satisfied, the court may entertain an application by one of the former civil partners or former ostensible civil partners, (here “A”) for an order for financial provision.
- (2) The jurisdictional requirements are—
 - (a) that A is domiciled or habitually resident in Scotland when the application is made,

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- (b) that the other former civil partner, or former ostensible civil partner, (here “B”)—
 - (i) is domiciled or habitually resident in Scotland when the application is made,
 - (ii) was domiciled or habitually resident in Scotland when A and B last lived together in civil partnership, or
 - (iii) when the application is made is an owner or tenant of, or has a beneficial interest in, property in Scotland which has at some time been a family home of A and B, and
 - (c) where the court is the sheriff, that when the application is made either—
 - (i) A or B is habitually resident in the sheriffdom, or
 - (ii) property mentioned in sub-paragraph (2)(b)(iii) is wholly or partially in the sheriffdom.
- (3) The conditions are that—
- (a) B initiated the overseas proceedings,
 - (b) the application is made within 5 years after the overseas determination takes effect,
 - (c) the civil partnership (or ostensible civil partnership) had a substantial connection with Scotland,
 - (d) A and B are alive when the application is made, and
 - (e) (taking Part 3 of this Act to have been in force) a court in Scotland would have had jurisdiction to entertain an action for dissolution or annulment of the civil partnership, if such an action had been brought immediately before the overseas determination took effect.
- [^{F145}(3A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—
- (a) those requirements are to be satisfied in respect of the application, or that part of it, instead of the requirements set out in sub-paragraph (2), and
 - (b) the condition mentioned in sub-paragraph (3)(c) does not apply.]
- (4) Where the jurisdiction of the court to entertain proceedings under this Schedule would fall to be determined by reference to the jurisdictional requirements imposed by virtue of Part 1 of the Civil Jurisdiction and Judgments Act 1982 (c. 27) (implementation of certain European conventions) ^{F146}. . . , then—
- (a) satisfaction of the jurisdictional requirements set out in sub-paragraph (2) does not obviate the need to satisfy those so imposed, and
 - (b) satisfaction of those so imposed obviates the need to satisfy those set out in sub-paragraph (2).
- [^{F147}(5) In this paragraph “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Status: Point in time view as at 02/03/2015.

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Textual Amendments

- F144** Words in Sch. 11 para. 2(1) substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(7)(a)**
- F145** Sch. 11 para. 2(3A) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(7)(b)**
- F146** Words in Sch. 11 para. 2(4) repealed (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(7)(c)**
- F147** Sch. 11 para. 2(5) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(7)(d)**

PART 3

DISPOSAL OF APPLICATIONS

- 3 (1) Subject to sub-paragraphs (2) to (5), Scots law applies in relation to an application made under paragraph 2 as it would apply were the application made in an action in Scotland for, as the case may be, dissolution or annulment of a civil partnership.
- (2) In disposing of an application made under paragraph 2 the court must exercise its powers so as to place A and B, in so far as it is reasonable and practicable to do so, in the financial position in which they would have been had that application been disposed of, in such an action in Scotland, on the date when the overseas determination took effect.
- (3) In determining what is reasonable and practicable for the purposes of sub-paragraph (2), the court must have regard in particular to—
- (a) A and B's respective resources, both present and foreseeable, at the date the application is disposed of,
 - (b) any order made by a foreign court in or in connection with the overseas proceedings, being an order—
 - (i) for the making of financial provision, in whatever form, by A for B or by B for A, or
 - (ii) for the transfer of property from A to B or from B to A.
- (4) Subject to sub-paragraph (5), the court may make an order for an interim award of a periodical allowance where—
- (a) it appears from A's averments that in the disposal of the application an order for financial provision is likely to be made, and
 - (b) the court considers that such an interim award is necessary to avoid hardship to A.
- (5) Where but for paragraph 2(2)(b)(iii) the court would not have jurisdiction to entertain the application, the court may make no order for financial provision other than an order—
- (a) relating to the former family home or its furniture and plenishings, or
 - (b) that B must pay A a capital sum not exceeding the value of B's interest in the former family home and its furniture and plenishings.

Status: Point in time view as at 02/03/2015.

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PART 4

THE EXPRESSION “ORDER FOR FINANCIAL PROVISION”

- 4 In this Schedule, “order for financial provision” means any one or more of the orders specified in section 8(1) of the Family Law (Scotland) Act 1985 (c. 37) or an order under section 111.

SCHEDULE 12

Section 138(2)

PROHIBITED DEGREES OF RELATIONSHIP: NORTHERN IRELAND

Absolute prohibitions

- 1 (1) Two people are within prohibited degrees of relationship if one falls within the list below in relation to the other.
- Adoptive child
 - Adoptive parent
 - Child
 - Former adoptive child
 - Former adoptive parent
 - Grandparent
 - Grandchild
 - Parent
 - Parent’s sibling
 - Sibling
 - Sibling’s child
- (2) In the list “sibling” means a brother, sister, half-brother or half-sister.

Qualified prohibitions

- 2 (1) Two people are within prohibited degrees of relationship if one of them falls within the list below in relation to the other, unless—
- (a) both of them have reached 21 at the time when they register as civil partners of each other, and
 - (b) the younger has not at any time before reaching 18 been a child of the family in relation to the other.
 - Child of former civil partner
 - Child of former spouse
 - Former civil partner of grandparent
 - Former civil partner of parent
 - Former spouse of grandparent
 - Former spouse of parent
 - Grandchild of former civil partner
 - Grandchild of former spouse
- (2) “Child of the family”, in relation to another person, means a person who—

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- (a) has lived in the same household as that other person, and
- (b) has been treated by that other person as a child of his family.

3 F148

Textual Amendments

F148 Sch. 12 para. 3 repealed (20.9.2006) by [The Law Reform \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2006 \(S.I. 2006/1945 \(N.I. 14\)\)](#), [art. 4](#)

SCHEDULE 13

Section 145(2)

CIVIL PARTNERSHIPS OF PERSONS UNDER 18: NORTHERN IRELAND

PART 1

APPROPRIATE PERSONS

1 Column 2 of the table specifies the appropriate persons (or person) to give consent to a young person 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 4.	Each of the following— <ul style="list-style-type: none">(a) any parent of the young person who has parental responsibility for him, and(b) any guardian of the young person.
2 A care order has effect with respect to the young person.	Each of the following— <ul style="list-style-type: none">(a) the Health and Social Services Board or Health and Social Services trust designated in the order, and(b) any parent or guardian mentioned in item 1.
3 A residence order has effect with respect to the young person.	Each of the persons with whom the young person lives, or is to live, as a result of the order.
4 The circumstances do not fall within item 2 or 3, but a residence order had effect with respect to the young person immediately before he reached 16.	The persons with whom the young person lived, or was to live, as a result of the order.

2 In the table the following expressions have the same meaning as in the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))—

- “care order”;
- “Health and Social Services trust”;

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“parental responsibility”;
“residence order”;

and in item 1 “any guardian of the young person” means any person falling within the definition of “guardian of a child” in Article 2(2) of that Order.

PART 2

DISPENSING WITH CONSENT

Order dispensing with consent

PROSPECTIVE

- 3 (1) This paragraph applies if—
- (a) a young person and another person intend to register as civil partners of each other, and
 - (b) a county court is satisfied as mentioned in sub-paragraphs (3) and (4).
- (2) A county court may make an order dispensing with the consent of any person whose consent is required.
- (3) The court must be satisfied that the registration of the civil partnership is in the best interests of the young person.
- (4) The court must be satisfied that—
- (a) it is not reasonably practicable to obtain the consent of any person whose consent is required,
 - (b) any person whose consent is required withholds or refuses that consent, or
 - (c) there is uncertainty as to whose consent is required.
- (5) An application for an order under this paragraph may be made—
- (a) by or on behalf of the young person, or
 - (b) by or on behalf of the other person (who may be another young person) mentioned in sub-paragraph (1)(a),
- and without the intervention of a next friend.
- (6) The decision of the county court on any application made under this paragraph is final and conclusive.

PART 3

RECORDING CONSENTS AND ORDERS

- 4 Any consent required by section 145(1) must be sent to the registrar.
- 5 Any order made under paragraph 3, or a certified copy of it, must be sent to the registrar.
- 6 The registrar must keep a record of—

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- (a) such particulars as may be prescribed, taken from each consent or order received by him, and
- (b) the date on which each consent or order is received by him.

Commencement Information

I18 Sch. 13 para. 6 wholly in force at 5.12.2005; Sch. 13 para. 6 not in force at Royal Assent see s. 263; Sch. 13 para. 6 in force for certain purposes at 5.9.2005 by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and Sch. 13 para. 6 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

- 7 The record kept under paragraph 6 must be kept with the civil partnership notice book and section 140(5) (right of inspection) applies accordingly.

^{F149}SCHEDULE 13A

section 139E(6)

MODIFICATIONS IF PROPOSED CIVIL PARTNERSHIP REFERRED UNDER SECTION 139E

Textual Amendments

F149 [Sch. 13A](#) inserted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), [art. 1\(2\)](#), [Sch. 3 para. 3](#) (with [art. 1\(3\)](#))

Introduction

1. (1) These are the modifications subject to which this Act has effect if the registrar refers a proposed civil partnership to the Secretary of State.
(2) In this Schedule “referred civil partnership” means the proposed civil partnership referred to the Secretary of State.

No civil partnership schedule to be issued until decision about investigation etc

2. (1) The duty under section 143 to complete a civil partnership schedule in respect of the referred civil partnership does not apply unless and until one of the following events occurs.
(2) Event 1 occurs if—
 - (a) the Secretary of State gives the registrar the section 48 notice, and
 - (b) the notice is of a decision not to investigate whether the referred civil partnership is a sham.
(3) Event 2 occurs if—
 - (a) the relevant statutory period ends, and
 - (b) the Secretary of State has not given the registrar the section 48 notice.
(4) Event 3 occurs if—
 - (a) the Secretary of State gives the registrar the section 48 notice,

Status: Point in time view as at 02/03/2015.

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- (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
 - (c) the Secretary of State gives the registrar the section 50 notice, and
 - (d) that notice is of a decision that both of the parties to the referred civil partnership have complied with the investigation.
- (5) Event 4 occurs if—
- (a) the 70 day period ends, and
 - (b) the Secretary of State has not given the registrar the section 50 notice.
- (6) Event 5 occurs if the Secretary of State gives the registrar notice that the duty under section 143 is applicable.
- (7) The Secretary of State may give a notice for that purpose only if—
- (a) the Secretary of State has given the registrar the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
 - (c) the Secretary of State has given the registrar the section 50 notice, and
 - (d) that notice is of a decision that one or both of the parties to the referred civil partnership have not complied with the investigation.
- (8) This paragraph applies in addition to any other requirements applicable to the completion of the civil partnership schedule.
- (9) This paragraph is subject to paragraphs 3, 4 and 5.
- (10) In this paragraph—
- “70 day period” has the same meaning as in section 50(11) of the 2014 Act;
 - “relevant statutory period” has the same meaning as in section 62 of the 2014 Act;
 - “section 48 notice” means notice under section 48(8B) of the 2014 Act;
 - “section 50 notice” means notice under section 50(7) of the 2014 Act.

Civil partnership to be investigated: completion of civil partnership schedule

3. (1) The modifications in this paragraph have effect if the Secretary of State gives the registrar notice under section 48(8B) of the 2014 Act of a decision to investigate whether the referred civil partnership is a sham.
- (2) Section 143, which becomes subsection (1), has effect as if—
- (a) after “proposed civil partners,” there were inserted “but not before the expiry of the relevant 70 day period.”; and
 - (b) after subsection (1) there were inserted—
- “(2) In this section “relevant 70 day period” means the period—
 - (a) beginning the day on which the record relating to the proposed civil partnership is made in the civil partnership notice book, and
 - (b) ending at the end of the period of 70 days beginning with that day.”
- (3) This paragraph is subject to paragraphs 4 and 5.

Status: Point in time view as at 02/03/2015.

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Requests to complete the civil partnership schedule before expiry of 70 day period

4. (1) This paragraph applies if the Secretary of State gives the registrar notice under section 48(8B) of the 2014 Act of a decision to investigate whether the referred civil partnership is a sham.
- (2) A party to the referred civil partnership may request the registrar to complete the civil partnership schedule before the expiry of the relevant 70 day period.
- (3) That request must—
 - (a) be in writing, and
 - (b) give the reasons why it is necessary for the civil partnership schedule to be completed before the expiry of the relevant 70 day period.
- (4) A registrar may not complete the civil partnership schedule before the expiry of the relevant 70 day period unless authorised to do so by the Registrar General.
- (5) The Registrar General may, with the consent of the Secretary of State, authorise the registrar to complete the civil partnership schedule on such date as the Registrar General considers necessary before the expiry of the relevant 70 day period.
- (6) But the Secretary of State’s consent is not required if the request is made because a party to the referred civil partnership is gravely ill and not expected to recover
- (7) In this paragraph and paragraph 5 “relevant 70 day period” has the same meaning as in section 143 (as modified by paragraph 3).

Effect of reducing statutory period

5. (1) Where—
 - (a) the Registrar General has authorised—
 - (i) the reduction of the notice period for service of the civil partnership notice under regulation 3(2) of the Civil Partnership Regulations (Northern Ireland) 2005, or
 - (ii) the registrar to complete a civil partnership schedule before the expiry of the relevant 70 day period in accordance with paragraph 4; and
 - (b) the authorisation under sub-paragraph (i) or, as the case may be (ii), of paragraph (a) is given at a time when the duty under section 143 to complete a civil partnership schedule has not arisen in accordance with paragraph 2 or 3,
the duty under section 143 to complete the civil partnership schedule arises on the giving of the authorisation, subject to any other requirements applicable to the completion of the schedule (and in the case of an authorisation mentioned in paragraph (a)(i), any other requirements applicable to the giving of notice) being met.
- (2) But the requirements of paragraph 2 are not applicable in such a case.
- (3) The Secretary of State is not prevented from deciding to conduct, conducting or continuing, an investigation if a civil partnership schedule is completed as mentioned in sub-paragraph (1).
- (4) But in such a case, nothing in the 2014 Act requires the Secretary of State to decide whether to conduct, or to continue, an investigation.

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) In this paragraph “investigation” means an investigation, conducted following a decision by the Secretary of State under section 48 of the 2014 Act, whether a proposed civil partnership is a sham.]

SCHEDULE 14

Section 195

WILLS, ADMINISTRATION OF ESTATES AND FAMILY PROVISION: NORTHERN IRELAND

PART 1

WILLS

- 1 Amend the Wills and Administration Proceedings (Northern Ireland) Order 1994 (S.I. 1994/1899 (N.I. 13)) as follows.
- 2 In Article 4(1) (will made by person under 18 invalid unless he is or has been married), for “married” substitute “ a spouse or civil partner ”.
- 3 In Article 8(1) and (3) (avoidance of gifts to attesting witnesses and their spouses), after “spouse” (in each place) insert “ or civil partner ”.
- 4 In Article 9 (witnessing by creditor), after “spouse” insert “ or civil partner ”.
- 5 After Article 13 insert—

Effect of civil partnership

- “13A(1) Subject to paragraphs (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) Paragraphs (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 gift in the will should not be revoked by the formation of the civil partnership.
 - (5) The gift takes effect despite the formation of the civil partnership.

Status: Point in time view as at 02/03/2015.

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- (6) Any other gift in the will also takes effect, unless it appears from the will that the testator intended the gift to be revoked by the formation of the civil partnership.

Effect of dissolution or annulment of civil partnership

13B (1) This Article applies if, after a testator has made a will—

- (a) a court of civil jurisdiction in Northern Ireland dissolves his civil partnership or makes a nullity order in respect of it, or
 - (b) his civil partnership is dissolved or annulled and the dissolution or annulment is entitled to recognition in Northern Ireland under Chapter 3 of Part 5 of the Civil Partnership Act 2004.
- (2) Subject to any contrary intention appearing from 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) except as provided in paragraph (3), any property comprising or included in a gift to the former civil partner passes as if the former civil partner had died on that date.
- (3) Where property comprising or included in a gift to the former civil partner is a share of residue, the will takes effect as if the gift of the residue were to the other person or persons entitled to it (and, if more than one, in such shares as to preserve the ratio of their former shares), to the exclusion of the former civil partner.
- (4) Paragraph (2)(b) does not affect any right of the former civil partner to apply for financial provision under the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979 (S.I. 1979/ 924 (N.I. 8)).”

6 In Article 14 (revocation), in paragraph (1)(a), after “Article 12 (marriage)” insert “or Article 13A (civil partnership)”.

7 (1) Amend Article 23 (presumption as to effect of gift to spouses) as follows.

(2) After “spouse” (in each place) insert “ or civil partner ”.

(3) In the heading to Article 23, after “spouses” insert “ or civil partners ”.

8 In Article 27(3) (construction and effect of references to failure of issue), after “married” insert “ or formed a civil partnership ”.

PART 2

ADMINISTRATION OF ESTATES AND FAMILY PROVISION

Administration of Estates Act (Northern Ireland) 1955 (c. 24 (N.I.))

9 (1) Amend section 6A (spouse dying within 28 days of intestate) as follows.

(2) After “spouse” (in each place) insert “ or civil partner ”.

Status: Point in time view as at 02/03/2015.

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- (3) In the sidenote to section 6A, after “Spouse” insert “ or civil partner ”.
- 10 (1) Amend section 7 (rights of surviving spouse) as follows.
- (2) After “spouse” (in each place) insert “ or civil partner ”.
- (3) In subsection (7), after “husband” insert “ , or of section 180 of the Civil Partnership Act 2004 ”.
- (4) In the sidenote to section 7, after “spouse” insert “ or civil partner ”.
- 11 In section 8 (rights of issue), after “spouse” insert “ or civil partner ”.
- 12 In section 9 (rights of parents), after “spouse” insert “ or civil partner ”.
- 13 In section 10 (rights of brothers and sisters and their issue), after “spouse” (in both places) insert “ or civil partner ”.
- 14 In section 11 (rights of next-of-kin), in subsection (1) after “neither spouse” insert “ nor civil partner ”.
- 15 In section 38 (power to appoint trustees of infant’s property), in subsection (5) after “marries” insert “ , or forms a civil partnership, ”.

Inheritance (Provision for Family and Dependants)
(Northern Ireland) Order 1979 (S.I. 1979/ 924 (N.I. 8))

- 16 (1) Amend Article 2 (interpretation) as follows.
- (2) In paragraph (2), after the definition of “child” insert—
- ““civil partnership proceedings county court” has the same meaning as in the Civil Partnership Act 2004;”.
- (3) In that paragraph, in the definition of “former wife” and “former husband”, for “former wife” or “former husband” substitute “ “former spouse” ”.
- (4) In that paragraph, before that definition insert—
- ““former civil partner” means a person whose civil partnership with the deceased was during the lifetime of the deceased either—
- (a) dissolved or annulled by an order made under the law of any part of the United Kingdom or the Channel Islands or the Isle of Man, or
- (b) dissolved or annulled in any country or territory outside the United Kingdom, the Channel Islands and the Isle of Man by a dissolution or annulment which is entitled to be recognised as valid by the law of Northern Ireland;”.
- (5) In that paragraph, in the definition of “reasonable financial provision”, after paragraph (a) insert—
- “(aa) in the case of an application made by virtue of Article 3(1)(a) by the civil partner of the deceased (except where, at the date of death, a separation order under Chapter 2 of Part 4 of the Civil Partnership Act 2004 was in force in relation to the civil partnership and the separation was continuing), means such financial provision as it would be reasonable in all the circumstances of the case for a civil

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partner to receive, whether or not that provision is required for his or her maintenance;”.

(6) In paragraph (5)—

- (a) before “wife” insert “ spouse, ”, and
- (b) in sub-paragraph (b), for “entered into a later marriage” substitute “ formed a subsequent marriage or civil partnership ”.

(7) For paragraph (6) substitute—

“(5A) For the purposes of this Order any reference to a civil partner shall be treated as including a reference to a person who in good faith formed a void civil partnership with the deceased unless either—

- (a) the civil partnership between the deceased and that person was dissolved or annulled during the lifetime of the deceased and the dissolution or annulment is recognised by the law of Northern Ireland, or
- (b) that person has during the lifetime of the deceased formed a subsequent civil partnership or marriage.

(6) Any reference in this Order to the formation of, or to a person who has formed, a subsequent marriage or civil partnership includes (as the case may be) a reference to the formation of, or to a person who has formed, a marriage or civil partnership which is by law void or voidable.

(6A) The formation of a marriage or civil partnership shall be treated for the purposes of this Order as the formation of a subsequent marriage or civil partnership, in relation to either of the spouses or civil partners, notwithstanding that the previous marriage or civil partnership of that spouse or civil partner was void or voidable.”

17 (1) Amend Article 3 (application for financial provision from deceased person’s estate) as follows.

(2) For paragraph (1)(a) and (b) (application may be made by spouse or by former spouse who has not remarried) substitute—

- “(a) the spouse or civil partner of the deceased;
- (b) a former spouse or former civil partner of the deceased, but not one who has formed a subsequent marriage or civil partnership;”.

(3) In paragraph (1)(ba) (application may be made by person living as husband or wife of the deceased), after “paragraph (1A)” insert “ or (1B) ”.

(4) In paragraph (1)(d) (application may be made by child of the family), after “marriage” (in each place) insert “ or civil partnership ”.

(5) After paragraph (1A) insert—

“(1B) This paragraph applies to a person if for the whole of the period of two years ending immediately before the date when the deceased died the person was living—

- (a) in the same household as the deceased, and
- (b) as the civil partner of the deceased.”

18 In Article 4(1) (orders which may be made on an application), after sub-paragraph (f) insert—

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- “(g) an order varying any settlement made—
- (i) during the subsistence of a civil partnership formed by the deceased, or
- (ii) in anticipation of the formation of a civil partnership by the deceased,
- on the civil partners (including such a settlement made by will), the variation being for the benefit of the surviving civil partner, or any child of both the civil partners, or any person who was treated by the deceased as a child of the family in relation to that civil partnership.”
- 19 (1) Amend Article 5(2) (application by spouse or former spouse: matters to which court is to have regard) as follows.
- (2) For the words from the beginning to “or (b)” substitute— “ This paragraph applies, without prejudice to the generality of sub-paragraph (g) of paragraph (1), where an application for an order under Article 4 is made by virtue of Article 3(1)(a) or (b). ”
- (3) The words from “the court shall, in addition” to the end of sub-paragraph (b) shall become a second sentence of the paragraph and, in sub-paragraph (a) of the sentence so formed, after “duration of the marriage” insert “ or civil partnership ”.
- (4) The words from “in the case of an application by the wife or husband” to the end shall become a third sentence of the paragraph, omitting the immediately preceding “and”.
- (5) At the end insert the following sentence— “ In the case of an application by the civil partner of the deceased, the court shall also, unless at the date of the death a separation order under Chapter 2 of Part 4 of the Civil Partnership Act 2004 was in force and the separation was continuing, have regard to the provision which the applicant might reasonably have expected to receive if on the day on which the deceased died the civil partnership, instead of being terminated by death, had been terminated by a dissolution order. ”
- 20 In Article 5(2A) (application by person living as husband or wife of deceased: matters to which court is to have regard), in sub-paragraph (a), after “wife” insert “ or civil partner ”.
- 21 (1) In Article 8(3) and (10) (variation etc. of orders which cease on occurrence of specified event other than remarriage of former spouse), for “(other than the remarriage of a former wife or former husband)” substitute “ (other than the formation of a subsequent marriage or civil partnership by a former spouse or former civil partner) ”.
- (2) In Article 8(9), for “or (f)” substitute “ (f) or (g) ”.
- 22 After Article 16 insert—

Provision as to cases where no financial relief was granted in proceedings for the dissolution etc. of a civil partnership

“16A(1) Paragraph (2) applies where—

- (a) a dissolution order, nullity order, separation order or presumption of death order has been made under Chapter 2 of Part 4 of the Civil Partnership Act 2004 in relation to a civil partnership,
- (b) one of the civil partners dies within twelve months from the date on which the order is made, and

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- (c) either—
- (i) an application for a financial provision order under Part 1 of Schedule 15 to that Act or a property adjustment order under Part 2 of that Schedule has not been made by the other civil partner, or
 - (ii) such an application has been made but the proceedings on the application have not been determined at the time of the death of the deceased.
- (2) If an application for an order under Article 4 is made by the surviving civil partner, the court shall, notwithstanding anything in Article 3 or 5, have power, if it thinks it just to do so, to treat the surviving civil partner as if the order mentioned in paragraph (1)(a) had not been made.
- (3) This Article shall not apply in relation to a separation order unless at the date of the death of the deceased the separation order was in force and the separation was continuing.”

23 After Article 17 insert—

Restriction imposed in proceedings for the dissolution etc. of a civil partnership on application under this Order

- “17ZA) On making a dissolution order, nullity order, separation order or presumption of death order under Chapter 2 of Part 4 of the Civil Partnership Act 2004, or at any time after making such an order, the High Court or a civil partnership proceedings county court, if it considers it just to do so, may, on the application of either of the civil partners, order that the other civil partner shall not on the death of the applicant be entitled to apply for an order under Article 4.
- (2) In the case of a dissolution order, nullity order or presumption of death order (“the main order”) an order may be made under paragraph (1) before (as well as after) the main order is made final, but if made before the main order is made final it shall not take effect unless the main order is made final.
- (3) Where an order under paragraph (1) made in connection with a dissolution order, nullity order or presumption of death order has come into force with respect to a civil partner, then, on the death of the other civil partner, the court shall not entertain any application for an order under Article 4 made by the surviving civil partner.
- (4) Where an order under paragraph (1) made in connection with a separation order has come into force with respect to a civil partner, then, if the other civil partner dies while the separation order is in force and the separation is continuing, the court shall not entertain any application for an order under Article 4 made by the surviving civil partner.”

24 After Article 17A insert—

Restriction imposed in proceedings under Schedule 17 to the Civil Partnership Act 2004 on application under this Order

- “17B1) On making an order under paragraph 9 of Schedule 17 to the Civil Partnership Act 2004 (orders for financial provision, property adjustment

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and pension-sharing following overseas dissolution etc. of civil partnership) the High Court, if it considers it just to do so, may, on the application of either of the civil partners, order that the other civil partner shall not on the death of the applicant be entitled to apply for an order under Article 4.

(2) Where an order under paragraph (1) has been made with respect to one of the civil partners in a case where a civil partnership has been dissolved or annulled, then, on the death of the other civil partner, the court shall not entertain an application under Article 4 made by the surviving civil partner.

(3) Where an order under paragraph (1) has been made with respect to one of the civil partners in a case where civil partners have been legally separated, then, if the other civil partner dies while the legal separation is in force, the court shall not entertain an application under Article 4 made by the surviving civil partner.”

25 In Article 18(1) (power to vary secured periodical payments orders)—

- (a) after “Matrimonial Causes (Northern Ireland) Order 1978” insert “ or Schedule 15 to the Civil Partnership Act 2004 ”, and
- (b) after “that Order” insert “ or Part 10 of that Schedule ”.

26 In Article 19(4) (meaning of “maintenance agreement”)—

- (a) for “entered into a marriage” substitute “ formed a marriage or civil partnership ”,
- (b) after “of the parties to that marriage” insert “ or of the civil partners ”, and
- (c) after “marriage” (in the third and fourth places) insert “ or civil partnership ”.

27 After Article 20 insert—

Availability of court’s powers under this Order in applications under paragraphs 53 and 66 of Schedule 15 to the Civil Partnership Act 2004

“20A(1) Where—

- (a) a person against whom a secured periodical payments order was made under Schedule 15 to the Civil Partnership Act 2004 has died and an application is made under paragraph 53 of that Schedule for the variation or discharge of that order or for the revival of the operation of any suspended provision of the order, or
- (b) a party to a maintenance agreement within the meaning of Part 12 of that Schedule has died, the agreement being one which provides for the continuation of payments under the agreement after the death of one of the parties, and an application is made under paragraph 66 of that Schedule for the alteration of the agreement under paragraph 62 of that Schedule,

the court to which the application is made under paragraph 53 or 66 shall have power to direct that the application shall be deemed to have been accompanied by an application for an order under Article 4.

(2) Where the court to which an application is made under paragraph 53 or 66 gives a direction under paragraph (1), that court shall have power—

- (a) to make any order which the court would have had power to make under the provisions of this Order if the application under paragraph

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- 53 or 66 had been made jointly with an application for an order under Article 4; and
- (b) to give such consequential directions as may be necessary for enabling it to exercise any of the powers available to it under this Order in the case of an application for an order under Article 4.
- (3) Where an order made under Article 17ZA(1) is in force with respect to a civil partner, a direction shall not be given under paragraph (1) with respect to any application made under paragraph 53 or 66 by that civil partner on the death of the other civil partner.”
- 28 (1) Amend Article 21 (effect, duration and form of orders) as follows.
- (2) In paragraph (2)(a), for “former husband or former wife” substitute “ former spouse or former civil partner ”.
- (3) In paragraph (2), after sub-paragraph (b) insert “or
- (c) an applicant who was the civil partner of the deceased in a case where, at the date of death, a separation order under Chapter 2 of Part 4 of the Civil Partnership Act 2004 was in force in relation to their civil partnership and the separation was continuing,”.
- (4) In that paragraph, in the words after sub-paragraph (b), for “on the remarriage of the applicant” onwards substitute “ on the formation by the applicant of a subsequent marriage or civil partnership, except in relation to any arrears due under the order on the date of the formation of the subsequent marriage or civil partnership. ”

SCHEDULE 15

Section 196(1)

FINANCIAL RELIEF IN THE HIGH COURT OR A COUNTY COURT ETC.: NORTHERN IRELAND

Modifications etc. (not altering text)

C10 Sch. 15: functions transferred (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(1), **Sch. 17 para. 21(b)** (with arts. 15(6), 28-31)

PART 1

FINANCIAL PROVISION IN CONNECTION WITH DISSOLUTION, NULLITY OR SEPARATION

Circumstances in which orders under this Part may be made

- 1 (1) The court may make any one or more of the orders set out in paragraph 2(1)—
- (a) on making a dissolution, nullity or separation order, or
- (b) at any time afterwards.
- (2) The court may make any one or more of the orders set out in paragraph 2(1)(d), (e) and (f)—
- (a) in proceedings for a dissolution, nullity or separation order, before making the order;

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- (b) if proceedings for a dissolution, nullity or separation order are dismissed after the beginning of the trial, either straightaway or within a reasonable period after the dismissal.
- (3) The power of the court to make an order under sub-paragraph (1) or (2)(a) in favour of a child of the family is exercisable from time to time.
- (4) If the court makes an order in favour of a child under sub-paragraph (2)(b), it may from time to time make a further order in the child's favour of any of the kinds set out in paragraph 2(1)(d), (e) or (f).
- (5) If the court makes an order under sub-paragraph (1), (2) or (4), it may give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the disposal of any property).

The orders: periodical and secured periodical payments and lump sums

- 2 (1) The orders are—
 - (a) an order that either civil partner must make to the other such periodical payments for such term as may be specified;
 - (b) an order that either civil partner must secure to the other, to the satisfaction of the court, such periodical payments for such term as may be specified;
 - (c) an order that either civil partner must pay to the other such lump sum or sums as may be specified;
 - (d) an order that one of the civil partners must make—
 - (i) to such person as may be specified for the benefit of a child of the family, or
 - (ii) to a child of the family,
 such periodical payments for such term as may be specified;
 - (e) an order that one of the civil partners must secure—
 - (i) to such person as may be specified for the benefit of a child of the family, or
 - (ii) to a child of the family,
 to the satisfaction of the court, such periodical payments for such term as may be specified;
 - (f) an order that one of the civil partners must pay such lump sum as may be specified—
 - (i) to such person as may be specified for the benefit of a child of the family, or
 - (ii) to a child of the family.
- (2) “Specified” means specified in the order.

Particular provision that may be made by lump sum orders

- 3 (1) An order under this Part requiring one civil partner to pay the other a lump sum may be made for the purpose of enabling the other civil partner to meet any liabilities or expenses reasonably incurred by the other in maintaining—
 - (a) himself or herself, or
 - (b) a child of the family,
 before making an application for an order under this Part in his or her favour.

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- (2) An order under this Part requiring a lump sum to be paid to or for the benefit of a child of the family may be made for the purpose of enabling any liabilities or expenses reasonably incurred by or for the benefit of the child before making an application for an order under this Part to be met.
- (3) An order under this Part for the payment of a lump sum may—
 - (a) provide for its payment by instalments of such amount as may be specified, and
 - (b) require the payment of the instalments to be secured to the satisfaction of the court.
- (4) Sub-paragraphs (1) to (3) do not restrict the powers to make the orders set out in paragraph 2(1)(c) and (f).
- (5) If the court—
 - (a) makes an order under this Part for the payment of a lump sum, and
 - (b) directs that—
 - (i) payment of the sum or any part of it is to be deferred, or
 - (ii) the sum or any part of it is to be paid by instalments,it may provide for the deferred amount or the instalments to carry interest at such rate as may be specified from such date as may be specified until the date when payment of it is due
- (6) A date specified under sub-paragraph (5) must not be earlier than the date of the order.
- (7) “Specified” means specified in the order.

When orders under this Part may take effect

- 4 (1) If an order is made under paragraph 2(1)(a), (b) or (c) on or after making a dissolution or nullity order, neither the order nor any settlement made in pursuance of it takes effect unless the dissolution or nullity order has been made final.
- (2) This paragraph does not affect the power of the court to give a direction under paragraph 71 (settlement of instrument by conveyancing counsel).

Restrictions on making of orders under this Part

- 5 The power to make an order under paragraph 2(1)(d), (e) or (f) is subject to paragraph 44(1) and (5) (restrictions on orders in favour of children who have reached 18).

PART 2

PROPERTY ADJUSTMENT ON OR AFTER DISSOLUTION, NULLITY OR SEPARATION

Circumstances in which property adjustment orders may be made

- 6 (1) The court may make one or more property adjustment orders—
 - (a) on making a dissolution, nullity or separation order, or
 - (b) at any time afterwards.

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- (2) In this Schedule “property adjustment order” means a property adjustment order under this Part.

Property adjustment orders

- 7 (1) The property adjustment orders are—
- (a) an order that one of the civil partners must transfer such property as may be specified, being property to which he is entitled—
 - (i) to the other civil partner,
 - (ii) to a child of the family, or
 - (iii) to such person as may be specified for the benefit of a child of the family;
 - (b) an order that a settlement of such property as may be specified, being property to which one of the civil partners is entitled, be made to the satisfaction of the court for the benefit of—
 - (i) the other civil partner and the children of the family, or
 - (ii) either or any of them;
 - (c) an order varying for the benefit of—
 - (i) the civil partners and the children of the family, or
 - (ii) either or any of them,
 a relevant settlement;
 - (d) an order extinguishing or reducing the interest of either of the civil partners under a relevant settlement.
- (2) The court may make a property adjustment order under sub-paragraph (1)(c) even though there are no children of the family.
- (3) If the court makes a property adjustment order, it may give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the making of any payments or the disposal of any property).
- (4) In this paragraph—
- “entitled” means entitled in possession or reversion,
- “relevant settlement” means, in relation to a civil partnership, a settlement made, during its subsistence or in anticipation of its formation, on the civil partners including one made by will or codicil, but not including one in the form of a pension arrangement (within the meaning of Part 3), and
- “specified” means specified in the order.

When property adjustment orders may take effect

- 8 (1) If a property adjustment order is made on or after making a dissolution or nullity order, neither the property adjustment order nor any settlement made under it takes effect unless the dissolution or nullity order has been made final.
- (2) This paragraph does not affect the power to give a direction under paragraph 71 (settlement of instrument by conveyancing counsel).

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Restrictions on making property adjustment orders

- 9 The power to make a property adjustment order under paragraph 7(1)(a) is subject to paragraph 44(1) and (5) (restrictions on making orders in favour of children who have reached 18).

PART 3

PENSION SHARING ORDERS ON OR AFTER DISSOLUTION OR NULLITY ORDER

Circumstances in which pension sharing orders may be made

- 10 (1) The court may make a pension sharing order—
- (a) on making a dissolution or nullity order, or
 - (b) at any time afterwards.
- (2) In this Schedule “pension sharing order” means a pension sharing order under this Part.

Commencement Information

- I19** Sch. 15 para. 10 wholly in force at 5.12.2005; Sch. 15 para. 10 not in force at Royal Assent see s. 263; Sch. 15 para. 10(2) in force for certain purposes at 7.11.2005 by [S.I. 2005/3058](#), [art. 2](#) and Sch. 15 para. 10 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

Pension sharing orders

- 11 (1) A pension sharing order is an order which—
- (a) provides that one civil partner's—
 - (i) shareable rights under a specified pension arrangement, or
 - (ii) shareable state scheme rights,are to be subject to pension sharing for the benefit of the other civil partner, and
 - (b) specifies the percentage value to be transferred.
- (2) Shareable rights under a pension arrangement are rights in relation to which pension sharing is available under—
- (a) Chapter 1 of Part 5 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), or
 - (b) Chapter 1 of Part 4 of the Welfare Reform and Pensions Act 1999 (c. 30).
- (3) Shareable state scheme rights are rights in relation to which pension sharing is available under—
- (a) Chapter 2 of Part 5 of the 1999 Order, or
 - (b) Chapter 2 of Part 4 of the 1999 Act.
- (4) In this Part “pension arrangement” means—
- (a) an occupational pension scheme,
 - (b) a personal pension scheme,
 - (c) a retirement annuity contract,

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- (d) an annuity or insurance policy purchased, or transferred, for the purpose of giving effect to rights under—
 - (i) an occupational pension scheme, or
 - (ii) a personal pension scheme, and
 - (e) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a pension credit under—
 - (i) Article 26(1)(b) of the 1999 Order, or
 - (ii) section 29(1)(b) of the 1999 Act.
- (5) In sub-paragraph (4)—
- “occupational pension scheme” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 (c. 49);
 - “personal pension scheme” has the same meaning as in the 1993 Act;
 - “retirement annuity contract” means a contract or scheme approved under Chapter 3 of Part 14 of the Income and Corporation Taxes Act 1988 (c. 1).

Modifications etc. (not altering text)

C11 Sch. 15 para. 11 modified (14.8.2006) by [The Dissolution etc. \(Pension Protection Fund\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/311\)](#), **reg. 4(2)(a)**

Pension sharing orders: apportionment of charges

- 12 If a pension sharing order relates to rights under a pension arrangement, the court may include in the order provision about the apportionment between the civil partners of any charge under—
- (a) Article 38 of the 1999 Order (charges in respect of pension sharing costs), or
 - (b) section 41 of the 1999 Act.

Restrictions on making of pension sharing orders

- 13 (1) A pension sharing order may not be made in relation to a pension arrangement which—
- (a) is the subject of a pension sharing order in relation to the civil partnership, or
 - (b) has been the subject of pension sharing between the civil partners.
- (2) A pension sharing order may not be made in relation to shareable state scheme rights if—
- (a) such rights are the subject of a pension sharing order in relation to the civil partnership, or
 - (b) such rights have been the subject of pension sharing between the civil partners.
- (3) A pension sharing order may not be made in relation to the rights of a person under a pension arrangement if there is in force a requirement imposed by virtue of Part 5 which relates to benefits or future benefits to which that person is entitled under the pension arrangement.

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

When pension sharing orders may take effect

- 14 (1) A pension sharing order is not to take effect unless the dissolution or nullity order on or after which it is made has been made final.
- (2) No pension sharing order may be made so as to take effect before the end of such period after the making of the order as may be prescribed by regulations made by the Lord Chancellor.
- (3) The power to make regulations under sub-paragraph (2) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (4) Regulations under sub-paragraph (2) are subject to [^{F150}negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954].

Textual Amendments

F150 Words in Sch. 15 para. 14(4) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 75(2)** (with arts. 28-31)

Commencement Information

I20 Sch. 15 para. 14 wholly in force at 5.12.2005; Sch. 15 para. 14 not in force at Royal Assent see s. 263; Sch. 15 para. 14(2)(3)(4) in force for certain purposes at 7.11.2005 by [S.I. 2005/3058](#), **art. 2** and Sch. 15 para. 14 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), **art. 2(1)**, Sch.

[^{F151}**PART 3A**

**PENSION COMPENSATION SHARING ORDERS ON
OR AFTER DISSOLUTION OR NULLITY ORDER**

Textual Amendments

F151 Sch. 15 Pt. 3A inserted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 118, **Sch. 5 para. 15** (as amended by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 175** (with arts. 28-31)); [S.R. 2011/108](#), **art. 2(2)**, Sch.

Circumstances in which pension compensation sharing orders may be made

- 14A (1) The court may make a pension compensation sharing order—
- (a) on making a dissolution or nullity order, or
- (b) at any time afterwards.
- (2) In this Schedule “pension compensation sharing order” means a pension compensation sharing order under this Part.

Pension compensation sharing orders

- 14B (1) A pension compensation sharing order is an order which—

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) provides that one civil partner's shareable rights to PPF compensation that derive from rights under a specified pension scheme are to be subject to pension compensation sharing for the benefit of the other civil partner, and
 - (b) specifies the percentage value to be transferred.
- (2) Shareable rights to PPF compensation are rights in relation to which pension compensation sharing is available under—
- (a) Chapter 1 of Part 3 of the Pensions (No. 2) Act (Northern Ireland) 2008, or
 - (b) Chapter 1 of Part 3 of the Pensions Act 2008.
- (3) In sub-paragraph (1) “specified” means specified in the order.

Pension compensation sharing orders: apportionment of charges

- 14C The court may include in a pension compensation sharing order provision about the apportionment between the civil partners of any charge under—
- (a) section 95 of the Pensions (No. 2) Act (Northern Ireland) 2008 (charges in respect of pension compensation sharing costs), or
 - (b) section 117 of the Pensions Act 2008.

Restrictions on making pension compensation sharing orders

- 14D (1) A pension compensation sharing order may not be made in relation to rights to PPF compensation that—
- (a) are the subject of pension attachment,
 - (b) derive from rights under a pension scheme that were the subject of pension sharing between the civil partners,
 - (c) are the subject of pension compensation attachment, or
 - (d) are or have been the subject of pension compensation sharing between the civil partners.
- (2) For the purposes of sub-paragraph (1)(a), rights to PPF compensation “are the subject of pension attachment” if any of the following three conditions is met.
- (3) The first condition is that—
- (a) the rights derive from rights under a pension scheme in relation to which an order was made under Part 1 imposing a requirement by virtue of paragraph 20(2), and
 - (b) that order, as modified under paragraph 26, remains in force.
- (4) The second condition is that—
- (a) the rights derive from rights under a pension scheme in relation to which an order was made under Part 1 imposing a requirement by virtue of paragraph 20(5), and
 - (b) that order—
 - (i) has been complied with, or
 - (ii) has not been complied with and, as modified under paragraph 27, remains in force.
- (5) The third condition is that—

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the rights derive from rights under a pension scheme in relation to which an order was made under Part 1 imposing a requirement by virtue of paragraph 21, and
 - (b) that order remains in force.
- (6) For the purposes of sub-paragraph (1)(b), rights under a pension scheme “were the subject of pension sharing between the civil partners” if the rights were at any time the subject of a pension sharing order in relation to the civil partnership or a previous civil partnership between the same parties.
- (7) For the purposes of sub-paragraph (1)(c), rights to PPF compensation “are the subject of pension compensation attachment” if there is in force a requirement imposed by virtue of Part 5 relating to them.
- (8) For the purposes of sub-paragraph (1)(d), rights to PPF compensation “are or have been the subject of pension compensation sharing between the civil partners” if they are or have ever been the subject of a pension compensation sharing order in relation to the civil partnership or a previous civil partnership between the same parties.

When pension compensation sharing orders may take effect

- 14E (1) A pension compensation sharing order is not to take effect unless the dissolution or nullity order on or after which it is made has been made final.
- (2) No pension compensation sharing order may be made so as to take effect before the end of such period after the making of the order as may be prescribed by regulations made by the Department of Justice.
- (3) The power to make regulations under sub-paragraph (2) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (4) Regulations under sub-paragraph (2) are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

Interpretation

- 14F In this Schedule—
- “PPF compensation” means compensation payable under the pension compensation provisions;
- “the pension compensation provisions” means—
- (a) Chapter 3 of Part 3 of the Pensions (Northern Ireland) Order 2005 (pension protection) and any regulations or order made under it,
 - (b) Chapter 1 of Part 3 of the Pensions (No. 2) Act (Northern Ireland) 2008 (pension compensation sharing) and any regulations or order made under it, and
 - (c) any provision corresponding to the provisions mentioned in paragraph (a) or (b) in force in Great Britain.]

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART 4

MATTERS TO WHICH COURT IS TO HAVE REGARD UNDER PARTS 1 TO [F1523A]

Textual Amendments

F152 Word in Sch. 15 Pt. 4 heading substituted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 98, 118, Sch. 5 para. 16\(2\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

General

- 15 The court in deciding—
- (a) whether to exercise its powers under—
 - (i) Part 1 (financial provision on dissolution etc.),
 - (ii) Part 2 (property adjustment orders), ^{F153} . . .
 - (iii) any provision of Part 3 (pension sharing orders) other than paragraph 12 (apportionment of charges), [^{F154}or]
 - [^{F155}(iv) any provision of Part 3A (pension compensation sharing orders) other than paragraph 14C (apportionment of charges), and]
 - (b) if so, in what way,
- must have regard to all the circumstances of the case, giving first consideration to the welfare, while under 18, of any child of the family who has not reached 18.

Textual Amendments

F153 Word in Sch. 15 para. 15(a)(ii) repealed (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 98, 116, 118, Sch. 5 para. 16\(3\)\(a\), Sch. 10 Pt. 4](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

F154 Word in Sch. 15 para. 15(a)(iii) substituted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 98, 118, Sch. 5 para. 16\(3\)\(b\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

F155 Sch. 15 para. 15(a)(iv) added (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 98, 118, Sch. 5 para. 16\(3\)\(c\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

Particular matters to be taken into account when exercising powers in relation to civil partners

- 16 (1) This paragraph applies to the exercise by the court in relation to a civil partner of its powers under—
- (a) Part 1 (financial provision on dissolution etc.) by virtue of paragraph 2(1) (a), (b) or (c),
 - (b) Part 2 (property adjustment orders), ^{F156} . . .
 - (c) Part 3 (pension sharing orders)[^{F157}, or]
 - [^{F158}(d) Part 3A (pension compensation sharing orders).]
- (2) The court must in particular have regard to—
- (a) the income, earning capacity, property and other financial resources which each civil partner—
 - (i) has, or
 - (ii) is likely to have in the foreseeable future,

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- including, in the case of earning capacity, any increase in that capacity which it would in the opinion of the court be reasonable to expect the civil partner to take steps to acquire;
- (b) the financial needs, obligations and responsibilities which each civil partner has or is likely to have in the foreseeable future;
 - (c) the standard of living enjoyed by the family before the breakdown of the civil partnership;
 - (d) the age of each civil partner and the duration of the civil partnership;
 - (e) any physical or mental disability of either of the civil partners;
 - (f) the contributions which each civil partner has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;
 - (g) the conduct of each civil partner, if that conduct is such that it would in the opinion of the court be inequitable to disregard it;
 - (h) in the case of proceedings for a dissolution or nullity order, the value to each civil partner of any benefit which, because of the dissolution or annulment of the civil partnership, that civil partner will lose the chance of acquiring.

Textual Amendments

- F156** Word in Sch. 15 para. 16(1)(b) repealed (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 116, 118, [Sch. 5 para. 16\(4\)\(a\)](#), [Sch. 10 Pt. 4](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.
- F157** Word in Sch. 15 para. 16(1)(c) inserted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 118, [Sch. 5 para. 16\(4\)\(b\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.
- F158** Sch. 15 para. 16(1)(d) added (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 118, [Sch. 5 para. 16\(4\)\(c\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

Modifications etc. (not altering text)

- C12** Sch. 15 para. 16(2)(d) applied (with modifications) (5.12.2005) by [The Civil Partnership \(Treatment of Overseas Relationships\) Order \(Northern Ireland\) 2005 \(S.R. 2005/531\)](#), [art. 3\(2\)](#)

Particular matters to be taken into account when exercising powers in relation to children

- 17 (1) This paragraph applies to the exercise by the court in relation to a child of the family of its powers under—
- (a) Part 1 (financial provision on dissolution etc.) by virtue of paragraph 2(1) (d), (e) or (f), or
 - (b) Part 2 (property adjustment orders).
- (2) The court must in particular have regard to—
- (a) the financial needs of the child;
 - (b) the income, earning capacity (if any), property and other financial resources of the child;
 - (c) any physical or mental disability of the child;
 - (d) the way in which the child was being and in which the civil partners expected the child to be educated or trained;
 - (e) the considerations mentioned in relation to the civil partners in paragraph 16(2)(a), (b), (c) and (e).

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In relation to the exercise of any of those powers against a civil partner (“A”) in favour of a child of the family who is not A’s child, the court must also have regard to—
- (a) whether A has assumed any responsibility for the child’s maintenance,
 - (b) if so, the extent to which, and the basis upon which, A assumed such responsibility and the length of time for which A discharged such responsibility;
 - (c) whether in assuming and discharging such responsibility A did so knowing that the child was not A’s child;
 - (d) the liability of any other person to maintain the child.

Terminating considerations

- 18 (1) Sub-paragraphs (2) and (3) apply if, on or after the making of a dissolution or nullity order, the court decides to exercise its powers under—
- (a) Part 1 (financial provision on dissolution etc.) by virtue of paragraph 2(1) (a), (b) or (c),
 - (b) Part 2 (property adjustment orders),^{F159} . . .
 - (c) Part 3 (pension sharing orders),^[F160] or
 - ^[F161](d) Part 3A (pension compensation sharing orders),]
- in favour of one of the civil partners.
- (2) The court must consider whether it would be appropriate to exercise those powers in such a way that the financial obligations of each civil partner towards the other will be terminated as soon after the making of the dissolution or nullity order as the court considers just and reasonable.
- (3) If the court decides to make—
- (a) a periodical payments order, or
 - (b) a secured periodical payments order,
- in favour of one of the civil partners (“A”), it must in particular consider whether it would be appropriate to require the payments to be made or secured only for such term as would in its opinion be sufficient to enable A to adjust without undue hardship to the termination of A’s financial dependence on the other civil partner.
- (4) If—
- (a) on or after the making of a dissolution or nullity order, an application is made by one of the civil partners for a periodical payments or secured periodical payments order in that civil partner’s favour, but
 - (b) the court considers that no continuing obligation should be imposed on either civil partner to make or secure periodical payments in favour of the other,
- the court may dismiss the application with a direction that the applicant is not entitled to make any future application in relation to that civil partnership for an order under Part 1 by virtue of paragraph 2(1)(a) or (b).

Textual Amendments

F159 Word in Sch. 15 para. 18(1)(b) repealed (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008](#) (c. 13), ss. 98, 116, 118, Sch. 5 para. 16(5)(a), [Sch. 10 Pt. 4](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

Status: Point in time view as at 02/03/2015.

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F160 Word in Sch. 15 para. 18(1)(c) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 16(5)(b)**; S.R. 2011/108, **art. 2(2)**, Sch.

F161 Sch. 15 para. 18(1)(d) added (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 16(5)(c)**; S.R. 2011/108, **art. 2(2)**, Sch.

PART 5

MAKING OF PART 1 ORDERS HAVING REGARD TO PENSION BENEFITS

Pension benefits to be included in matters to which court is to have regard

- 19 (1) The matters to which the court is to have regard under paragraph 16(2)(a) include any pension benefits under a pension arrangement or by way of pension which a civil partner has or is likely to have; and, accordingly, in relation to any pension benefits paragraph 16(2)(a)(ii) has effect as if “in the foreseeable future” were omitted.
- (2) The matters to which the court is to have regard under paragraph 16(2)(h) include any pension benefits which, because of the making of a dissolution or nullity order, a civil partner will lose the chance of acquiring.
- (3) “Pension benefits” means—
- (a) benefits under a pension arrangement, or
 - (b) benefits by way of pension (whether under a pension arrangement or not).

Provisions applying where pension benefits taken into account in decision to make Part 1 order

- 20 (1) This paragraph applies if, having regard to any benefits under a pension arrangement, the court decides to make an order under Part 1.
- (2) To the extent to which the Part 1 order is made having regard to any benefits under a pension arrangement, it may require the person responsible for the pension arrangement, if at any time any payment in respect of any benefits under the arrangement becomes due to the civil partner with pension rights, to make a payment for the benefit of the other civil partner.
- (3) The Part 1 order must express the amount of any payment required to be made by virtue of sub-paragraph (2) as a percentage of the payment which becomes due to the civil partner with pension rights.
- (4) Any such payment by the person responsible for the arrangement—
- (a) discharges so much of his liability to the civil partner with pension rights as corresponds to the amount of the payment, and
 - (b) is to be treated for all purposes as a payment made by the civil partner with pension rights in or towards the discharge of that civil partner’s liability under the order.
- (5) If the civil partner with pension rights has a right of commutation under the arrangement, the Part 1 order may require that civil partner to exercise it to any extent.
- (6) This paragraph applies to any payment due in consequence of commutation in pursuance of the Part 1 order as it applies to other payments in respect of benefits under the arrangement.

Status: Point in time view as at 02/03/2015.

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- (7) The power conferred by sub-paragraph (5) may not be exercised for the purpose of commuting a benefit payable to the civil partner with pension rights to a benefit payable to the other civil partner.
- (8) The powers conferred by sub-paragraphs (2) and (5) may not be exercised in relation to a pension arrangement which—
- (a) is the subject of a pension sharing order in relation to the civil partnership, or
 - (b) has been the subject of pension sharing between the civil partners.

Modifications etc. (not altering text)

- C13** Sch. 15 para. 20 modified (14.8.2006) by [The Dissolution etc. \(Pension Protection Fund\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/311\)](#), **reg. 4(2)(b)**
- C14** Sch. 15 para. 20(4) modified (14.8.2006) by [The Dissolution etc. \(Pension Protection Fund\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/311\)](#), **reg. 2**

Pensions: lump sums

- 21 (1) This paragraph applies if the benefits which the civil partner with pension rights has or is likely to have under a pension arrangement include any lump sum payable in respect of that civil partner's death.
- (2) The court's power under Part 1 to order a civil partner to pay a lump sum to the other civil partner includes the power to make by the order any of the provision in sub-paragraphs (3) to (5).
- (3) If the person responsible for the pension arrangement has power to determine the person to whom the sum, or any part of it, is to be paid, the court may require him to pay the whole or part of that sum, when it becomes due, to the other civil partner.
- (4) If the civil partner with pension rights has power to nominate the person to whom the sum, or any part of it, is to be paid, the court may require the civil partner with pension rights to nominate the other civil partner in respect of the whole or part of that sum.
- (5) In any other case, the court may require the person responsible for the pension arrangement in question to pay the whole or part of that sum, when it becomes due, for the benefit of the other civil partner instead of to the person to whom, apart from the order, it would be paid.
- (6) Any payment by the person responsible for the arrangement under an order made under Part 1 made by virtue of this paragraph discharges so much of his liability in respect of the civil partner with pension rights as corresponds to the amount of the payment.
- (7) The powers conferred by this paragraph may not be exercised in relation to a pension arrangement which—
- (a) is the subject of a pension sharing order in relation to the civil partnership, or
 - (b) has been the subject of pension sharing between the civil partners.

Pensions: supplementary

- 22 If—

Status: Point in time view as at 02/03/2015.

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- (a) a Part 1 order made by virtue of paragraph 20 or 21 imposes any requirement on the person responsible for a pension arrangement (“the first arrangement”),
 - (b) the civil partner with pension rights acquires rights under another pension arrangement (“the new arrangement”) which are derived (directly or indirectly) from the whole of that civil partner’s rights under the first arrangement, and
 - (c) the person responsible for the new arrangement has been given notice in accordance with regulations made by the Lord Chancellor,
- the Part 1 order has effect as if it had been made instead in respect of the person responsible for the new arrangement.

Commencement Information

- I21** Sch. 15 para. 22 wholly in force at 5.12.2005; Sch. 15 para. 22 not in force at Royal Assent see s. 263; Sch. 15 para. 22(c) in force for certain purposes at 7.11.2005 by [S.I. 2005/3058](#), [art. 2](#) and Sch. 15 para. 22 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

Regulations

- 23 (1) The Lord Chancellor may by regulations—
- (a) make provision, in relation to any provision of paragraphs 20 or 21 which authorises the court making a Part 1 order to require the person responsible for a pension arrangement to make a payment for the benefit of the other civil partner, as to—
 - (i) the person to whom, and
 - (ii) the terms on which,the payment is to be made;
 - (b) make provision, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of paragraph 20 or 21 in a Part 1 order, about the rights or liabilities of the payer, the payee or the person to whom the payment was due;
 - (c) require notices to be given in respect of changes of circumstances relevant to Part 1 orders which include provision made by virtue of paragraphs 20 and 21;
 - (d) make provision for the person responsible for a pension arrangement to be discharged in prescribed circumstances from a requirement imposed by virtue of paragraph 20 or 21;
 - (e) make provision about calculation and verification in relation to the valuation of—
 - (i) benefits under a pension arrangement, or
 - (ii) shareable state scheme rights (within the meaning of paragraph 11(3)),for the purposes of the court’s functions in connection with the exercise of any of its powers under this Schedule.
- (2) Regulations under sub-paragraph (1)(e) may include—
- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person, and

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- (b) provision by reference to regulations under Article 27 or 46(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)).
- (3) The power to make regulations under paragraph 22 or this paragraph is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (4) Regulations under paragraph 22 or this paragraph are subject to [^{F162}negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954].
- (5) “Prescribed” means prescribed by regulations.

Textual Amendments

F162 Words in Sch. 15 para. 23(4) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 75(3)** (with arts. 28-31)

Commencement Information

I22 Sch. 15 para. 23 wholly in force at 5.12.2005; Sch. 15 para. 23 not in force at Royal Assent see s. 263; Sch. 15 para. 23 in force for certain purposes at 7.11.2005 by [S.I. 2005/3058](#), **art. 2** and Sch. 15 para. 23 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), **art. 2(1)**, **Sch. 1**

Interpretation of provisions relating to pensions

- 24 (1) In this Part “the civil partner with pension rights” means the civil partner who has or is likely to have benefits under a pension arrangement.
- (2) In this Part “pension arrangement” has the same meaning as in Part 3.
- (3) In this Part, references to the person responsible for a pension arrangement are to be read in accordance with Article 23 of the 1999 Order.

Commencement Information

I23 Sch. 15 para. 24 wholly in force at 5.12.2005; Sch. 15 para. 24 not in force at Royal Assent see s. 263; Sch. 15 para. 24(2)(3) in force for certain purposes at 7.11.2005 by [S.I. 2005/3058](#), **art. 2** and Sch. 15 para. 24 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), **art. 2(1)**, **Sch.**

PART 6

PENSION PROTECTION FUND COMPENSATION ETC.

PPF compensation to be included in matters to which court is to have regard

- 25 (1) The matters to which a court is to have regard under paragraph 16(2)(a) include any PPF compensation to which a civil partner is or is likely to be entitled; and, accordingly, in relation to any PPF compensation paragraph 16(2)(a)(ii) has effect as if “in the foreseeable future” were omitted.

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(2) The matters to which a court is to have regard under paragraph 16(2)(h) include any PPF compensation which, because of the making of a dissolution or nullity order, a civil partner will lose the chance of acquiring entitlement to.

(3) ^{F163}

Textual Amendments

F163 Sch. 15 para. 25(3) repealed (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 116, 118, [Sch. 5 para. 17\(2\)](#), [Sch. 10 Pt. 4](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

Assumption of responsibility by PPF Board in paragraph 20(2) cases

- 26 (1) This paragraph applies to an order under Part 1 so far as it includes provision made by virtue of paragraph 20(2) which—
- (a) imposed requirements on the trustees or managers of an occupational pension scheme for which the Board has assumed responsibility, and
 - (b) was made before the trustees or managers received the transfer notice.
- (2) From the time the trustees or managers of the scheme receive the transfer notice, the order has effect—
- (a) except in descriptions of case prescribed by regulations, with the modifications set out in sub-paragraph (3), and
 - (b) with such other modifications as may be prescribed by regulations.
- (3) The modifications are that—
- (a) references in the order to the trustees or managers of the scheme have effect as references to the Board, and
 - (b) references in the order to any pension or lump sum to which the civil partner with pension rights is or may become entitled under the scheme have effect as references to any PPF compensation to which that person is or may become entitled in respect of the pension or lump sum.

Assumption of responsibility by PPF Board in paragraph 20(5) cases

- 27 (1) This paragraph applies to an order under Part 1 if—
- (a) it includes provision made by virtue of paragraph 20(5) which requires the civil partner with pension rights to exercise his right of commutation under an occupational pension scheme to any extent, and
 - (b) before the requirement is complied with the Board has assumed responsibility for the scheme.
- (2) From the time the trustees or managers of the scheme receive the transfer notice, the order has effect with such modifications as may be prescribed by regulations.

Lump sums: power to modify paragraph 21 in respect of assessment period

- 28 Regulations may modify paragraph 21 in its application to an occupational pension scheme during an assessment period in relation to the scheme.

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Assumption of responsibility by the Board not to affect power of court to vary order etc.

- 29 (1) This paragraph applies where the court makes, in relation to an occupational pension scheme—
- (a) a pension sharing order, or
 - (b) an order including provision made by virtue of paragraph 20(2) or (5).
- (2) If the Board subsequently assumes responsibility for the scheme, that does not affect—
- (a) the powers of the court under paragraph 46 to vary or discharge the order or to suspend or revive any provision of it;
 - (b) on an appeal, the powers of the appeal court to affirm, reinstate, set aside or vary the order.

^{F164} Attachment of PPF compensation

Textual Amendments

F164 Sch. 15 para. 29A and cross-heading inserted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 118, [Sch. 5 para. 17\(3\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

- 29A (1) This paragraph applies if, having regard to any PPF compensation to which a civil partner is or is likely to be entitled, the court decides to make an order under Part 1.
- (2) To the extent to which the Part 1 order is made having regard to such compensation, it may require the Board, if at any time any payment in respect of PPF compensation becomes due to the civil partner with compensation rights, to make a payment for the benefit of the other civil partner.
- (3) The Part 1 order must express the amount of any payment required to be made by virtue of sub-paragraph (2) as a percentage of the payment which becomes due to the civil partner with compensation rights.
- (4) Any such payment by the Board—
- (a) discharges so much of its liability to the civil partner with compensation rights as corresponds to the amount of the payment, and
 - (b) is to be treated for all purposes as a payment made by the civil partner with compensation rights in or towards the discharge of that civil partner's liability under the order.
- (5) If the civil partner with compensation rights has a right to commute any PPF compensation, the Part 1 order may require that civil partner to exercise it to any extent.
- (6) This paragraph applies to any payment due in consequence of commutation in pursuance of the Part 1 order as it applies to other payments in respect of PPF compensation.
- (7) The power conferred by sub-paragraph (5) may not be exercised for the purpose of commuting a benefit payable to the civil partner with compensation rights to a benefit payable to the other civil partner.
- (8) The powers conferred by sub-paragraphs (2) and (5) may not be exercised in relation to rights to PPF compensation that—

Status: Point in time view as at 02/03/2015.

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- (a) derive from rights under a pension scheme that were at any time the subject of a pension sharing order in relation to the civil partnership or a previous civil partnership between the same parties, or
- (b) are or have ever been the subject of a pension compensation sharing order in relation to the civil partnership or a previous civil partnership between the same parties.

[(1) Regulations may—

- ^{F165}29B
- (a) make provision, in relation to any provision of paragraph 29A which authorises the court making a Part 1 order to require the Board to make a payment for the benefit of the other civil partner, as to the person to whom, and the terms on which, the payment is to be made;
 - (b) make provision, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of paragraph 29A in a Part 1 order, about the rights or liabilities of the payer, the payee or the person to whom the payment was due;
 - (c) require notices to be given in respect of changes of circumstances relevant to Part 1 orders which include provision made by virtue of paragraph 29A;
 - (d) make provision for the Board to be discharged in prescribed circumstances from a requirement imposed by virtue of paragraph 29A;
 - (e) make provision about calculation and verification in relation to the valuation of PPF compensation for the purposes of the court's functions in connection with the exercise of any of its powers under this Schedule.

(2) Regulations under sub-paragraph (1)(e) may include—

- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person;
- (b) provision by reference to regulations under section 90 of the Pensions (No. 2) Act (Northern Ireland) 2008.]]

Textual Amendments

F165 Sch. 15 para. 29B inserted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 118, [Sch. 5 para. 17\(4\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

Regulations

- 30 Regulations may make such consequential modifications of any provision of, or made by virtue of, this Schedule as appear to the Lord Chancellor necessary or expedient to give effect to the provisions of this Part.
- 31 (1) In this Part “regulations” means regulations made by the Lord Chancellor.
- (2) A power to make regulations under this Part is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (3) Regulations under this Part are subject to [^{F166}negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954].

Status: Point in time view as at 02/03/2015.

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Textual Amendments

F166 Words in Sch. 15 para. 31(3) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), [Sch. 18 para. 75\(4\)](#) (with arts. 28-31)

Interpretation

- 32 (1) In this Part—
- “assessment period” means—
 - (a) an assessment period within the meaning of Part 2 of the Pensions Act 2004 (pension protection), or
 - (b) an equivalent period under corresponding Northern Ireland legislation;
 - “the Board” means the Board of the Pension Protection Fund;
 - [^{F167}“the civil partner with compensation rights” means the civil partner who is or is likely to be entitled to PPF compensation;
 - “the civil partner with pension rights” has the meaning given by paragraph 24(1);
 - “occupational pension scheme” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 (c. 49);
 - [^{F168}“prescribed” means prescribed by regulations;
 - “transfer notice” has the same meaning as in—
 - (a) Chapter 3 of Part 2 of the 2004 Act, or
 - (b) corresponding Northern Ireland legislation.
- (2) References in this Part to the Board assuming responsibility for a scheme are to the Board assuming responsibility for the scheme in accordance with—
- (a) Chapter 3 of Part 2 of the 2004 Act (pension protection), or
 - (b) corresponding Northern Ireland legislation.]]

Textual Amendments

F167 Sch. 15 para. 32(1): the definition of “the civil partner with compensation rights” inserted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 118, [Sch. 5 para. 17\(5\)\(a\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

F168 Sch. 15 para. 32(1): the definition of “prescribed” inserted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 118, [Sch. 5 para. 17\(5\)\(b\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

PART 7

MAINTENANCE PENDING OUTCOME OF DISSOLUTION, NULLITY OR SEPARATION PROCEEDINGS

- 33 On an application for a dissolution, nullity or separation order, the court may make an order requiring either civil partner to make to the other for the other’s maintenance such periodical payments for such term—
- (a) beginning no earlier than the date on which the application was made, and
 - (b) ending with the date on which the proceedings are determined,
- as the court thinks reasonable.

Status: Point in time view as at 02/03/2015.

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PART 8

FAILURE TO MAINTAIN: FINANCIAL PROVISION (AND INTERIM ORDERS)

Circumstances in which orders under this Part may be made

- 34 (1) Either civil partner in a subsisting civil partnership may apply to the court for an order under this Part on the ground that the other civil partner (“the respondent”)—
- (a) has failed to provide reasonable maintenance for the applicant, or
 - (b) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family.
- (2) The court must not entertain an application under this paragraph^{F169} unless it has jurisdiction to do so by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.]
- (3) If, on an application under this paragraph, it appears to the court that—
- (a) the applicant or any child of the family to whom the application relates is in immediate need of financial assistance, but
 - (b) it is not yet possible to determine what order, if any, should be made on the application,
- the court may make an interim order.
- (4) If, on an application under this paragraph, the applicant satisfies the court of a ground mentioned in sub-paragraph (1), the court may make one or more of the orders set out in paragraph 36.
- ^{F170}(5) In this paragraph “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Textual Amendments

F169 Words in Sch. 15 para. 34(2) substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, [Sch. 7 para. 16\(8\)\(a\)](#)

F170 Sch. 15 para. 34(5) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, [Sch. 7 para. 16\(8\)\(b\)](#)

Interim orders

- 35 An interim order is an order requiring the respondent to make to the applicant, until the determination of the application, such periodical payments as the court thinks reasonable.

Orders that may be made where failure to maintain established

- 36 (1) The orders are—
- (a) an order that the respondent must make to the applicant such periodical payments for such term as may be specified;
 - (b) an order that the respondent must secure to the applicant, to the satisfaction of the court, such periodical payments for such term as may be specified;

Status: Point in time view as at 02/03/2015.

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- (c) an order that the respondent must pay to the applicant such lump sum as may be specified;
- (d) an order that the respondent must make such periodical payments for such term as may be specified—
 - (i) to such person as may be specified, for the benefit of the child to whom the application relates, or
 - (ii) to the child to whom the application relates;
- (e) an order that the respondent must secure—
 - (i) to such person as may be specified for the benefit of the child to whom the application relates, or
 - (ii) to the child to whom the application relates,
 to the satisfaction of the court, such periodical payments for such term as may be specified;
- (f) an order that the respondent must pay such lump sum as may be specified—
 - (i) to such person as may be specified for the benefit of the child to whom the application relates, or
 - (ii) to the child to whom the application relates.

(2) In this Part “specified” means specified in the order.

Particular provision that may be made by lump sum orders

- 37 (1) An order under this Part for the payment of a lump sum may be made for the purpose of enabling any liabilities or expenses reasonably incurred in maintaining the applicant or any child of the family to whom the application relates before the making of the application to be met.
- (2) An order under this Part for the payment of a lump sum may—
- (a) provide for its payment by instalments of such amount as may be specified, and
 - (b) require the payment of the instalments to be secured to the satisfaction of the court.
- (3) Sub-paragraphs (1) and (2) do not restrict the power to make an order by virtue of paragraph 36(1)(c) or (f).

Matters to which the court is to have regard on application under paragraph 34(1)(a)

- 38 (1) This paragraph applies if an application under paragraph 34 is made on the ground mentioned in paragraph 34(1)(a).
- (2) In deciding—
- (a) whether the respondent has failed to provide reasonable maintenance for the applicant, and
 - (b) what order, if any, to make under this Part in favour of the applicant,
- the court must have regard to all the circumstances of the case including the matters mentioned in paragraph 16(2).
- (3) If an application is also made under paragraph 34 in respect of a child of the family who has not reached 18, the court must give first consideration to the welfare of the child while under 18.

Status: Point in time view as at 02/03/2015.

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- (4) Paragraph 16(2)(c) has effect as if for the reference in it to the breakdown of the civil partnership there were substituted a reference to the failure to provide reasonable maintenance for the applicant.

Matters to which the court is to have regard on application under paragraph 34(1)(b)

- 39 (1) This paragraph applies if an application under paragraph 34 is made on the ground mentioned in paragraph 34(1)(b).
- (2) In deciding—
- (a) whether the respondent has failed to provide, or to make a proper contribution towards, reasonable maintenance for the child of the family to whom the application relates, and
 - (b) what order, if any, to make under this Part in favour of the child,
- the court must have regard to all the circumstances of the case.
- (3) Those circumstances include—
- (a) the matters mentioned in paragraph 17(2)(a) to (e), and
 - (b) if the child of the family to whom the application relates is not the child of the respondent, the matters mentioned in paragraph 17(3).
- (4) Paragraph 16(2)(c) (as it applies by virtue of paragraph 17(2)(e)) has effect as if for the reference in it to the breakdown of the civil partnership there were substituted a reference to—
- (a) the failure to provide, or
 - (b) the failure to make a proper contribution towards,
- reasonable maintenance for the child of the family to whom the application relates.

Restrictions on making orders under this Part

- 40 The power to make an order under paragraph 36(1)(d), (e) or (f) is subject to paragraph 44(1) and (5) (restrictions on orders in favour of children who have reached 18).

PART 9

COMMENCEMENT OF CERTAIN PROCEEDINGS AND DURATION OF CERTAIN ORDERS

Commencement of proceedings for ancillary relief, etc.

- 41 (1) Sub-paragraph (2) applies if an application for a dissolution, nullity or separation order has been made.
- (2) Subject to sub-paragraph (3), proceedings for—
- (a) an order under Part 1 (financial provision on dissolution etc.),
 - (b) a property adjustment order, or
 - (c) an order under Part 7 (maintenance pending outcome of dissolution, nullity or separation proceedings),
- may be begun (subject to and in accordance with rules of court), at any time after the presentation of the application.

Status: Point in time view as at 02/03/2015.

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- (3) Rules of court may provide, in such cases as may be prescribed by the rules that—
- (a) an application for any such relief as is mentioned in sub-paragraph (2) must be made in the application or defence, and
 - (b) an application for any such relief which—
 - (i) is not so made, or
 - (ii) is not made until after the end of such period following the presentation of the application or filing of the defence as may be so prescribed,
 may be made only with the leave of the court.

Commencement Information

I24 Sch. 15 para. 41 wholly in force at 5.12.2005; Sch. 15 para. 41 not in force at Royal Assent see s. 263; Sch. 15 para. 41(2) in force for certain purposes and Sch. 15 para. 41(3) in force at 5.9.2005 by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and Sch. 15 para. 41 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

Duration of periodical and secured periodical payments orders for a civil partner

- 42 (1) The court may specify in a periodical payments or secured periodical payments order in favour of a civil partner such term as it thinks fit, except that the term must not—
- (a) begin before the date of the making of an application for the order, or
 - (b) extend beyond the limits given in sub-paragraphs (2) and (3).
- (2) The limits in the case of a periodical payments order are—
- (a) the death of either civil partner;
 - (b) where the order is made on or after the making of a dissolution or nullity order, the formation of a subsequent civil partnership or marriage by the civil partner in whose favour the order is made.
- (3) The limits in the case of a secured periodical payments order are—
- (a) the death of the civil partner in whose favour the order is made;
 - (b) where the order is made on or after the making of a dissolution or nullity order, the formation of a subsequent civil partnership or marriage by the civil partner in whose favour the order is made.
- (4) In the case of an order made on or after the making of a dissolution or nullity order, sub-paragraphs (1) to (3) are subject to paragraphs 18(3) and 52(4).
- (5) If a periodical payments or secured periodical payments order in favour of a civil partner is made on or after the making of a dissolution or nullity order, the court may direct that that civil partner is not entitled to apply under paragraph 46 for the extension of the term specified in the order.
- (6) If—
- (a) a periodical payments or secured periodical payments order in favour of a civil partner is made otherwise than on or after the making of a dissolution or nullity order, and
 - (b) the civil partnership is subsequently dissolved or annulled but the order continues in force,

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the order ceases to have effect (regardless of anything in it) on the formation of a subsequent civil partnership or marriage by that civil partner, except in relation to any arrears due under it on the date of its formation.

Subsequent civil partnership or marriage

- 43 If after the making of a dissolution or nullity order one of the civil partners forms a subsequent civil partnership or marriage, that civil partner is not entitled to apply, by reference to the dissolution or nullity order, for—
- (a) an order under Part 1 in that civil partner’s favour, or
 - (b) a property adjustment order,
- against the other civil partner in the dissolved or annulled civil partnership.

*Duration of continuing orders in favour of children,
and age limit on making certain orders in their favour*

- 44 (1) Subject to sub-paragraph (5)—
- (a) no order under Part 1,
 - (b) no property adjustment order made by virtue of paragraph 7(1)(a) (transfer of property), and
 - (c) no order made under Part 8 (failure to maintain) by virtue of paragraph 36,
- is to be made in favour of a child who has reached 18.
- (2) The term to be specified in a periodical payments or secured periodical payments order in favour of a child may begin with—
- (a) the date of the making of an application for the order or a later date, or
 - (b) a date ascertained in accordance with sub-paragraph (7) or (8).
- (3) The term to be specified in such an order—
- (a) must not in the first instance extend beyond the date of the birthday of the child next following the child’s reaching the upper limit of the compulsory school age unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date, and
 - (b) must not in any event, subject to sub-paragraph (5), extend beyond the date of the child’s 18th birthday.
- (4) In sub-paragraph (3)(a) “compulsory school age” has the meaning given in Article 46 of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)).
- (5) Sub-paragraphs (1) and (3)(b) do not apply in the case of a child, if it appears to the court that—
- (a) the child is, or will be, or, if an order were made without complying with either or both of those provisions, would be—
 - (i) receiving instruction at an educational establishment, or
 - (ii) undergoing training for a trade, profession or vocation,whether or not the child also is, will be or would be in gainful employment, or
 - (b) there are special circumstances which justify the making of an order without complying with either or both of sub-paragraphs (1) and (3)(b).

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- (6) A periodical payments order in favour of a child, regardless of anything in the order, ceases to have effect on the death of the person liable to make payments under the order, except in relation to any arrears due under the order on the date of the death.
- (7) If—
- (a) a maintenance calculation (“the current calculation”) is in force with respect to a child, and
 - (b) an application is made under this Schedule for a periodical payments or secured periodical payments order in favour of that child before the end of 6 months beginning with the making of the current calculation,
- the term to be specified in any such order made on that application may be expressed to begin on, or at any time after, the earliest permitted date.
- (8) “The earliest permitted date” is whichever is the later of—
- (a) the date 6 months before the application is made, or
 - (b) the date on which the current calculation took effect or, where successive maintenance calculations have been continuously in force with respect to a child, on which the first of those calculations took effect.
- (9) If—
- (a) a maintenance calculation ceases to have effect by or under any provision of the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)), and
 - (b) an application is made, before the end of 6 months beginning with the relevant date, for a periodical payments or secured periodical payments order in favour of a child with respect to whom that maintenance calculation was in force immediately before it ceased to have effect,
- the term to be specified in any such order made on that application may begin with the date on which that maintenance calculation ceased to have effect or any later date.
- (10) “The relevant date” means the date on which the maintenance calculation ceased to have effect.
- (11) In this Schedule “maintenance calculation” has the same meaning as it has in the 1991 Order.

PART 10

VARIATION, DISCHARGE ETC. OF CERTAIN ORDERS FOR FINANCIAL RELIEF

Orders etc. to which this Part applies

- 45 (1) This Part applies to the following orders—
- (a) a periodical payments order under Part 1 (financial provision on dissolution etc.) or Part 8 (failure to maintain);
 - (b) a secured periodical payments order under Part 1 or 8;
 - (c) an order under Part 7 (maintenance pending outcome of dissolution proceedings etc.);
 - (d) an interim order under Part 8;

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- (e) an order made under Part 1 by virtue of paragraph 3(3) or under Part 8 by virtue of paragraph 37(2) (lump sum by instalments);
 - (f) a deferred order made under Part 1 by virtue of paragraph 2(1)(c) (lump sum for civil partner) which includes provision made by virtue of—
 - (i) paragraph 20(2),^{F171} . . .
 - (ii) paragraph 21,^{[F172} or]
 - ^{[F173}(iii) paragraph 29A(2),](provision in respect of pension rights ^{[F174}or pension compensation rights]);
 - (g) a property adjustment order made on or after the making of a separation order by virtue of paragraph 7(1)(b), (c) or (d) (order for settlement or variation of settlement);
 - (h) a pension sharing order ^{[F175}, or a pension compensation sharing order,] made before the dissolution or nullity order has been made final.
- (2) If the court has made an order referred to in sub-paragraph (1)(f)(ii), this Part ceases to apply to the order on the death of either of the civil partners.
- (3) The powers exercisable by the court under this Part in relation to an order are also exercisable in relation to any instrument executed in pursuance of the order.

Textual Amendments

- F171** Word in Sch. 15 para. 45(1)(f)(i) repealed (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 116, 118, Sch. 5 para. 18(4)(2)(a), **Sch. 10 Pt. 4**; S.R. 2011/108, **art. 2(2)**, Sch.
- F172** Word in Sch. 15 para. 45(1)(f)(ii) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 18(2)(b)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F173** Sch. 15 para. 45(1)(f)(iii) added (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 18(2)(c)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F174** Words in Sch. 15 para. 45(1)(f) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 18(2)(d)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F175** Words in Sch. 15 para. 45(1)(h) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 18(3)**; S.R. 2011/108, **art. 2(2)**, Sch.

Powers to vary, discharge, suspend or revive order

- 46 (1) If the court has made an order to which this Part applies, it may—
- (a) vary or discharge the order,
 - (b) suspend any provision of it temporarily, or
 - (c) revive the operation of any provision so suspended.
- (2) Sub-paragraph (1) is subject to the provisions of this Part and paragraph 42(5).

Power to remit arrears

- 47 (1) If the court has made an order referred to in paragraph 45(1)(a), (b), (c) or (d), it may remit the payment of any arrears due under the order or under any part of the order.
- (2) Sub-paragraph (1) is subject to the provisions of this Part.

Status: Point in time view as at 02/03/2015.

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Variation etc. of periodical or secured periodical payments orders made in cases of failure to maintain

- 48 (1) An application for the variation under paragraph 46 of a periodical payments order or secured periodical payments order made under Part 8 in favour of a child may, if the child has reached 16, be made by the child himself.
- (2) Sub-paragraph (3) applies if a periodical payments order made in favour of a child under Part 8 ceases to have effect—
- (a) on the date on which the child reaches 16, or
 - (b) at any time after that date but before or on the date on which the child reaches 18.
- (3) If, on an application made to the court for an order under this sub-paragraph, it appears to the court that—
- (a) the child is, will be or, if an order were made under this sub-paragraph, would be—
 - (i) receiving instruction at an educational establishment, or
 - (ii) undergoing training for a trade, profession or vocation,
 whether or not the child also is, will be or would be in gainful employment, or
 - (b) there are special circumstances which justify the making of an order under this sub-paragraph,
- the court may by order revive the order mentioned in sub-paragraph (2) from a date specified by it.
- (4) The date specified under sub-paragraph (3) must not be earlier than the date of the application under that sub-paragraph.
- (5) If under sub-paragraph (3) the court revives an order it may exercise its power under paragraph 46 in relation to the revived order.

Variation etc. of property adjustment ^{F176}, pension sharing and pension compensation sharing orders

Textual Amendments

F176 Words in Sch. 15 para. 49 cross-heading substituted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 18(4)**; S.R. 2011/108, **art. 2(2)**, Sch.

- 49 The court must not exercise the powers conferred by this Part in relation to a property adjustment order falling within paragraph 7(1)(b), (c) or (d) (order for settlement or for variation of settlement) except on an application made in proceedings—
- (a) for the rescission of the separation order by reference to which the property adjustment order was made, or
 - (b) for a dissolution order in relation to the civil partnership.
- 50 (1) In relation to a pension sharing order ^{F177} or pension compensation sharing order] which is made at a time before the dissolution or nullity order has been made final—
- (a) the powers conferred by this Part (by virtue of paragraph 45(1)(h)) may be exercised—

Status: Point in time view as at 02/03/2015.

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- (i) only on an application made before the pension sharing order [^{F178}or pension compensation sharing order] has or, but for paragraph (b), would have taken effect, and
 - (ii) only if, at the time when the application is made, the dissolution or nullity order has not been made final, and
 - (b) an application made in accordance with paragraph (a) prevents the pension sharing order [^{F179}or pension compensation sharing order] from taking effect before the application has been dealt with.
- (2) No variation of a pension sharing order [^{F180}or pension compensation sharing order] is to be made so as to take effect before the order is made final.
- (3) The variation of a pension sharing order [^{F181}or pension compensation sharing order] prevents the order taking effect before the end of such period after the making of the variation as may be prescribed by regulations made by the Lord Chancellor.
- (4) The power to make regulations under sub-paragraph (3) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (5) Regulations under sub-paragraph (3) are subject to [^{F182}negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954].

Textual Amendments

- F177** Words in Sch. 15 para. 50(1) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 18(5)(a)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F178** Words in Sch. 15 para. 50(1)(a)(i) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 18(5)(b)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F179** Words in Sch. 15 para. 50(1)(b) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 18(5)(c)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F180** Words in Sch. 15 para. 50(2) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 18(5)(d)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F181** Words in Sch. 15 para. 50(3) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 18(5)(e)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F182** Words in Sch. 15 para. 50(5) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 15(5), **Sch. 18 para. 75(5)** (with arts. 28-31)

Commencement Information

- I25** Sch. 15 para. 50 wholly in force at 5.12.2005; Sch. 15 para. 50 not in force at Royal Assent see s. 263; Sch. 15 para. 50(3)(4)(5) in force for certain purposes at 5.9.2005 by S.I. 2005/2399, **art. 2**, Sch. and Sch. 15 para. 50 in force otherwise at 5.12.2005 by S.I. 2005/3255, **art. 2(1)**, Sch.

- 51 (1) No property adjustment order [^{F183}, pension sharing order or pension compensation sharing order] may be made on an application for the variation of a periodical payments or secured periodical payments order made (whether in favour of a civil partner or in favour of a child of the family) under Part 1.
- (2) No order for the payment of a lump sum may be made on an application for the variation of a periodical payments or secured periodical payments order in favour of a civil partner (whether made under Part 1 or 8).

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Textual Amendments

F183 Words in Sch. 15 para. 51(1) substituted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008](#) (c. 13), ss. 98, 118, [Sch. 5 para. 18\(6\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

Matters to which court is to have regard in exercising powers under this Part

- 52 (1) In exercising the powers conferred by this Part the court must have regard to all the circumstances of the case, giving first consideration to the welfare, while under 18, of any child of the family who has not reached 18.
- (2) The circumstances of the case include, in particular, any change in any of the matters to which the court was required to have regard when making the order to which the application relates.
- (3) Sub-paragraph (4) applies in the case of—
- (a) a periodical payments order, or
 - (b) a secured periodical payments order,
- made on or after the making of a dissolution or nullity order.
- (4) The court must consider whether in all the circumstances, and after having regard to any such change, it would be appropriate to vary the order so that payments under the order are required—
- (a) to be made, or
 - (b) to be secured,
- only for such further period as will in the opinion of the court be sufficient to enable the civil partner in whose favour the order was made to adjust without undue hardship to the termination of those payments.
- (5) If the civil partner against whom the order was made has died, the circumstances of the case also include the changed circumstances resulting from that civil partner's death.

Variation of secured periodical payments order where person liable has died

- 53 (1) This paragraph applies if the person liable to make payments under a secured periodical payments order has died.
- (2) Subject to sub-paragraph (3), an application under this Part relating to the order may be made by—
- (a) the person entitled to payments under the periodical payments order, or
 - (b) the personal representatives of the deceased person.
- (3) No such application may be made without the leave of the court after the end of 6 months from the date on which representation in regard to the estate of that person is first taken out.
- (4) The personal representatives of the person who has died are not liable for having distributed any part of the estate of the deceased after the end of the 6 month period on the ground that they ought to have taken into account the possibility that the court might allow an application under this paragraph to be made after that period by the person entitled to payments under the order.

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- (5) Sub-paragraph (4) does not affect any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.
- (6) In considering for the purposes of sub-paragraph (3) the question when representation was first taken out a grant limited to part of the estate is to be disregarded unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

Power to direct when variation etc. is to take effect

- 54 (1) If the court, in exercise of its powers under this Part, decides—
- (a) to vary, or
 - (b) to discharge,
- a periodical payments or secured periodical payments order, it may direct that the variation or discharge is not to take effect until the end of such period as may be specified.
- (2) Sub-paragraph (1) is subject to paragraph 42(1) and (6).
- 55 (1) If—
- (a) a periodical payments or secured periodical payments order in favour of more than one child (“the order”) is in force,
 - (b) the order requires payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them,
 - (c) a maintenance calculation (“the calculation”) is made with respect to one or more, but not all, of the children with respect to whom those payments are to be made, and
 - (d) an application is made, before the end of the period of 6 months beginning with the date on which the calculation was made, for the variation or discharge of the order,
- the court may, in exercise of its powers under this Part to vary or discharge the order, direct that the variation or discharge is to take effect from the date on which the calculation took effect or any later date.
- (2) If—
- (a) an order (“the child order”) of a kind prescribed for the purposes of Article 12(1) of the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)) is affected by a maintenance calculation,
 - (b) on the date on which the child order became so affected there was in force a periodical payments or secured periodical payments order (“the civil partner’s order”) in favour of a civil partner having the care of the child in whose favour the child order was made, and
 - (c) an application is made, before the end of the period of 6 months beginning with the date on which the maintenance calculation was made, for the civil partner’s order to be varied or discharged,
- the court may, in exercise of its powers under this Part to vary or discharge the civil partner’s order, direct that the variation or discharge is to take effect from the date on which the child order became so affected or any later date.
- (3) For the purposes of sub-paragraph (2), an order is affected if it ceases to have effect or is modified by or under Article 12 of the 1991 Order.

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- (4) Sub-paragraphs (1) and (2) do not affect any other power of the court to direct that the variation or discharge of an order under this Part is to take effect from a date earlier than that on which the order for variation or discharge was made.

PART 11

ARREARS AND REPAYMENTS

Payment of certain arrears unenforceable without the leave of the court

- 56 (1) This paragraph applies if any arrears are due under—
- (a) an order under Part 1 (financial provision on dissolution etc.),
 - (b) an order under Part 7 (maintenance pending outcome of dissolution, nullity or separation proceedings), or
 - (c) an interim order under Part 8 (failure to maintain),
- and the arrears became due more than 12 months before proceedings to enforce the payment of them are begun.
- (2) A person is not entitled to enforce through the court the payment of the arrears without the leave of that court.
- (3) The court hearing an application for the grant of leave under this paragraph may—
- (a) refuse leave,
 - (b) grant leave subject to such restrictions and conditions (including conditions as to the allowing of time for payment or the making of payment by instalments) as that court thinks proper, or
 - (c) remit the payment of the arrears or of any part of them.

Orders for repayment in certain cases of sums paid under certain orders

- 57 (1) This paragraph applies if—
- (a) a person (“R”) is entitled to receive payments under an order listed in sub-paragraph (4), and
 - (b) R’s circumstances or the circumstances of the person (“P”) liable to make payments under the order have changed since the order was made, or the circumstances have changed as a result of P’s death.
- (2) The orders are—
- (a) any order under Part 7 (maintenance pending outcome of dissolution, nullity or separation proceedings);
 - (b) any interim order under Part 8;
 - (c) any periodical payments order;
 - (d) any secured periodical payments order.
- (3) P or P’s personal representatives may (subject to sub-paragraph (7)) apply for an order under this paragraph against R or R’s personal representatives.
- (4) If it appears to the court that, because of the changed circumstances or P’s death, the amount received by R in respect of a relevant period exceeds the amount which P or P’s personal representatives should have been required to pay, it may order the

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- respondent to the application to pay to the applicant such sum, not exceeding the amount of the excess, as it thinks just.
- (5) “Relevant period” means a period after the circumstances changed or (as the case may be) after P’s death.
- (6) An order under this paragraph for the payment of any sum may provide for the payment of that sum by instalments of an amount specified in the order.
- (7) An application under this paragraph—
- (a) may be made in proceedings in the High Court for—
- (i) the variation or discharge of the order listed in sub-paragraph (2), or
- (ii) leave to enforce, or the enforcement of, the payment of arrears under that order, but
- (b) if not made in such proceedings, must be made to a county court;
- and accordingly references in this paragraph to the court are references to the High Court or a county court (whether a civil partnership proceedings county court or not), as the circumstances require.
- (8) The jurisdiction conferred on a county court by this paragraph is exercisable even though, because of the amount claimed in the application, the jurisdiction would not but for this sub-paragraph be exercisable by a county court.

Orders for repayment after cessation of order because of subsequent civil partnership etc.

- 58 (1) Sub-paragraphs (3) and (4) apply if—
- (a) a periodical payments or secured periodical payments order in favour of a civil partner (“R”) has ceased to have effect because of the formation of a subsequent civil partnership or marriage by R, and
- (b) the person liable to make payments under the order (“P”) (or P’s personal representatives) has made payments in accordance with it in respect of a relevant period in the mistaken belief that the order was still subsisting.
- (2) “Relevant period” means a period after the date of the formation of the civil partnership or marriage.
- (3) P (or P’s personal representatives) is not entitled to bring proceedings in respect of a cause of action arising out of the circumstances mentioned in sub-paragraph (1)(a) and (b) against R (or R’s personal representatives).
- (4) But, on an application under this paragraph by P (or P’s personal representatives) against R (or R’s personal representatives), the court—
- (a) may order the respondent to pay to the applicant a sum equal to the amount of the payments made in respect of the relevant period, or
- (b) if it appears to the court that it would be unjust to make that order, may—
- (i) order the respondent to pay to the applicant such lesser sum as it thinks fit, or
- (ii) dismiss the application.
- (5) An order under this paragraph for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.
- (6) An application under this paragraph—

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- (a) may be made in proceedings in the High Court for leave to enforce, or the enforcement of, payment of arrears under the order in question, but
 - (b) if not made in such proceedings, must be made to a county court;
- and accordingly references in this paragraph to the court are references to the High Court or a county court (whether a civil partnership proceedings county court or not), as the circumstances require.
- (7) The jurisdiction conferred on a county court by this paragraph is exercisable even though, because of the amount claimed in the application, the jurisdiction would not but for this sub-paragraph be exercisable by a county court.
- (8) Subject to sub-paragraph (9), the collecting officer of a court of summary jurisdiction to whom any payments under a payments order, or under an attachment of earnings order made to secure payments under a payments order, are required to be made is not liable—
- (a) for any act done by him in pursuance of the payments order after the date on which that order ceased to have effect because of the formation of a subsequent civil partnership or marriage by R, or
 - (b) for any act done by him after that date in accordance with any statutory provision specifying how payments made to him in compliance with the attachment of earnings order are to be dealt with.
- (9) Sub-paragraph (8) applies if (and only if) the act—
- (a) was one which the officer would have been under a duty to do had the payments order not ceased to have effect, and
 - (b) was done before notice in writing of the formation of the civil partnership or marriage, was given to him by or on behalf of R, P, or R or P’s personal representatives.
- (10) In this paragraph—
- “collecting officer” means the officer mentioned in section 15(2) of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (c. 35) or Article 85(2) of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26));
- “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (1954 c. 33 (N.I.)).

PART 12

CONSENT ORDERS AND MAINTENANCE AGREEMENTS

Consent orders for financial relief

- 59 (1) Regardless of anything in the preceding provisions of this Schedule, on an application for a consent order for financial relief, the court may, unless it has reason to think that there are other circumstances into which it ought to inquire, make an order in the terms agreed on the basis only of such information supplied with the application as is required by rules of court.
- (2) Sub-paragraph (1) applies to an application for a consent order varying or discharging an order for financial relief as it applies to an application for an order for financial relief.

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(3) In this paragraph—

“consent order”, in relation to an application for an order, means an order in the terms applied for to which the respondent agrees;

“order for financial relief” means an order under any of Parts 1, 2, 3 and 8.

Meaning of “maintenance agreement” and “financial arrangements”

60 (1) In this Part “maintenance agreement” means any written agreement between the civil partners in a civil partnership which—

- (a) is made during the continuance or after the dissolution or annulment of the civil partnership and contains financial arrangements, or
- (b) is a separation agreement which contains no financial arrangements but is made in a case where no other agreement in writing between the civil partners contains financial arrangements.

(2) In this Part “financial arrangements” means provisions governing the rights and liabilities towards one another when living separately of the civil partners in a civil partnership (including a civil partnership which has been dissolved or annulled) in respect of—

- (a) the making or securing of payments, or
- (b) the disposition or use of any property,

including such rights and liabilities with respect to the maintenance or education of a child (whether or not a child of the family).

(3) “Education” includes training.

Validity of maintenance agreements

61 If a maintenance agreement includes a provision purporting to restrict any right to apply to a court for an order containing financial arrangements—

- (a) that provision is void, but
- (b) any other financial arrangements contained in the agreement—
 - (i) are not void or unenforceable as a result, and
 - (ii) unless void or unenforceable for any other reason, are (subject to paragraphs 62 and 66) binding on the parties to the agreement.

Alteration of agreements by court during lives of parties

62 (1) ^[F184]Subject to sub-paragraph (1A),] either party to a maintenance agreement may apply to the court or, subject to sub-paragraph (6), to a court of summary jurisdiction for an order under this paragraph if—

- (a) the maintenance agreement is for the time being subsisting, and
- (b) each of the parties to the agreement is for the time being domiciled or resident in Northern Ireland.

^[F185](1A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—

- (a) the requirement as to domicile or residence in sub-paragraph (1)(b) does not apply to the application or to that part of it, but

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- (b) the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.]
- (2) The court may make an order under this paragraph if it is satisfied that—
- (a) because of a change in the circumstances in the light of which—
- (i) any financial arrangements contained in the agreement were made, or
- (ii) financial arrangements were omitted from it,
- the agreement should be altered so as to make different financial arrangements or so as to contain financial arrangements, or
- (b) that the agreement does not contain proper financial arrangements with respect to any child of the family.
- (3) In sub-paragraph (2)(a) the reference to a change in the circumstances includes a change foreseen by the parties when making the agreement.
- (4) An order under this paragraph may make such alterations in the agreement—
- (a) by varying or revoking any financial arrangements contained in it, or
- (b) by inserting in it financial arrangements for the benefit of one of the parties to the agreement or of a child of the family,
- as appear to the court to be just having regard to all the circumstances, including, if relevant, the matters mentioned in paragraph 17(3).
- (5) The effect of the order is that the agreement is to be treated as if any alteration made by the order had been made by agreement between the partners and for valuable consideration.
- (6) The power to make an order under this paragraph is subject to paragraphs 63 and 64.
- [^{F186}(7) In this paragraph “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Textual Amendments

- F184** Words in Sch. 15 para. 62(1) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(9)(a)**
- F185** Sch. 15 para. 62(1A) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(9)(b)**
- F186** Sch. 15 para. 62(7) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(9)(c)**

Restrictions on applications to and orders by courts of summary jurisdiction under paragraph 62

- 63 (1) A court of summary jurisdiction must not entertain an application under paragraph 62(1) unless—
- (a) both the parties to the agreement are resident in Northern Ireland, and
- (b) the court acts for a petty sessions district included in the county court division in which at least one of the parties is resident.

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- (2) A court of summary jurisdiction must not make any order on such an application other than—
- (a) if the agreement includes no provision for periodical payments by either of the parties, an order inserting provision for the making by one of the parties of periodical payments for the maintenance of—
 - (i) the other party, or
 - (ii) any child of the family;
 - (b) if the agreement includes provision for the making by one of the parties of periodical payments, an order increasing or reducing the rate of, or terminating, any of those payments.

Provisions relating to periodical and secured periodical payments: duration

- 64 (1) If a court decides to make an order under paragraph 62 altering an agreement—
- (a) by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the other party, or
 - (b) by increasing the rate of the periodical payments which the agreement provides shall be made by one of the parties for the maintenance of the other,
- it may specify such term as it thinks fit as the term for which the payments or, as the case may be, the additional payments attributable to the increase are to be made under the altered agreement, except that the term must not extend beyond the limits in sub-paragraphs (2) and (3).
- (2) The limits if the payments are not to be secured are—
- (a) the death of either of the parties to the agreement, or
 - (b) the formation of a subsequent civil partnership or marriage by the party to whom the payments are to be made.
- (3) The limits if the payments are to be secured are—
- (a) the death of the party to whom the payments are to be made, or
 - (b) the formation of a subsequent civil partnership or marriage by that party.
- (4) Sub-paragraph (5) applies if a court decides to make an order under paragraph 62 altering an agreement by—
- (a) inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of a child of the family, or
 - (b) increasing the rate of the periodical payments which the agreement provides shall be made or secured by one of the parties for the maintenance of such a child.
- (5) The court, in deciding the term for which under the agreement as altered by the order the payments, or the additional payments attributable to the increase, are to be made or secured for the benefit of the child, must apply paragraph 44(2) to (5) (age limits) as if the order in question were a periodical payments or secured periodical payments order in favour of the child.

Saving

- 65 Nothing in paragraphs 61 or 64 affects—

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- (a) any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other enactment (including a provision of this Schedule) to make an order containing financial arrangements, or
- (b) any right of either party to apply for such an order in such proceedings.

Alteration of agreements by court after death of one party

- 66 (1) This paragraph applies if—
- (a) a maintenance agreement provides for the continuation of payments under the agreement after the death of one of the parties, and
 - (b) that party (“A”) dies domiciled in Northern Ireland.
- (2) Subject to sub-paragraphs (4) and (5), the surviving party or A’s personal representatives may apply to the High Court or a county court for an order under paragraph 62 and accordingly, for the purposes of this paragraph, any reference in that paragraph to the court includes a reference to a county court (whether a civil partnership proceedings county court or not).
- (3) If a maintenance agreement is altered by a court on an application made under sub-paragraph (2), the same consequences follow as if the alteration had been made immediately before the death by agreement between the parties and for valuable consideration.
- (4) An application under this paragraph may not, without the leave of the High Court or a county court, be made after the end of 6 months from the date on which representation in regard to A’s estate is first taken out.
- (5) A county court has jurisdiction under this paragraph only if it is shown to the satisfaction of the court that, at the relevant date, the property included in A’s net estate did not exceed £15,000 in value.
- (6) A’s personal representatives are not liable for having distributed any part of A’s estate after the end of the 6 month period on the ground that they ought to have taken into account the possibility that a court might allow an application by virtue of this paragraph to be made by the surviving party after that period.
- (7) Sub-paragraph (6) does not affect any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.
- (8) Paragraph 53(6) applies for the purposes of sub-paragraph (4) as it applies for the purposes of paragraph 53(3).
- (9) In sub-paragraph (5)—
- “the property included in A’s net estate” means all property of which A had power to dispose by will, otherwise than by virtue of a special power of appointment, less the amount of A’s funeral, testamentary and administration expenses, debts and liabilities, including any inheritance tax payable out of A’s estate on A’s death;
 - “relevant date” means the date of A’s death.

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PART 13

MISCELLANEOUS AND SUPPLEMENTARY

PROSPECTIVE

Avoidance of transactions intended to prevent or reduce financial relief

- 67 (1) This paragraph applies if proceedings for relief (“financial relief”) are brought by one person (“A”) against another (“B”) under Part 1, 2, 3, 7, 8 or 9 (other than paragraph 53(2)), or paragraph 62.
- (2) If the court is satisfied, on an application by A, that B is, with the intention of defeating A’s claim for financial relief, about to—
- (a) make any disposition, or
 - (b) transfer out of the jurisdiction or otherwise deal with any property,
- it may make such order as it thinks fit for restraining B from doing so or otherwise for protecting the claim.
- (3) If the court is satisfied, on an application by A, that—
- (a) B has, with the intention of defeating A’s claim for financial relief, made a reviewable disposition, and
 - (b) if the disposition were set aside, financial relief or different financial relief would be granted to A,
- it may make an order setting aside the disposition.
- (4) If the court is satisfied, on an application by A in a case where an order has been obtained by A against B under any of the provisions mentioned in sub-paragraph (1), that B has, with the intention of defeating A’s claim for financial relief, made a reviewable disposition, it may make an order setting aside the disposition.
- (5) An application for the purposes of sub-paragraph (3) must be made in the proceedings for the financial relief in question.
- (6) If the court makes an order under sub-paragraph (3) or (4) setting aside a disposition it must give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the making of any payments or the disposal of any property).
- 68 (1) Any reference in paragraph 67 to defeating A’s claim for financial relief is to—
- (a) preventing financial relief from being granted to A, or to A for the benefit of a child of the family,
 - (b) reducing the amount of any financial relief which might be so granted, or
 - (c) frustrating or impeding the enforcement of any order which might be or has been made at A’s instance under any of the provisions mentioned in paragraph 67(1).
- (2) In paragraph 67 and this paragraph “disposition”—
- (a) does not include any provision contained in a will or codicil, but
 - (b) subject to paragraph (a), includes any conveyance, assurance or gift of property of any description (whether made by an instrument or otherwise).

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- (3) Any disposition made by B (whether before or after the commencement of the proceedings for financial relief) is a reviewable disposition for the purposes of paragraph 67(3) and (4) unless it was made—
- (a) for valuable consideration (other than formation of a civil partnership), and
 - (b) to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of any intention on B’s part to defeat A’s claim for financial relief.
- (4) If an application is made under paragraph 67 with respect to a disposition which took place less than 3 years before the date of the application or with respect to a disposition or other dealing with property which is about to take place and the court is satisfied—
- (a) in a case falling within paragraph 67(2) or (3), that the disposition or other dealing would (apart from paragraph 67) have the consequence of defeating A’s claim for financial relief, or
 - (b) in a case falling within paragraph 67(4), that the disposition has had the consequence of defeating A’s claim for financial relief,
- it is presumed, unless the contrary is shown, that the person who disposed of or is about to dispose of or deal with the property did so or, as the case may be, is about to do so, with the intention of defeating A’s claim for financial relief.
- 69 (1) An order under paragraph 67(2), to the extent that it restrains B from making a disposition of any land in Northern Ireland which is specified in the order—
- (a) creates on the land a statutory charge, and
 - (b) subject to section 88 of the 1970 Act (statutory charge to be void against purchaser in certain circumstances), renders liable to be set aside by the court at the instance of A any disposition of the land in contravention of the order.
- (2) In this paragraph and paragraph 70—
- “disposition” has the same meaning as in paragraphs 67 and 68;
- “1970 Act” means the Land Registration Act (Northern Ireland) 1970 (c. 18 (N.I.));
- “statutory charge” has the same meaning as in the 1970 Act.
- (3) Nothing in sub-paragraph (1)(b) or section 88(1) of the 1970 Act affects any power of the court to set aside a disposition under paragraph 67(3) or (4).
- 70 (1) The registration of a statutory charge created under paragraph 69(1)(a) shall be effective until—
- (a) the expiration of 1 year from the date of its registration or of the last renewal of its registration, unless the registration is renewed or further renewed before the expiration of that period, or
 - (b) the court orders that it is to cease to have effect.
- (2) When the registration ceases to have effect the Registrar of Titles may cancel it.
- (3) Nothing in this paragraph affects any provision of section 91 of the 1970 Act (cancellation and modification of statutory charges).
- (4) An application for the renewal, under sub-paragraph (1)(a), of the registration of a charge may be made in the same manner as the application for the original registration.

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Direction for settlement of instrument for securing payments or effecting property adjustment

- 71 (1) This paragraph applies if the court decides to make—
- (a) an order under Parts 1 or 8 requiring any payments to be secured, or
 - (b) a property adjustment order,
- or if it gives directions for the disposal of any property.
- (2) The court may direct that the matter be referred to a conveyancing counsel appointed by the court for him to settle a proper instrument to be executed by all necessary parties.
- (3) If the order referred to in sub-paragraph (1) is to be made in proceedings for a dissolution, nullity or separation order, the court may, if it thinks fit, defer the making of the dissolution, nullity or separation order until the instrument has been duly executed.

Settlement, etc., made in compliance with a property adjustment order may be avoided on bankruptcy of settlor

- 72 The fact that—
- (a) a settlement, or
 - (b) a transfer of property,
- had to be made in order to comply with a property adjustment order does not prevent the settlement or transfer from being a transaction in respect of which an order may be made under Article 312 or 313 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (transfers at an undervalue and preferences).

Payments, etc., under order made in favour of person suffering from mental disorder

- 73 (1) This paragraph applies if—
- (a) the court makes an order under this Schedule requiring—
 - (i) payments (including a lump sum payment) to be made, or
 - (ii) property to be transferred,to a civil partner, and
 - (b) the court is satisfied that the person in whose favour the order is made is incapable, because of mental disorder, of managing and administering his or her property and affairs.
- (2) “Mental disorder” has the same meaning as in the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).
- (3) Subject to any order, direction or authority made or given in relation to that person under Part 8 of the 1986 Order, the court may order the payments to be made, or as the case may be, the property to be transferred, to such persons having charge of that person as the court may direct.

Appeals relating to pension sharing orders which have taken effect

- 74 (1) Sub-paragraphs (2) and (3) apply if an appeal against a pension sharing order is begun on or after the day on which the order takes effect.

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- (2) If the pension sharing order relates to a person's rights under a pension arrangement, the appeal court may not set aside or vary the order if the person responsible for the pension arrangement has acted to his detriment in reliance on the order taking effect.
- (3) If the pension sharing order relates to a person's shareable state scheme rights, the appeal court may not set aside or vary the order if the Department for Social Development has acted to its detriment in reliance on the taking effect of the order.
- (4) In determining for the purposes of sub-paragraph (2) or (3) whether a person or the Department has acted to his or its detriment in reliance on the taking effect of the order, the appeal court may disregard any detriment which in its opinion is insignificant.
- (5) Where sub-paragraph (2) or (3) applies, the appeal court may make such further orders (including one or more pension sharing orders) as it thinks fit for the purpose of putting the parties in the position it considers appropriate.
- (6) Paragraph 14 only applies to a pension sharing order under this paragraph if the decision of the appeal court can itself be the subject of an appeal.
- (7) In sub-paragraph (2), the reference to the person responsible for the pension arrangement is to be read in accordance with paragraph 24(3).

PROSPECTIVE

^{F187}Appeals relating to pension compensation sharing orders which have taken effect

Textual Amendments

F187 Sch. 15 para. 74A and cross-heading inserted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 118, [Sch. 5 para. 19](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

- 74A (1) This paragraph applies where an appeal against a pension compensation sharing order is begun on or after the day on which the order takes effect.
- (2) If the Board of the Pension Protection Fund has acted to its detriment in reliance on the taking effect of the order the appeal court—
- (a) may not set aside or vary the order;
 - (b) may make such further orders (including a pension compensation sharing order) as it thinks fit for the purpose of putting the parties in the position it considers appropriate.
- (3) In determining for the purposes of sub-paragraph (2) whether the Board has acted to its detriment the appeal court may disregard any detriment which in the court's opinion is insignificant.
- (4) Paragraph 14E only applies to a pension compensation sharing order under this paragraph if the decision of the appeal court can itself be the subject of an appeal.]

Interpretation

- 75 (1) References in this Schedule to—

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- (a) periodical payments orders,
 - (b) secured periodical payments orders, and
 - (c) orders for the payment of a lump sum,
- are references to such of the orders that may be made under Parts 1 and 8 (other than interim orders) as are relevant in the context of the reference in question.
- (2) In this Schedule “child of the family”, in relation to two people who are the civil partners of each other, means—
- (a) a child of both of them, and
 - (b) any other child, other than a child placed with the civil partners as foster parents by an authority or a voluntary organisation, who has been treated by both the civil partners as a child of their family.
- (3) In sub-paragraph (2) “authority” and “voluntary organisation” have the same meaning as in the Children (Northern Ireland) Order 1995 (S.I. 1995/ 755 (N.I. 2)).
- (4) In this Schedule “the court” has the meaning given by section 188.
- (5) References in this Schedule to a subsequent civil partnership include a civil partnership which is by law void or voidable.
- (6) References in this Schedule to a subsequent marriage include a marriage which is by law void or voidable.

Commencement Information

I26 Sch. 15 para. 75 wholly in force at 5.12.2005; Sch. 15 para. 75 not in force at Royal Assent see s. 263; Sch. 15 para. 75(4) in force for certain purposes at 5.9.2005 by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and Sch. 15 para. 75 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

SCHEDULE 16

Section 196(3)

FINANCIAL RELIEF IN COURT OF SUMMARY JURISDICTION ETC.: NORTHERN IRELAND

Modifications etc. (not altering text)

C15 Sch. 16: functions transferred (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010](#) (S.I. 2010/976), [art. 15\(1\)](#), [Sch. 17 para. 21\(b\)](#) (with [arts. 15\(6\)](#), [28-31](#))

PART 1

FAILURE TO MAINTAIN ETC.: FINANCIAL PROVISION

Circumstances in which orders under this Part may be made

- 1 (1) On an application to it by one of the civil partners, the court may make any one or more of the orders set out in paragraph 2 if it is satisfied that the other civil partner—
- (a) has failed to provide reasonable maintenance for the applicant,

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- (b) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family,
 - (c) has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent, or
 - (d) has deserted the applicant.
- (2) The power of the court under sub-paragraph (1) is subject to the following provisions of this Schedule.

The orders: periodical and secured periodical payments and lump sums

- 2 (1) The orders are—
- (a) an order that the respondent must make to the applicant such periodical payments for such term as may be specified;
 - (b) an order that the respondent must pay to the applicant such lump sum as may be specified;
 - (c) an order that the respondent must make—
 - (i) to the applicant for the benefit of a child of the family to whom the application relates, or
 - (ii) to a child of the family to whom the application relates, such periodical payments for such term as may be specified;
 - (d) an order that the respondent must pay such lump sum as may be specified—
 - (i) to the applicant for the benefit of a child of the family to whom the application relates, or
 - (ii) to a child of the family to whom the application relates.
- (2) The amount of a lump sum specified under sub-paragraph (1)(b) or (d) must not exceed—
- (a) £1,000, or
 - (b) such larger amount as the Lord Chancellor may ^[F188], after consultation with the Lord Chief Justice of Northern Ireland,] from time to time by order fix for the purposes of this sub-paragraph.
- (3) The power to make an order under sub-paragraph (2) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (4) An order under sub-paragraph (2) is subject to ^[F189]negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954].
- (5) “Specified” means specified in the order.

Textual Amendments

F188 Words in Sch. 16 para. 2(2)(b) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006](#) (S.I. 2006/1016), art. 2, **Sch. 1 para. 24**

F189 Words in Sch. 16 para. 2(4) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010](#) (S.I. 2010/976), art. 15(5), **Sch. 18 para. 76** (with arts. 28-31)

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Particular provision that may be made by lump sum orders

- 3 (1) An order under this Part for the payment of a lump sum may be made for the purpose of enabling any liability or expenses reasonably incurred in maintaining the applicant or any child of the family to whom the application relates before the making of the order to be met.
- (2) Sub-paragraph (1) does not restrict the power to make the orders set out in paragraph 2(1)(b) and (d).

Matters to which court is to have regard in exercising its powers under this Part – general

- 4 If an application is made for an order under this Part, the court, in deciding—
- (a) whether to exercise its powers under this Part, and
 - (b) if so, in what way,
- must have regard to all the circumstances of the case, giving first consideration to the welfare while under 18 of any child of the family who has not reached 18.

Particular matters to be taken into account when exercising powers in relation to civil partners

- 5 (1) This paragraph applies in relation to the exercise by the court of its power to make an order by virtue of paragraph 2(1)(a) or (b).
- (2) The court must in particular have regard to—
- (a) the income, earning capacity, property and other financial resources which each civil partner—
 - (i) has, or
 - (ii) is likely to have in the foreseeable future,including, in the case of earning capacity, any increase in that capacity which it would in the opinion of the court be reasonable to expect the civil partner to take steps to acquire;
 - (b) the financial needs, obligations and responsibilities which each civil partner has or is likely to have in the foreseeable future;
 - (c) the standard of living enjoyed by the civil partners before the occurrence of the conduct which is alleged as the ground of the application;
 - (d) the age of each civil partner and the duration of the civil partnership;
 - (e) any physical or mental disability of either civil partner;
 - (f) the contributions which each civil partner has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;
 - (g) the conduct of each civil partner, if that conduct is such that it would in the opinion of the court be inequitable to disregard it.

Modifications etc. (not altering text)

C16 Sch. 16 para. 5(2)(d) applied (with modifications) (N.I.) (5.12.2005) by [The Civil Partnership \(Treatment of Overseas Relationships\) Order \(Northern Ireland\) 2005 \(S.R. 2005/531\)](#), **art. 3(3)**

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Particular matters to be taken into account when exercising powers in relation to children

- 6 (1) This paragraph applies in relation to the exercise by the court of its power to make an order by virtue of paragraph 2(1)(c) or (d).
- (2) The court must in particular have regard to—
- (a) the financial needs of the child;
 - (b) the income, earning capacity (if any), property and other financial resources of the child;
 - (c) any physical or mental disability of the child;
 - (d) the standard of living enjoyed by the family before the occurrence of the conduct which is alleged as the ground of the application;
 - (e) the way in which the child was being and in which the civil partners expected the child to be educated or trained;
 - (f) the considerations mentioned in relation to the civil partners in paragraph 5(2)(a) and (b).
- (3) In relation to the exercise of its power to make an order in favour of a child of the family who is not the respondent's child, the court must also have regard to—
- (a) whether the respondent has assumed any responsibility for the child's maintenance,
 - (b) if so, the extent to which, and the basis on which, the respondent assumed that responsibility and the length of time during which the respondent discharged that responsibility;
 - (c) whether in assuming and discharging that responsibility the respondent did so knowing that the child was not the respondent's child;
 - (d) the liability of any other person to maintain the child.

Reconciliation

- 7 (1) If before the hearing of any evidence in proceedings on an application for an order under this Part a statement is made to the court by or on behalf of the civil partners showing a possibility of reconciliation between them, the court must adjourn the proceedings for such period as it thinks fit.
- (2) If at any stage of the proceedings on an application for an order under this Part it appears to the court that there is a reasonable possibility of a reconciliation between the civil partners, the court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect a reconciliation.
- (3) If the court adjourns any proceedings under sub-paragraph (1) or (2), it may request that—
- (a) a suitably qualified person acting under arrangements made by the Department of Health, Social Services and Public Safety, or
 - (b) any other person, willing and able to do so and acceptable to both parties, whom the court may appoint,
- should attempt to effect a reconciliation between the civil partners.
- (4) If any such request is made, the person—
- (a) must report in writing to the court whether the attempt has been successful, but
 - (b) must not include in the report any other information.

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- (5) The powers conferred by this paragraph are additional to any other power of the court to adjourn proceedings.

Refusal of order in case more suitable for High Court

- 8 (1) If on hearing an application for an order under this Part a court of summary jurisdiction is of the opinion that any of the matters in question between the civil partners would be more suitably dealt with by the High Court, the court of summary jurisdiction must refuse to make any order on the application.
- (2) No appeal lies from a refusal under sub-paragraph (1).
- (3) But, in any proceedings in the High Court relating to or comprising the same subject matter as an application in respect of which a court of summary jurisdiction has refused to make any order, the High Court may order the application to be reheard and determined by a court of summary jurisdiction acting for the same petty sessions district as the court which refused to make any order.

PART 2

ORDERS FOR AGREED FINANCIAL PROVISION

Orders for payments which have been agreed by the parties

- 9 (1) Either civil partner may apply to the court for an order under this Part on the ground that that civil partner or the other civil partner has agreed to make such financial provision as may be specified in the application.
- (2) On such an application or on a request under paragraph 14, the court may order that the applicant or the respondent (as the case may be) is to make the financial provision specified in the application or request, if—
- (a) it is satisfied that the applicant or the respondent (as the case may be) has agreed in writing to make that provision, and
 - (b) it has no reason to think that it would be contrary to the interests of justice to do so.
- (3) Sub-paragraph (2) is subject to paragraph 12.
- (4) The making of an order under this Part (“Part 2 order”) does not prevent the making of an order under Part 1 (“Part 1 order”) on a subsequent application for a Part 1 order.
- (5) On the making of a Part 2 order, the Part 1 order ceases to have effect.
- (6) Sub-paragraph (5) does not affect the power of the court under Part 6 to revoke the Part 1 order.

Meaning of “financial provision” and of references to specified financial provision

- 10 (1) In this Part “financial provision” means any one or more of the following—
- (a) the making of periodical payments by one civil partner to the other;
 - (b) the payment of a lump sum by one civil partner to the other;
 - (c) the making of periodical payments by one civil partner to a child of the family or to the other civil partner for the benefit of such a child;

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- (d) the payment by one party of a lump sum to a child of the family or to the other civil partner for the benefit of such a child.
- (2) Any reference in this Part to the financial provision specified in an application under this Part or a request under paragraph 14 or specified by the court is a reference—
- (a) to the type of provision specified in the application or request or by the court,
 - (b) to the amount so specified as the amount of any payment to be made under the application or order, and
 - (c) in the case of periodical payments, to the term so specified as the term for which the payments are to be made.

Commencement Information

I27 Sch. 16 para. 10 wholly in force at 5.12.2005; Sch. 16 para. 10 not in force at Royal Assent see s. 263; Sch. 16 para. 10 in force for certain purposes at 5.9.2005 by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and Sch. 16 para. 10 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

Evidence to be produced where respondent not present etc.

- 11 (1) This paragraph applies if the respondent—
- (a) is not present, or
 - (b) is not represented by counsel or a solicitor,
- at the hearing of an application for an order under this Part.
- (2) The court must not make an order under this Part unless there is produced to it such evidence as may be prescribed by rules of court of—
- (a) the consent of the respondent to the making of the order,
 - (b) the financial resources of the respondent, and
 - (c) if the financial provision specified in the application includes or consists of provision in respect of a child of the family to be made by the applicant to the respondent for the benefit of the child or to the child, the financial resources of the child.

Commencement Information

I28 Sch. 16 para. 11 wholly in force at 5.12.2005; Sch. 16 para. 11 not in force at Royal Assent see s. 263; Sch. 16 para. 11(2) in force for certain purposes at 5.9.2005 by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and Sch. 16 para. 11 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

Exercise of powers in relation to children

- 12 (1) This paragraph applies if the financial provision specified in an application under this Part or a request under paragraph 14—
- (a) includes, or
 - (b) consists of,
- provision in respect of a child of the family.
- (2) The court must not make an order under this Part unless it considers that the provision which the applicant or the respondent (as the case may be) has agreed to make in

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respect of the child provides for, or makes a proper contribution towards, the financial needs of the child.

Power to make alternative orders

- 13 (1) This paragraph applies if on an application under this Part or a request under paragraph 14 the court decides—
- (a) that it would be contrary to the interests of justice to make an order for the making of the financial provision specified in the application or request, or
 - (b) that any financial provision which the applicant or the respondent (as the case may be) has agreed to make in respect of a child of the family does not provide for, or make a proper contribution towards, the financial needs of that child.
- (2) If the court is of the opinion—
- (a) that it would not be contrary to the interests of justice to make an order for the making of some other financial provision specified by the court, and
 - (b) that, in so far as that other financial provision contains any provision for a child of the family, it provides for, or makes a proper contribution towards, the financial needs of that child,
- then, if both the civil partners agree, the court may order the applicant or the respondent (as the case may be) is to make that other financial provision.

Request for order under this Part in proceedings under Part 1

- 14 (1) On an application for an order under Part 1, both civil partners may, before the determination of the application, request the court to make an order under this Part that the applicant or the respondent (as the case may be) is to make the financial provision specified in the request.
- (2) If an order is made under this Part on a request under this paragraph the application for the Part 1 order is to be treated as if it had been withdrawn.
- (3) In any of the following provisions of this Schedule —
- (a) references to an application for an order under this Part include a request under this paragraph, and
 - (b) references to an applicant or respondent, in relation to any such request, are to the applicant or respondent in relation to the pending application under Part 1.

PART 3

ORDERS OF COURT WHERE CIVIL PARTNERS LIVING APART BY AGREEMENT

Powers of court where civil partners are living apart by agreement

- 15 (1) If—
- (a) the civil partners have been living apart for a continuous period exceeding 3 months, neither civil partner having deserted the other, and
 - (b) one of the civil partners has been making periodical payments for the benefit of the other civil partner or of a child of the family,

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the other civil partner may apply to the court for an order under this Part.

- (2) An application made under sub-paragraph (1) must specify the total amount of the payments made by the respondent during the period of 3 months immediately preceding the date of the making of the application.
- (3) If on an application for an order under this Part the court is satisfied that the respondent has made the payments specified in the application, the court may make one or both of the orders set out in paragraph 16.
- (4) Sub-paragraph (3) is subject to the provisions of this Schedule.

The orders that may be made under this Part

- 16 (1) The orders are—
 - (a) an order that the respondent is to make to the applicant such periodical payments for such term as may be specified;
 - (b) an order that the respondent is to make—
 - (i) to the applicant for the benefit of a child of the family to whom the application relates, or
 - (ii) to a child of the family to whom the application relates,
 such periodical payments for such term as may be specified.
- (2) “Specified” means specified in the order.

Restrictions on orders under this Part

- 17 The court in the exercise of its powers under this Part must not require—
 - (a) the respondent to make payments whose total amount during any period of 3 months exceeds the total amount paid by him for the benefit of—
 - (i) the applicant, or
 - (ii) a child of the family,
 during the period of 3 months immediately preceding the date of the making of the application;
 - (b) the respondent to make payments to or for the benefit of any person which exceed in amount the payments which the court considers that it would have required the respondent to make to or for the benefit of that person on an application under Part 1;
 - (c) payments to be made to or for the benefit of a child of the family who is not the respondent’s child, unless the court considers that it would have made an order in favour of that child on an application under Part 1.

Relationship with powers under Part 1

- 18 (1) Sub-paragraph (2) applies if on an application under this Part the court considers that the orders which it has the power to make under this Part—
 - (a) would not provide reasonable maintenance for the applicant, or
 - (b) if the application relates to a child of the family, would not provide, or make a proper contribution towards, reasonable maintenance for that child.
- (2) The court—
 - (a) must refuse to make an order under this Part, but

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- (b) may treat the application as if it were an application for an order under Part 1.

Matters to be taken into consideration

- 19 Paragraphs 4 to 6 apply in relation to an application for an order under this Part as they apply in relation to an application for an order under Part 1, subject to the modification that for the reference in paragraph 5(2)(c) to the occurrence of the conduct which is alleged as the ground of the application substitute a reference to the living apart of the civil partners.

PART 4

INTERIM ORDERS

Circumstances in which interim orders may be made

- 20 (1) This paragraph applies if an application has been made for an order under Part 1, 2 or 3.
- (2) The court may make an interim order—
- (a) at any time before making a final order on, or dismissing, the application, or
 - (b) on refusing (under paragraph 8) to make an order on the application.
- (3) The High Court may make an interim order on ordering the application to be reheard by a court (after the refusal of an order under paragraph 8).
- (4) The county court may make an interim order on an appeal from the order made by the court on the application at any time before making a final order on, or dismissing, an appeal made by virtue of paragraph 46.
- (5) Not more than one interim order may be made with respect to an application for an order under Part 1, 2 or 3.
- (6) Sub-paragraph (5) does not affect the power of a court to make an interim order on a further application under Part 1, 2 or 3.

Meaning of interim order

- 21 (1) An interim order is an order requiring the respondent to make such periodical payments as the court thinks reasonable—
- (a) to the applicant,
 - (b) to any child of the family who is under 18, or
 - (c) to the applicant for the benefit of such a child.
- (2) In relation to an interim order in respect of an application for an order under Part 2 by the civil partner who has agreed to make the financial provision specified in the application, sub-paragraph (1) applies as if—
- (a) the reference to the respondent were a reference to the applicant, and
 - (b) the references to the applicant were references to the respondent.

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When interim order may start

- 22 (1) An interim order may provide for payments to be made from such date as the court may specify, except that the date must not be earlier than the date of the making of the application for an order under Part 1, 2 or 3.
- (2) Sub-paragraph (1) is subject to paragraph 27(10) and (11).

Payments which can be treated as having been paid on account

- 23 (1) If an order under Part 1, 2 or 3 made by the county court on an appeal from the court provides for payments to be made from a date earlier than the date of the making of the order, the interim order may provide that payments made by the respondent under an order made by the court are to be treated, to such extent and in such manner as may be provided by the interim order, as having been paid on account of any payment provided for by the interim order.
- (2) In relation to an interim order in respect of an application for an order under Part 2 by the civil partner who has agreed to make the financial provision specified in the application, sub-paragraph (1) applies as if the reference to the respondent were a reference to the applicant.

When interim order ceases to have effect

- 24 (1) Subject to sub-paragraphs (2) and (3), an interim order made on an application for an order under Part 1, 2 or 3 ceases to have effect on the earliest of the following dates—
- (a) the date, if any, specified for the purpose in the interim order;
 - (b) the date on which the period of 14 weeks from the date of the making of the interim order ends;
 - (c) the date on which the court either makes a final order on, or dismisses, the application, or, where the interim order was made by a county court on an appeal, the date on which that court either makes a final order on, or dismisses, the appeal.
- (2) If an interim order made under this Part would, but for this sub-paragraph, cease to have effect under sub-paragraph (1)(a) or (b)—
- (a) the court which made the order, or
 - (b) in the case of an interim order made by the High Court, the court by which the application for an order under Part 1, 2 or 3 is to be reheard,
- may by order provide that the interim order is to continue in force for a further period.
- (3) An order continued in force under sub-paragraph (2) ceases to have effect on the earliest of the following dates—
- (a) the date, if any, specified for the purpose in the order continuing it;
 - (b) the date on which ends the period of 14 weeks from—
 - (i) the date of the making of the order continuing it, or
 - (ii) if more than one such order has been made with respect to the application, the date of the making of the first such order;
 - (c) the date on which the court either makes a final order on, or dismisses, the application, or, where the interim order was made by a county court on an appeal, the date on which that court either makes a final order on, or dismisses, the appeal.

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Supplementary

- 25 An interim order made by the High Court under paragraph 20(3) on ordering an application to be reheard by the court is to be treated for the purposes of—
- (a) its enforcement, and
 - (b) Part 6 (variation etc. of orders),
- as if it were an order of the court (and not of the High Court).

PART 5

COMMENCEMENT AND DURATION OF ORDERS UNDER PARTS 1, 2 AND 3

Duration of periodical payments order for a civil partner

- 26 (1) The court may specify in a periodical payments order made under paragraph 2(1)(a) or Part 3 in favour of a civil partner such term as it thinks fit, except that the term must not—
- (a) begin before the date of the making of the application for the order, or
 - (b) extend beyond the death of either of the civil partners.
- (2) If—
- (a) a periodical payments order is made under paragraph 2(1)(a) or Part 3 in favour of one of the civil partners, and
 - (b) the civil partnership is subsequently dissolved or annulled but the order continues in force,
- the periodical payments order ceases to have effect (regardless of anything in it) on the formation of a subsequent civil partnership or marriage by that civil partner, except in relation to any arrears due under the order on the date of that event.
- (3) If a periodical payments order ceases to have effect by virtue of sub-paragraph (2) on the formation of a subsequent civil partnership or marriage by a person, that person must give notice of the subsequent civil partnership or marriage to the court.
- (4) Any person who without reasonable excuse fails to give notice as required by sub-paragraph (3) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Age limit on making orders for financial provision for children and duration of such orders

- 27 (1) Subject to sub-paragraph (5), no order is to be made under paragraph 2(1)(c) or (d) or Part 3 in favour of a child who has reached 18.
- (2) The term to be specified in a periodical payments order made under paragraph 2(1)(c) or Part 3 in favour of a child may begin with—
- (a) the date of the making of an application for the order or a later date, or
 - (b) a date ascertained in accordance with sub-paragraph (7) or (8).
- (3) The term to be specified in such an order—
- (a) must not in the first instance extend beyond the date of the birthday of the child next following his reaching the upper limit of the compulsory school age unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date, and

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- (b) must not in any event, subject to sub-paragraph (5), extend beyond the date of the child’s 18th birthday.
- (4) In sub-paragraph (3)(a) “compulsory school age” has the meaning given in Article 46 of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)).
- (5) Sub-paragraphs (1) and (3)(b) do not apply in the case of a child if it appears to the court that—
- (a) the child is, or will be, or, if such an order were made without complying with either or both of those provisions, would be—
- (i) receiving instruction at an educational establishment, or
- (ii) undergoing training for a trade, profession or vocation, whether or not also the child is, will be or would be, in gainful employment, or
- (b) there are special circumstances which justify the making of the order without complying with either or both of sub-paragraphs (1) and (3)(b).
- (6) Any order made under paragraph 2(1)(c) or Part 3 in favour of a child, regardless of anything in the order, ceases to have effect on the death of the person liable to make payments under the order.
- (7) An order made under paragraph 2(1)(c) or Part 3 in favour of a child to whom sub-paragraph (5)(a) applies ceases to have effect if the child ceases to receive instruction or undergo training as mentioned in sub-paragraph (5)(a).
- (8) If an order made under paragraph 2(1)(c) or Part 3 ceases to have effect by virtue of an event mentioned in sub-paragraph (7), the person to whom the periodical payments are directed by the order to be made must give notice of the event to the court.
- (9) A person who without reasonable excuse fails to give notice as required by sub-paragraph (8) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) If—
- (a) a maintenance calculation (“current calculation”) is in force with respect to a child, and
- (b) an application is made for an order under paragraph 2(1)(c) or Part 3 before the end of 6 months beginning with the making of the current calculation, the term to be specified in any such order made on that application may be expressed to begin on, or at any time after, the earliest permitted date.
- (11) “The earliest permitted date” is whichever is the later of—
- (a) the date 6 months before the application is made, or
- (b) the date on which the current calculation took effect or, where successive maintenance calculations have been continuously in force with respect to a child, on which the first of those calculations took effect.
- (12) If—
- (a) a maintenance calculation ceases to have effect by or under any provision of the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)), and

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- (b) an application is made, before the end of 6 months beginning with the relevant date, for a periodical payments order under paragraph 2(1)(c) or Part 3 in favour of a child with respect to whom that maintenance calculation was in force immediately before it ceased to have effect,
the term to be specified in any such order, or in any interim order under Part 4, made on that application, may begin with the relevant date or any later date.
- (13) “The relevant date” means the date on which the maintenance calculation ceased to have effect.
- (14) In this Schedule “maintenance calculation” means a calculation of maintenance made under the Child Support (Northern Ireland) Order 1991 and includes, except in circumstances prescribed for the purposes of the definition of that expression in Article 2(2) of that Order, a default or interim maintenance decision within the meaning of that Order.

Application of paragraphs 26 and 27 to Part 2 orders

- 28 (1) Subject to sub-paragraph (3), paragraph 26 applies in relation to an order under Part 2 which requires periodical payments to be made to a civil partner for his own benefit as it applies in relation to an order under paragraph 2(1)(a).
- (2) Subject to sub-paragraph (3), paragraph 27 applies in relation to an order under Part 2 for the making of financial provision in respect of a child of the family as it applies in relation to an order under paragraph 2(1)(c) or (d).
- (3) If—
- (a) the court makes an order under Part 2 which contains provision for the making of periodical payments, and
- (b) by virtue of paragraph 14, an application for an order under Part 1 is treated as if it had been withdrawn,
- the term which may be specified under Part 2 as the term for which the payments are to be made may begin with the date of the making of the application for the order under Part 1 or any later date.

Effect on certain orders of parties living together

- 29 (1) Sub-paragraph (2) applies if periodical payments are required to be made to a civil partner (whether for the civil partner’s own benefit or for the benefit of a child of the family)—
- (a) by an order made under Part 1 or 2, or
- (b) by an interim order made under Part 4 (otherwise than on an application under Part 3).
- (2) The order is enforceable even if—
- (a) the civil partners are living with each other at the date of the making of the order, or
- (b) if they are not living with each other at that date, they subsequently resume living with each other;
- but the order ceases to have effect if after that date the civil partners continue to live with each other, or resume living with each other, for a continuous period exceeding 6 months.

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- (3) Sub-paragraph (4) applies if—
- (a) an order is made under Part 1 or 2 which requires periodical payments to be made to a child of the family, or
 - (b) an interim order is made under Part 4 (otherwise than on an application under Part 3) which requires periodical payments to be made to a child of the family.
- (4) Unless the court otherwise directs, the order continues to have effect and is enforceable even if—
- (a) the civil partners are living with each other at the date of the making of the order, or
 - (b) if they are not living with each other at that date, they subsequently resume living with each other.
- (5) An order made under Part 3, and any interim order made on an application for an order under that Part, ceases to have effect if the civil partners resume living with each other.
- (6) If an order made under this Schedule ceases to have effect under—
- (a) sub-paragraph (2) or (5), or
 - (b) a direction given under sub-paragraph (4),
- the court may, on an application made by either civil partner, make an order declaring that the order ceased to have effect from such date as the court may specify.
- (7) If an order made under this Schedule ceases to have effect under sub-paragraph (2) or (5), the civil partners shall give notice of that fact to the court straight away.

PART 6

VARIATION ETC. OF ORDERS

Power to vary, revoke, suspend or revive order

- 30 (1) If the court has made an order for the making of periodical payments under [F190Part 1, 2 or 3], it may, on an application made under this Part—
- (a) vary or revoke the order,
 - (b) suspend any provision of it temporarily, or
 - (c) revive any provision so suspended.
- (2) If the court has made an order under Part 4, it may, on an application made under this Part—
- (a) vary or revoke the order,
 - (b) suspend any provision of it temporarily, or
 - (c) revive any provision so suspended,
- except that it may not by virtue of this sub-paragraph extend the period for which the order is in force.

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Textual Amendments

F190 Words in Sch. 16 para. 30(1) substituted (20.9.2006) by [The Law Reform \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2006 \(S.I. 2006/1945 \(N.I. 14\)\)](#), [art. 6](#)

Powers to order lump sum on variation

- 31 (1) If the court has made an order under paragraph 2(1)(a) or (c) for the making of periodical payments, it may, on an application made under this Part, make an order for the payment of a lump sum under paragraph 2(1)(b) or (d).
- (2) If the court has made an order under Part 2 for the making of periodical payments by a civil partner, it may, on an application made under this Part, make an order for the payment of a lump sum by that civil partner—
- (a) to the other civil partner, or
 - (b) to a child of the family or to that other civil partner for the benefit of that child.
- (3) Where the court has power by virtue of this paragraph to make an order for the payment of a lump sum—
- (a) the amount of the lump sum must not exceed the maximum amount that may at that time be required to be paid under Part 1, but
 - (b) the court may make an order for the payment of a lump sum not exceeding that amount even if the person required to pay it was required to pay a lump sum by a previous order under this Schedule.
- (4) Where—
- (a) the court has power by virtue of this paragraph to make an order for the payment of a lump sum, and
 - (b) the respondent or the applicant (as the case may be) has agreed to pay a lump sum of an amount exceeding the maximum amount that may at that time be required to be paid under Part 1,
- the court may, regardless of sub-paragraph (3), make an order for the payment of a lump sum of that amount.

Power to specify when order as varied is to take effect

- 32 An order made under this Part which varies an order for the making of periodical payments may provide that the payments as so varied are to be made from such date as the court may specify, except that, subject to paragraph 33, the date must not be earlier than the date of the making of the application under this Part.
- 33 (1) If—
- (a) there is in force an order (“the order”)—
 - (i) under paragraph 2(1)(c),
 - (ii) under Part 2 making provision of a kind set out in paragraph 10(1)(c) (regardless of whether it makes provision of any other kind mentioned in paragraph 10(1)(c)),
 - (iii) under paragraph 16(1)(b), or
 - (iv) which is an interim order under Part 4 under which the payments are to be made to a child or to the applicant for the benefit of a child,

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- (b) the order requires payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them,
 - (c) a maintenance calculation (“the calculation”) is made with respect to one or more, but not all, of the children with respect to whom those payments are to be made, and
 - (d) an application is made, before the end of 6 months beginning with the date on which the calculation was made, for the variation or revocation of the order,
- the court may, in exercise of its powers under this Part to vary or revoke the order, direct that the variation or revocation is to take effect from the date on which the calculation took effect or any later date.

(2) If—

- (a) an order (“the child order”) of a kind prescribed for the purposes of Article 12(1) of the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)) is affected by a maintenance calculation,
- (b) on the date on which the child order became so affected there was in force an order (“the civil partner’s order”)—
 - (i) under paragraph 2(1)(a),
 - (ii) under Part 2 making provision of a kind set out in paragraph 10(1)(a) (regardless of whether it makes provision of any other kind mentioned in paragraph 10(1)(a)),
 - (iii) under paragraph 16(1)(a), or
 - (iv) which is an interim order under Part 4 under which the payments are to be made to the applicant (otherwise than for the benefit of a child), and
- (c) an application is made, before the end of 6 months beginning with the date on which the maintenance calculation was made, for the civil partner’s order to be varied or revoked,

the court may, in exercise of its powers under this Part to vary or revoke the civil partner’s order, direct that the variation or revocation is to take effect from the date on which the child order became so affected or any later date.

- (3) For the purposes of sub-paragraph (2), an order is affected if it ceases to have effect or is modified by or under Article 12 of the 1991 Order.

Matters to which court is to have regard in exercising powers under this Part

- 34 (1) In exercising the powers conferred by this Part the court must, so far as it appears to the court just to do so, give effect to any agreement which has been reached between the civil partners in relation to the application.

(2) If—

- (a) there is no such agreement, or
- (b) the court decides not to give effect to the agreement,

the court must have regard to all the circumstances of the case, giving first consideration to the welfare while under 18 of any child of the family who has not reached 18.

(3) Those circumstances include any change in any of the matters—

- (a) to which the court was required to have regard when making the order to which the application relates, or

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- (b) in the case of an application for the variation or revocation of an order made under Part 2 or on an appeal, to which the court would have been required to have regard if that order had been made under Part 1.

Variation of orders for periodical payments: further provisions

- 35 (1) The power of the court under paragraphs 30 to 34 to vary an order for the making of periodical payments includes power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under Article 85(3) (a) to (d) of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (2) Sub-paragraph (1) is subject to paragraph 37.
- 36 (1) If—
- (a) a court of summary jurisdiction has made an order under this Schedule for the making of periodical payments, and
 - (b) payments under the order are required to be made by any method of payment falling within Article 85(7) of the 1981 Order (standing order, etc.),
- an application may be made under this sub-paragraph to the clerk of petty sessions for the order to be varied as mentioned in sub-paragraph (2).
- (2) Subject to sub-paragraph (4), if an application is made under sub-paragraph (1), the clerk, after—
- (a) serving written notice of the application on the respondent, and
 - (b) allowing the respondent, within the period of 14 days from the date of the serving of that notice, an opportunity to make written representations,
- may vary the order to provide that payments under the order are to be made to the collecting officer.
- (3) The clerk may proceed with an application under sub-paragraph (1) even if the respondent has not received written notice of the application.
- (4) If an application has been made under sub-paragraph (1), the clerk may, if he considers it inappropriate to exercise his power under sub-paragraph (2), refer the matter to the court which, subject to paragraph 37, may vary the order by exercising one of its powers under Article 85(3)(a) to (d) of the 1981 Order.
- 37 (1) Before varying the order by exercising one of its powers under Article 85(3)(a) to (d) of the 1981 Order, the court must have regard to any representations made by the parties to the application.
- (2) If the court does not propose to exercise its power under Article 85(3)(c) or (d) of the 1981 Order, the court must, unless upon representations expressly made in that behalf by the person to whom payments under the order are required to be made it is satisfied that it is undesirable to do so, exercise its power under Article 85(5)(b).
- 38 (1) Article 85(5) of the 1981 Order (power of court to order that account be opened) applies for the purposes of paragraphs 35 and 36(4) as it applies for the purposes of Article 85.
- (2) None of the powers of the court, or of the clerk of petty sessions, conferred by paragraphs 35 to 37 and sub-paragraph (1) is exercisable in relation to an order under this Schedule for the making of periodical payments which is not a qualifying maintenance order (within the meaning of Article 85 of the 1981 Order).

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Persons who may apply under this Part

- 39 An application under paragraph 30, 31 or 36 may be made—
- (a) if it is for the variation or revocation of an order under Part 1, 2, 3 or 4 for periodical payments, by either civil partner, and
 - (b) if it is for the variation of an order under paragraph 2(1)(c) or Part 2 or 3 for periodical payments to or in respect of a child, also by the child himself, if he has reached 16.

Revival of orders for periodical payments

- 40 (1) If an order made by the court under this Schedule for the making of periodical payments to or in respect of a child (other than an interim order) ceases to have effect—
- (a) on the date on which the child reaches 16, or
 - (b) at any time after that date but before or on the date on which he reaches 18, the child may apply to the court for an order for its revival.
- (2) If on such an application it appears to the court that—
- (a) the child is, will be or (if an order were made under this sub-paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment, or
 - (b) there are special circumstances which justify the making of an order under this sub-paragraph,
- the court may by order to revive the order from such date as the court may specify, not being earlier than the date of the making of the application.
- (3) Any order revived under this paragraph may be varied or revoked under paragraphs 30 to 34 in the same way as it could have been varied or revoked had it continued in being.

Variation of instalments or remission of lump sum

- 41 (1) If in the exercise of its powers under Article 97 of the 1981 Order the court orders that a lump sum required to be paid under this Schedule is to be paid by instalments, the court, on an application made by either the person liable to pay or the person entitled to receive that sum, may vary that order by varying—
- (a) the number of instalments payable,
 - (b) the amount of any instalment payable, and
 - (c) the date on which any instalment becomes payable.
- (2) On the hearing of a complaint for the enforcement, revocation, suspension or variation of an order under this Schedule which provides for the payment of a lump sum the court may remit the whole or any part of that sum.

Supplementary provisions with respect to variation and revocation of orders

- 42 The powers of a court of summary jurisdiction to revoke, suspend, revive or vary an order for the periodical payment of money and the power of the clerk of petty sessions to vary such an order under Article 86 of the 1981 Order do not apply in relation to an order made under this Schedule.

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PART 7

ARREARS AND REPAYMENTS

Enforcement etc. of orders for payment of money

- 43 Article 36 of the Domestic Proceedings (Northern Ireland) Order 1980 (S.I. 1980/563 (N.I. 5)) applies in relation to orders under this Schedule as it applies in relation to orders under that Order.

Orders for repayment after cessation of order because of subsequent civil partnership etc.

- 44 (1) Sub-paragraphs (3) and (4) apply if—
- (a) an order made under paragraph 2(1)(a) or Part 2 or 3 has, under paragraph 26(2), ceased to have effect because of the formation of a subsequent civil partnership or marriage by the party (“R”) in whose favour it was made, and
 - (b) the person liable to make payments under the order (“P”) made payments in accordance with it in respect of a relevant period in the mistaken belief that the order was still subsisting.
- (2) “Relevant period” means a period after the date of the formation of the subsequent civil partnership or marriage.
- (3) No proceedings in respect of a cause of action arising out of the circumstances mentioned in sub-paragraph (1)(a) and (b) is maintainable by P (or P’s personal representatives) against R (or R’s personal representatives).
- (4) But on an application made under this paragraph by P (or P’s personal representatives) against R (or R’s personal representatives) the court—
- (a) may order the respondent to an application made under this paragraph to pay to the applicant a sum equal to the amount of the payments made in respect of the relevant period, or
 - (b) if it appears to the court that it would be unjust to make that order, may—
 - (i) order the respondent to pay to the applicant such lesser sum as it thinks fit, or
 - (ii) dismiss the application.
- (5) An order under this paragraph for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.
- (6) An application under this paragraph—
- (a) may be made in proceedings in the High Court for leave to enforce, or in proceedings in the High Court or a court of summary jurisdiction for the enforcement of, the payment of arrears under an order made under paragraph 2(1)(a) or Part 2 or 3, but
 - (b) if not made in such proceedings, must be made to a county court, and accordingly references in this paragraph to the court are references to the High Court or a county court or a court of summary jurisdiction, as the circumstances require.
- (7) The jurisdiction conferred on a county court by this paragraph is exercisable by a county court even though, because of the amount claimed in an application under

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this paragraph, the jurisdiction would not but for this sub-paragraph be exercisable by a county court.

- (8) A person dissatisfied with an order made by a county court in the exercise of the jurisdiction conferred by this paragraph or with the dismissal of any application instituted by him under the provisions of this paragraph shall be entitled to appeal from the order or from the dismissal as if the order or dismissal had been made in exercise of the jurisdiction conferred by Part 3 of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)) and the appeal brought under Part 6 of that Order, and Articles 61 (cases stated by county court judge) and 62 (cases stated by High Court on appeal from county court) of that Order shall apply accordingly.
- (9) Subject to sub-paragraph (10), the collecting officer of a court of summary jurisdiction to whom any payments under an order made under paragraph 2(1)(a) or Part 2 or 3, or under an attachment of earnings order made to secure payments under the first-mentioned order, are required to be made is not liable—
- (a) for any act done by him in pursuance of the first-mentioned order after the date on which that order or a provision of it ceased to have effect because of the formation of a subsequent civil partnership or marriage by the person entitled to payments under it, and
 - (b) for any act done by him after that date in accordance with any statutory provision specifying how payments made to him in compliance with the attachment of earnings order are to be dealt with.
- (10) Sub-paragraph (9) applies if (but only if) the act—
- (a) was one which he would have been under a duty to do had the order under paragraph 2(1)(a) or Part 2 or 3 not ceased to have effect, and
 - (b) was done before notice in writing of the formation of the subsequent civil partnership or marriage was given to him by or on behalf of—
 - (i) the person entitled to payments under the order,
 - (ii) the person liable to make payments under it, or
 - (iii) the personal representatives of either of them.
- (11) In this paragraph—
- “collecting officer” means the officer mentioned in Article 85(2) or (3) of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/ 1675 (N.I. 26)), and
- “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33(N.I.)).

PART 8

SUPPLEMENTARY

Restrictions on making of orders under this Schedule: welfare of children

45

If—

- (a) an application is made by a civil partner for an order under Part 1, 2 or 3, and
- (b) there is a child of the family who is under 18,

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the court must not dismiss or make a final order on the application until it has decided whether to exercise any of its powers under the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) with respect to the child.

Application of certain provisions of the Domestic Proceedings (Northern Ireland) Order 1980

46 Articles 30 to 35 of the Domestic Proceedings (Northern Ireland) Order 1980 (S.I. 1980/563 (N.I. 5)) apply for the purposes of this Schedule as they apply for the purposes of that Order.

Interpretation

- 47 (1) In this Schedule “child of the family”, in relation to two people who are civil partners of each other, means—
- (a) a child of both of them, and
 - (b) any other child, other than a child placed with them as foster parents by an authority or a voluntary organisation, who has been treated by both the civil partners as a child of their family.
- (2) In sub-paragraph (1) “authority” and “voluntary organisation” have the same meaning as in the Children (Northern Ireland) Order 1995 (S.I. 1995/ 755 (N.I. 2)).
- (3) In any provision of this Schedule “the court” (except where the context otherwise requires) means a court of summary jurisdiction which by virtue of this Schedule or of rules of court has jurisdiction for the purposes of that provision.
- (4) References in this Schedule to a subsequent civil partnership include a civil partnership which is by law void or voidable.
- (5) References in this Schedule to a subsequent marriage include a marriage which is by law void or voidable.

SCHEDULE 17

Section 196(4)

FINANCIAL RELIEF IN NORTHERN IRELAND AFTER
OVERSEAS DISSOLUTION ETC. OF A CIVIL PARTNERSHIP

Modifications etc. (not altering text)

C17 Sch. 17: functions transferred (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010](#) (S.I. 2010/976), art. 15(1), **Sch. 17 para. 21(b)** (with arts. 15(6), 28-31)

PART 1

FINANCIAL RELIEF

Part applies where civil partnership has been dissolved etc. overseas

- 1 (1) This Part of this Schedule applies where—

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- (a) a civil partnership has been dissolved or annulled, or the civil partners have been legally separated, by means of judicial or other proceedings in an overseas country, and
 - (b) the dissolution, annulment or legal separation is entitled to be recognised as valid in Northern Ireland.
- (2) This Part of this Schedule applies even if the date of the dissolution, annulment or legal separation is earlier than the date on which the Part comes into force.
- (3) In this Schedule “overseas country” means a country or territory outside the United Kingdom, the Channel Islands and the Isle of Man.
- (4) In this Part of this Schedule “child of the family” means—
- (a) a child of both of the civil partners, and
 - (b) any other child, other than a child placed with them as foster parents or by an authority or voluntary organisation, who has been treated by both the civil partners as a child of their family.
- (5) In sub-paragraph (4) “authority” and “voluntary organisation” have the same meaning as in the Children (Northern Ireland) Order 1995 (S.I. 1995/ 755 (N.I. 2)).

Either civil partner may make application for financial relief

- 2 (1) Either of the civil partners may make an application to the court for an order under paragraph 9 or 13.
- (2) The rights conferred by sub-paragraph (1) are subject to—
- (a) paragraph 3 (civil partner may not apply after forming subsequent civil partnership etc.), and
 - (b) paragraph 4 (application may not be made until leave to make it has been granted).
- (3) An application for an order under paragraph 9 or 13 must be made in a manner prescribed by rules of court.

Commencement Information

I29 Sch. 17 para. 2 wholly in force at 5.12.2005; Sch. 17 para. 2 not in force at Royal Assent see s. 263; Sch. 17 para. 2(3) in force for certain purposes at 5.9.2005 by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and Sch. 17 para. 2 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

No application after formation of subsequent civil partnership or marriage

- 3 (1) If—
- (a) the civil partnership has been dissolved or annulled, and
 - (b) after the dissolution or annulment, one of the civil partners forms a subsequent civil partnership or marriage,
- that civil partner shall not be entitled to make, in relation to the civil partnership, an application for an order under paragraph 9 or 13.
- (2) The reference in sub-paragraph (1) to the forming of a subsequent civil partnership or marriage includes a reference to the forming of a civil partnership or marriage which is by law void or voidable.

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Leave of court required for making of application

- 4
- (1) No application for an order under paragraph 9 or 13 shall be made unless the leave of the court has been obtained in accordance with rules of court.
 - (2) The court shall not grant leave under this paragraph unless it considers that there is substantial ground for the making of an application for such an order.
 - (3) The court may grant leave under this paragraph notwithstanding that an order has been made by a court in a country outside Northern Ireland requiring the other civil partner to make any payment, or transfer any property, to the applicant or to a child of the family.
 - (4) Leave under this paragraph may be granted subject to such conditions as the court thinks fit.

Commencement Information

I30 Sch. 17 para. 4 wholly in force at 5.12.2005; Sch. 17 para. 4 not in force at Royal Assent see s. 263; Sch. 17 para. 4(1) in force for certain purposes at 5.9.2005 by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#) and Sch. 17 para. 4 in force otherwise at 5.12.2005 by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

PROSPECTIVE

Interim orders for maintenance

- 5
- (1) Where—
 - (a) leave is granted under paragraph 4, and
 - (b) it appears to the court that the civil partner who applied for leave, or any child of the family, is in immediate need of financial assistance,the court may, subject to sub-paragraph (4), make an interim order for maintenance.
 - (2) An interim order for maintenance is one requiring the other civil partner to make—
 - (a) to the applicant, or
 - (b) to the child,such periodical payments as the court thinks reasonable for such term as the court thinks reasonable.
 - (3) The term must be one—
 - (a) beginning not earlier than the date of the grant of leave, and
 - (b) ending with the date of the determination of the application made under the leave.
 - (4) If it appears to the court that the court will, in the event of an application being made under the leave, have jurisdiction to entertain the application only under paragraph 7(4), the court shall not make an interim order under this paragraph.
 - (5) An interim order under this paragraph may be made subject to such conditions as the court thinks fit.

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PROSPECTIVE

Paragraphs 7 and 8 apply where application made for relief under paragraph 9 or 13

- 6 Paragraphs 7 and 8 apply where—
- (a) one of the civil partners has been granted leave under paragraph 4, and
 - (b) acting under the leave, that civil partner makes an application for an order under paragraph 9 or 13.

PROSPECTIVE

Jurisdiction of the court

- 7 (1) [^{F191}Subject to sub-paragraph (6),] the court shall have jurisdiction to entertain the application only if one or more of the following jurisdictional requirements is satisfied.
- (2) The first requirement is that either of the civil partners—
 - (a) was domiciled in Northern Ireland on the date when the leave was applied for, or
 - (b) was domiciled in Northern Ireland on the date when the dissolution, annulment or legal separation took effect in the overseas country in which it was obtained.
 - (3) The second is that either of the civil partners—
 - (a) was habitually resident in Northern Ireland throughout the period of one year ending with the date when the leave was applied for, or
 - (b) was habitually resident in Northern Ireland throughout the period of one year ending with the date on which the dissolution, annulment or legal separation took effect in the overseas country in which it was obtained.
 - (4) The third is that either or both of the civil partners had, at the date when the leave was applied for, a beneficial interest in possession in a dwelling-house situated in Northern Ireland which was at some time during the civil partnership a civil partnership home of the civil partners.
 - (5) In sub-paragraph (4) “possession” includes receipt of, or the right to receive, rents and profits, but here “rent” does not include mortgage interest.
 - [^{F192}(6) If an application or part of an application relates to a matter [^{F193}to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18].
 - (7) In sub-paragraph (6) [^{F194}“the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague].]

Textual Amendments

F191 Words in Sch. 17 para. 7(1) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(10)(a)(i)**

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- F192** Sch. 17 para. 7(6)(7) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(10)(a)(ii)**
- F193** Words in Sch. 17 para. 7(6) substituted (31.12.2020) by S.I. 2019/519, Sch. para. 25(9)(a)(i) (as substituted by [The Jurisdiction, Judgments and Applicable Law \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1574\)](#), regs. 1, **5(3)(j)(vi)**)
- F194** Words in Sch. 17 para. 7(7) substituted (31.12.2020) by S.I. 2019/519, Sch. para. 25(9)(a)(ii) (as substituted by [The Jurisdiction, Judgments and Applicable Law \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1574\)](#), regs. 1, **5(3)(j)(vi)**)

PROSPECTIVE

Duty of the court to consider whether Northern Ireland is appropriate venue for application

- 8 (1) Before deciding the application, the court must consider whether in all the circumstances of the case it would be appropriate for an order of the kind applied for to be made by a court in Northern Ireland.
- (2) ^{F195}... If the court is not satisfied that it would be appropriate, the court shall dismiss the application.
- (3) The court must, in particular, have regard to the following matters—
- (a) the connection which the civil partners have with Northern Ireland;
 - (b) the connection which the civil partners have with the country in which the civil partnership was dissolved or annulled or in which they were legally separated;
 - (c) the connection which the civil partners have with any other country outside Northern Ireland;
 - (d) any financial benefit which, in consequence of the dissolution, annulment or legal separation—
 - (i) the applicant, or
 - (ii) a child of the family,has received, or is likely to receive, by virtue of any agreement or the operation of the law of a country outside Northern Ireland;
 - (e) in a case where an order has been made by a court in a country outside Northern Ireland requiring the other civil partner—
 - (i) to make any payment, or
 - (ii) to transfer any property,for the benefit of the applicant or a child of the family, the financial relief given by the order and the extent to which the order has been complied with or is likely to be complied with;
 - (f) any right which the applicant has, or has had, to apply for financial relief from the other civil partner under the law of any country outside Northern Ireland and, if the applicant has omitted to exercise that right, the reason for that omission;
 - (g) the availability in Northern Ireland of any property in respect of which an order under this Schedule in favour of the applicant could be made;
 - (h) the extent to which any order made under this Schedule is likely to be enforceable;

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- (i) the length of time which has elapsed since the date of the dissolution, annulment or legal separation.

[^{F196}(4)^{F197}
 (5)^{F198}]

Textual Amendments

- F195** Words in Sch. 17 para. 8(2) omitted (31.12.2020) by virtue of *The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/519), reg. 1(1), **Sch. para. 25(9)(b)(i)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F196** Sch. 17 para. 8(4)(5) inserted (18.6.2011) by *The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011* (S.I. 2011/1484), reg. 9, **Sch. 7 para. 16(10)(b)(ii)**
- F197** Sch. 17 para. 8(4) omitted (31.12.2020) by virtue of *The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/519), reg. 1(1), **Sch. para. 25(9)(b)(ii)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F198** Sch. 17 para. 8(5) omitted (31.12.2020) by virtue of *The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/519), reg. 1(1), **Sch. para. 25(9)(b)(iii)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

PROSPECTIVE

Orders for financial provision, property adjustment [^{F199} and pension sharing] [^{F199}, pension sharing and pension compensation sharing]

Textual Amendments

- F199** Words in Sch. 17 para. 9 heading substituted (6.4.2011) by *Pensions (No. 2) Act (Northern Ireland) 2008* (c. 13), ss. 98, 118, **Sch. 5 para. 20(1)**; S.R. 2011/108, **art. 2(2)**, Sch.

- 9 (1) Sub-paragraphs (2) and (3) apply where one of the civil partners has made an application for an order under this paragraph.
- (2) If the civil partnership has been dissolved or annulled, the court may on the application make any one or more of the orders which it could make under Part 1, 2 [^{F200}, 3 or 3A] of Schedule 15 (financial provision, property adjustment [^{F201}, pension sharing and pension compensation sharing]) if a dissolution order or nullity order had been made in respect of the civil partnership under Chapter 2 of Part 4 of this Act.
- (3) If the civil partners have been legally separated, the court may on the application make any one or more of the orders which it could make under Part 1 or 2 of Schedule 15 (financial provision and property adjustment) if a separation order had been made in respect of the civil partners under Chapter 2 of Part 4 of this Act.
- (4) The powers under sub-paragraphs (2) and (3) are subject to paragraph 11.

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Textual Amendments

- F200** Words in Sch. 17 para. 9(2) substituted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 118, [Sch. 5 para. 20\(2\)\(a\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.
- F201** Words in Sch. 17 para. 9(2) substituted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 98, 118, [Sch. 5 para. 20\(2\)\(b\)](#); S.R. 2011/108, [art. 2\(2\)](#), Sch.

Matters to which court is to have regard in exercising its powers under paragraph 9

- 10 (1) The court, in deciding—
- (a) whether to exercise its powers under paragraph 9, and
 - (b) if so, in what way,
- must act in accordance with this paragraph.
- (2) The court must have regard to all the circumstances of the case, giving first consideration to the welfare, while under 18, of any child of the family who has not reached 18.
- (3) The court, in exercising its powers under paragraph 9 in relation to one of the civil partners—
- (a) must in particular have regard to the matters mentioned in paragraph 16(2) of Schedule 15, and
 - (b) shall be under duties corresponding to those imposed by sub-paragraphs (2) and (3) of paragraph 18 of that Schedule (duties to consider termination of financial obligations) where it decides to exercise under paragraph 9 powers corresponding to the powers referred to in those sub-paragraphs.
- (4) The matters to which the court is to have regard under sub-paragraph (3)(a), so far as relating to paragraph 16(2)(a) of Schedule 15 (regard to be had to financial resources), include—
- (a) any benefits under a pension arrangement which either of the civil partners has or is likely to have, and
 - (b) any PPF compensation to which a civil partner is or is likely to be entitled, (whether or not in the foreseeable future).
- (5) The matters to which the court is to have regard under sub-paragraph (3)(a), so far as relating to paragraph 16(2)(h) of Schedule 15 (regard to be had to benefits that cease to be acquirable), include—
- (a) any benefits under a pension arrangement which, because of the dissolution or annulment of the civil partnership, one of the civil partners will lose the chance of acquiring, and
 - (b) any PPF compensation which, because of the making of the dissolution or nullity order, a civil partner will lose the chance of acquiring entitlement to.
- (6) The court, in exercising its powers under paragraph 9 in relation to a child of the family, must in particular have regard to the matters mentioned in paragraph 17(2) of Schedule 15.
- (7) The court, in exercising its powers under paragraph 9 against a civil partner (“A”) in favour of a child of the family who is not A’s child, must also have regard to the matters mentioned in paragraph 17(3) of Schedule 15.

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- (8) Where an order has been made by a court outside Northern Ireland for—
- (a) the making of payments, or
 - (b) the transfer of property,
- by one of the civil partners, the court in considering in accordance with this paragraph the financial resources of the other civil partner, or of a child of the family, shall have regard to the extent to which that order has been complied with or is likely to be complied with.
- (9) In this paragraph—
- (a) “pension arrangement” has the same meaning as in Part 3 of Schedule 15,
 - (b) references to benefits under a pension arrangement include any benefits by way of pension, whether under a pension arrangement or not, and
 - (c) “PPF compensation” has the same meaning as in ^{F202} . . . Schedule 15.

Textual Amendments

F202 Words in Sch. 17 para. 10(9)(c) repealed (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 98, 116, 118, Sch. 5 para. 20\(3\), Sch. 10 Pt. 4; S.R. 2011/108, art. 2\(2\), Sch.](#)

Commencement Information

I31 Sch. 17 para. 10 wholly in force at 6.4.2006; Sch. 17 para. 10 not in force at Royal Assent see s. 263; Sch. 17 para. 10(1)-(3)(4)(a)(5)(a)(6)-(8)(9)(a)(b) in force at 5.12.2005 by [S.I. 2005/3255, art. 2\(1\), Sch. 1](#) and Sch. 17 para. 10(4)(b)(5)(b)(9)(c) in force at 6.4.2006 by [S.I. 2006/928, art. 2\(b\)](#)

Restriction of powers under paragraph 9 where jurisdiction depends on civil partnership home in Northern Ireland

- 11 (1) Sub-paragraphs (2) to (4) apply where the court has jurisdiction to entertain an application for an order under paragraph 9 only because a dwelling-house which was a civil partnership home of the civil partners is situated in Northern Ireland.
- (2) The court may make under paragraph 9 any one or more of the following orders (but no other)—
- (a) an order that one of the civil partners shall pay to the other a specified lump sum;
 - (b) an order that one of the civil partners shall pay to a child of the family, or to a specified person for the benefit of a child of the family, a specified lump sum;
 - (c) an order that one of the civil partners shall transfer that civil partner’s interest in the dwelling-house, or a specified part of that interest—
 - (i) to the other,
 - (ii) to a child of the family, or
 - (iii) to a specified person for the benefit of a child of the family;
 - (d) an order that a settlement of the interest of one of the civil partners in the dwelling-house, or a specified part of that interest, be made to the satisfaction of the court for the benefit of any one or more of—
 - (i) the other civil partner and the children of the family, or
 - (ii) either or any of them;
 - (e) an order varying for the benefit of any one or more of—
 - (i) the civil partners and the children of the family, or

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- (ii) either or any of them,
 - a relevant settlement so far as that settlement relates to an interest in the dwelling-house;
 - (f) an order extinguishing or reducing the interest of either of the civil partners under a relevant settlement so far as that interest is an interest in the dwelling-house;
 - (g) an order for the sale of the interest of one of the civil partners in the dwelling-house.
- (3) Where under paragraph 9 the court makes just one order for the payment of a lump sum by one of the civil partners, the amount of the lump sum must not exceed the amount specified in sub-paragraph (5).
- (4) Where under paragraph 9 the court makes two or more orders each of which is an order for the payment of a lump sum by the same civil partner, the total of the amounts of the lump sums must not exceed the amount specified in sub-paragraph (5).
- (5) That amount is—
- (a) if the interest of the paying civil partner in the dwelling-house is sold in pursuance of an order made under sub-paragraph (2)(g), the amount of the proceeds of sale of that interest after deducting from those proceeds any costs incurred in the sale of that interest;
 - (b) if that interest is not so sold, the amount which in the opinion of the court represents the value of that interest.
- (6) Where the interest of one of the civil partners in the dwelling-house is held jointly or in common with any other person or persons—
- (a) the reference in sub-paragraph (2)(g) to the interest of one of the civil partners shall be construed as including a reference to the interest of that other person, or the interest of those other persons, in the dwelling-house, and
 - (b) the reference in sub-paragraph (5)(a) to the amount of the proceeds of a sale ordered under sub-paragraph (2)(g) shall be construed as a reference to that part of those proceeds which is attributable to the interest of that civil partner in the dwelling-house.
- (7) In sub-paragraph (2)—
- “relevant settlement” means a settlement made, during the subsistence of the civil partnership or in anticipation of its formation, on the civil partners, including one made by will or codicil;
 - “specified” means specified in the order.

Consent orders under paragraph 9

- 12 (1) On an application for a consent order under paragraph 9, the court may make an order in the terms agreed on the basis only of the prescribed information furnished with the application.
- (2) Sub-paragraph (1) does not apply if the court has reason to think that there are other circumstances into which it ought to inquire.
- (3) Sub-paragraph (1) applies to an application for a consent order varying or discharging an order under paragraph 9 as it applies to an application for such an order.

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(4) Sub-paragraph (1) applies despite paragraph 10.

(5) In this paragraph—

“consent order”, in relation to an application for an order, means an order in the terms applied for to which the respondent agrees;

“prescribed” means prescribed by rules of court.

Commencement Information

I32 Sch. 17 para. 12 wholly in force at 5.12.2005; Sch. 17 para. 12 not in force at Royal Assent see s. 263; Sch. 17 para. 12(1)(5) in force for certain purposes at 5.9.2005 by S.I. 2005/2399, art. 2, Sch. and Sch. 17 para. 12 in force otherwise at 5.12.2005 by S.I. 2005/3255, art. 2(1), Sch.

Orders for transfers of tenancies of dwelling-houses

13 (1) This paragraph applies if—

- (a) an application is made by one of the civil partners for an order under this paragraph, and
- (b) one of the civil partners is entitled, either in his own right or jointly with the other civil partner, to occupy a dwelling-house in Northern Ireland by virtue of a tenancy which is a tenancy mentioned in Schedule 2 to the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6)).

(2) The court may make in relation to that dwelling-house any order which it could make under Part 2 of that Schedule (order transferring tenancy or switching statutory tenants) if it had power to make a property adjustment order under Part 2 of Schedule 15 to this Act with respect to the civil partnership.

(3) The provisions of paragraphs 9, 10 and 13(1) of Schedule 2 to the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (payments by transferee, pre-transfer liabilities and right of landlord to be heard) apply in relation to any order under this paragraph as they apply to any order under Part 2 of that Schedule.

Application to orders under paragraphs 5 and 9 of provisions of Schedule 15

14 (1) The following provisions of Schedule 15 apply in relation to an order made under paragraph 5 or 9 of this Schedule as they apply in relation to a like order made under that Schedule—

- (a) paragraph 3(1) to (3) and (7) (lump sums);
- (b) paragraphs 12, 13 and 14(2) to (4) (pension sharing);
- [^{F203}(ba) paragraphs 14C, 14D and 14E(2) to (4) (pension compensation sharing);]
- (c) paragraphs 20 and 21 (orders under Part 1 relating to pensions);
- (d) paragraphs 26 to [^{F204}29 and 30 to 32] (orders under Part 1 relating to pensions where Board has assumed responsibility for scheme);
- [^{F205}(da) paragraph 29A (orders under Part 1 relating to pension compensation attachment);]
- (e) paragraphs 42(1) to (4) and (6) and 44 (duration of orders);
- (f) paragraphs 45 to 47, and 50 to 55, except paragraph 45(1)(g) (variation etc. of orders);

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- (g) paragraphs 56 to 58 (arrears and repayments);
 - (h) paragraphs 71 to [F20674A] (drafting of instruments, bankruptcy, mental disorder, [F207 pension-sharing appeals and pension compensation-sharing appeals]).
- (2) Sub-paragraph (1)(d) [F208 and (da)] does not apply where the court has jurisdiction to entertain an application for an order under paragraph 9 only because a dwelling-house which was a civil partnership home of the civil partners is situated in Northern Ireland.
- (3) Paragraph 22 of Schedule 15 (change of pension arrangement under which rights are shared) applies in relation to an order made under paragraph 9 of this Schedule by virtue of sub-paragraph (1)(d) as it applies to an order made under Part 1 of Schedule 15 by virtue of paragraph 20 or 21 of that Schedule.
- (4) The Lord Chancellor may by regulations make for the purposes of this Schedule provision corresponding to any provision which may be made by him under paragraph 23(1) to (3) of Schedule 15 (supplementary provision about orders relating to pensions under Part 1 of that Schedule) [F209 or under paragraphs 29B to 31 of that Schedule (supplementary provision about orders relating to pension compensation)].
- (5) The power to make regulations under this paragraph is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (6) Regulations under this paragraph are subject to [F210 negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954].

Textual Amendments

- F203** Sch. 17 para. 14(1)(ba) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 20(4)(a)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F204** Words in Sch. 17 para. 14(1)(d) substituted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 20(4)(b)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F205** Sch. 17 para. 14(1)(da) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 20(4)(c)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F206** Word in Sch. 17 para. 14(1)(h) substituted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 20(4)(d)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F207** Words in Sch. 17 para. 14(1)(h) substituted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 20(4)(e)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F208** Words in Sch. 17 para. 14(2) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 20(2)(f)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F209** Words in Sch. 17 para. 14(4) inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 98, 118, **Sch. 5 para. 20(2)(g)**; S.R. 2011/108, **art. 2(2)**, Sch.
- F210** Words in Sch. 17 para. 14(6) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 15(5), **Sch. 18 para. 77** (with arts. 28-31)

Commencement Information

- I33** Sch. 17 para. 14 wholly in force at 5.12.2005; Sch. 17 para. 14 not in force at Royal Assent see s. 263; Sch. 17 para. 14(4)-(6) in force for certain purposes at 5.9.2005 by S.I. 2005/2399, **art. 2**, Sch. and Sch. 17 para. 14 in force otherwise at 5.12.2005 by S.I. 2005/3255, **art. 2(1)**, Sch.

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Avoidance of transactions designed to defeat claims under paragraphs 5 and 9

- 15 (1) Sub-paragraphs (2) and (3) apply where one of the civil partners (“A”) is granted leave under paragraph 4 to make an application for an order under paragraph 9.
- (2) If the court is satisfied, on application by A, that the other civil partner (“B”) is, with the intention of defeating a claim by A, about to—
- (a) make any disposition, or
 - (b) transfer out of the jurisdiction, or otherwise deal with, any property,
- it may make such order as it thinks fit for restraining B from doing so or otherwise for protecting the claim.
- (3) If the court is satisfied, on application by A—
- (a) that the other civil partner (“B”) has, with the intention of defeating a claim by A, made a reviewable disposition, and
 - (b) that, if the disposition were set aside—
 - (i) financial relief under paragraph 5 or 9, or
 - (ii) different financial relief under paragraph 5 or 9,
 would be granted to A,
- it may make an order setting aside the disposition.
- (4) If—
- (a) an order under paragraph 5 or 9 has been made by the court at the instance of one of the civil partners (“A”), and
 - (b) the court is satisfied, on application by A, that the other civil partner (“B”) has, with the intention of defeating a claim by A, made a reviewable disposition,
- the court may make an order setting aside the disposition.
- (5) Where the court has jurisdiction to entertain an application for an order under paragraph 9 only under paragraph 7(4), it shall not make any order under sub-paragraph (2), (3) or (4) in respect of any property other than the dwelling-house concerned.
- (6) Where the court makes an order under sub-paragraph (3) or (4) setting aside a disposition, it shall give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the making of any payments or the disposal of any property).
- (7) For the purposes of sub-paragraphs (3) and (4), but subject to sub-paragraph (8), any disposition made by B is a “reviewable disposition” (whether made before or after the commencement of A’s application under that sub-paragraph).
- (8) A disposition made by B is not a reviewable disposition for those purposes if made for valuable consideration (other than formation of a civil partnership) to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of any intention on the part of B to defeat A’s claim.
- (9) A reference in this paragraph to defeating a claim by one of the civil partners is a reference to—
- (a) preventing financial relief being granted, or reducing the amount of financial relief which might be granted, under paragraph 5 or 9 at the instance of that civil partner, or

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- (b) frustrating or impeding the enforcement of any order which might be, or has been, made under paragraph 5 or 9 at the instance of that civil partner.

Presumptions for the purposes of paragraph 15

- 16 (1) Sub-paragraph (3) applies where—
- (a) an application is made under paragraph 15(2) or (3) by one of the civil partners with respect to—
 - (i) a disposition which took place less than 3 years before the date of the application, or
 - (ii) a disposition or other dealing with property which is about to take place, and
 - (b) the court is satisfied that the disposition or other dealing would (apart from paragraph 15 and this paragraph of this Schedule) have the consequence of defeating a claim by the applicant.
- (2) Sub-paragraph (3) also applies where—
- (a) an application is made under paragraph 15(4) by one of the civil partners with respect to a disposition which took place less than 3 years before the date of the application, and
 - (b) the court is satisfied that the disposition has had the consequence of defeating a claim by the applicant.
- (3) It shall be presumed, unless the contrary is shown, that the person who—
- (a) disposed of, or
 - (b) is about to dispose of or deal with the property,
- did so, or (as the case may be) is about to do so, with the intention of defeating the applicant’s claim.
- (4) A reference in this paragraph to defeating a claim by one of the civil partners has the meaning given by paragraph 15(9).

PART 2

STEPS TO PREVENT AVOIDANCE PRIOR TO APPLICATION FOR LEAVE UNDER PARAGRAPH 4

Prevention of transactions intended to defeat prospective claims under paragraphs 5 and 9

- 17 (1) If it appears to the court, on application by one of the persons (“A”) who formed a civil partnership—
- (a) that the civil partnership has been dissolved or annulled, or that the civil partners have been legally separated, by means of judicial or other proceedings in an overseas country,
 - (b) that A intends to apply for leave to make an application for an order under paragraph 9 as soon as he or she has been habitually resident in Northern Ireland for the period of one year, and
 - (c) that the other civil partner (“B”) is, with the intention of defeating A’s claim, about to—
 - (i) make any disposition, or
 - (ii) transfer out of the jurisdiction, or otherwise deal with, any property,

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- the court may make such order as it thinks fit for restraining B from taking such action as is mentioned in paragraph (c).
- (2) Sub-paragraph (1) applies even if the date of the dissolution, annulment or legal separation is earlier than the date on which that sub-paragraph comes into force.
- (3) Sub-paragraph (4) applies where—
- (a) an application is made under sub-paragraph (1) with respect to—
 - (i) a disposition which took place less than 3 years before the date of the application, or
 - (ii) a disposition or other dealing with property which is about to take place, and
 - (b) the court is satisfied that the disposition or other dealing would (apart from this paragraph of this Schedule) have the consequence of defeating a claim by the applicant.
- (4) It shall be presumed, unless the contrary is shown, that the person who—
- (a) disposed of, or
 - (b) is about to dispose of or deal with the property,
- did so, or (as the case may be) is about to do so, with the intention of defeating the applicant’s claim.
- (5) A reference in this paragraph to defeating a person’s claim is a reference to preventing financial relief being granted, or reducing the amount of financial relief which might be granted, under paragraph 5 or 9 at the instance of that person.

PART 3

SUPPLEMENTARY

Paragraphs 15 to 17: meaning of “disposition” and saving

- 18 (1) In paragraphs 15 to 17 “disposition” does not include any provision contained in a will or codicil but, with that exception, includes any conveyance, assurance or gift of property of any description, whether made by an instrument or otherwise.
- (2) The provisions of paragraphs 15 to 17 are without prejudice to any power of the court to grant injunctions under section 91 of the Judicature (Northern Ireland) Act 1978 (c. 23).

Interpretation of Schedule

- 19 In this Schedule—
- “the court” means the High Court;
- “dwelling-house” includes—
- (a) any building, or part of a building, which is occupied as a dwelling, and
 - (b) any yard, garden, garage or outhouse belonging to, and occupied with, the dwelling-house;
- “overseas country” has the meaning given by paragraph 1(3).

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SCHEDULE 18

Section 205

HOUSING AND TENANCIES: NORTHERN IRELAND

Rent (Northern Ireland) Order 1978 (S.I. 1978/1050 (N.I. 20))

- 1 In Article 14 (extended discretion of court), in paragraph (2), after “spouse” (in both places) insert “ or civil partner ”.
- 2 (1) Amend Schedule 1 (statutory tenants by succession) as follows.
 - (2) In paragraph 2, after “surviving spouse” insert “ , or surviving civil partner , ”.
 - (3) ^{F211}

Textual Amendments

F211 Words in Sch. 18 para. 2(3) repealed (1.4.2007) by [The Private Tenancies \(Northern Ireland\) Order 2006 \(S.I. 2006/1459 \(N.I. 10\)\)](#), art. 75, [Sch. 5](#); S.R. 2006/428, [art. 3\(b\)\(c\)](#)

- 3 In Schedule 4 (grounds for possession), in Case 3 in Part 1 (dwelling-house required as residence for landlord or member of his family), in paragraph (d), for “wife or husband” substitute “ spouse or civil partner ”.

Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I. 3))

- 4 (1) Amend Article 2A (meaning of member of a person’s family) as follows.
 - (2) In paragraph (1)(a)—
 - (a) after “spouse” insert “ or civil partner ”, and
 - (b) after “live together as husband and wife” insert “ or as if they were civil partners ”.
 - (3) In paragraph (2)(a), after “a relationship by marriage” insert “ or civil partnership ”.

Housing (Northern Ireland) Order 1983 (S.I. 1983/1118 (N.I. 15))

- 5 (1) In Article 24 (interpretation), amend paragraph (3) (meaning of member of another’s family) as follows.
 - (2) After “spouse” insert “ , civil partner ”.
 - (3) After “marriage” insert “ or civil partnership ”.
 - (4) After “live together as husband and wife” insert “ or as if they were civil partners ”.
- 6 (1) Amend Article 26 (succession on death of tenant) as follows.
 - (2) In paragraph (2)(a), after “spouse” insert “ or civil partner ”.
 - (3) In paragraph (3)(a), after “spouse” insert “ or civil partner ”.
 - (4) In paragraph (4), for “paragraph (4A)” substitute “ paragraphs (4A) and (4B) ”.
 - (5) After paragraph (4A) insert—

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- “(4B) A tenant to whom the tenancy was assigned in pursuance of an order under any of the following provisions of the Civil Partnership Act 2004—
- (a) Part 2 of Schedule 15; or
 - (b) paragraph 9(2) or (3) of Schedule 17,
- is a successor only if the other civil partner was a successor.”
- 7 In Article 32 (assignments), in paragraph (1), after sub-paragraph (a) insert—
- “(aa) the assignment is made in pursuance of an order made under Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004; or”.
- 8 In Article 33 (other disposals), in paragraph (2), after sub-paragraph (a) insert—
- “(aa) the vesting or other disposal is in pursuance of an order made under Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004; or”.
- 9 In Article 94 (subletting or assignment), in paragraph (2), after “1978” insert “ or Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004 ”.
- 10 In Schedule 3 (grounds for possession of dwelling-houses let under secure tenancies), in Ground 2A—
- (a) for “a married couple or” substitute “ a married couple, a couple who are civil partners of each other ”, and
 - (b) after “as husband and wife” insert “ or a couple living together as if they were civil partners ”.
- Housing (Northern Ireland) Order 2003 (S.I. 2003/412 (N.I. 2))*
- 11 (1) Amend Article 3 (meaning of a person’s family) as follows.
- (2) In paragraph (1)(a)—
- (a) after “spouse” insert “ or civil partner ”, and
 - (b) after “live together as husband and wife” insert “ or as if they were civil partners ”.
- (3) In paragraph (2)(a), after “a relationship by marriage” insert “ or civil partnership ”.
- 12 In Article 13 (persons qualified to succeed tenant under an introductory tenancy), in paragraph (a), after “spouse” insert “ or civil partner ”.
- 13 Article 14 (cases where tenant is a successor), in paragraph (2), after sub-paragraph (c) insert—
- “(d) Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.),”.
- 14 (1) Amend Article 15 (persons qualified to succeed tenant under an introductory tenancy) as follows.
- (2) In paragraph (2)(a), after “spouse” insert “ or civil partner ”.
- (3) In paragraph (3)(a), after head (iv) insert—

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- “(v) Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).”
- 15 Article 16 (assignment in general prohibited), in paragraph (2)(a), after head (iv) insert—
- “(v) Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).”
- 16 In Article 28 (interpretation of Part 3), in the definition of “partner”—
- (a) after “spouse” (in both places) insert “ or civil partner ”, and
- (b) after “husband or wife” insert “ or as if they were civil partners ”.

SCHEDULE 19

Section 206

FAMILY HOMES AND DOMESTIC VIOLENCE: NORTHERN IRELAND

PART 1

AMENDMENTS OF THE FAMILY HOMES AND DOMESTIC VIOLENCE (NORTHERN IRELAND) ORDER (SI 1998/1071 (NI 6))

- 1 (1) Amend Article 2 (interpretation) as follows.
- (2) In paragraph (2), after the definition of “health” insert—
- ““home rights” has the meaning given by Article 4;”.
- (3) In the definition of “matrimonial charge” in that paragraph, after “matrimonial” insert “ or civil partnership ”.
- (4) Omit the definition of “matrimonial home rights” in that paragraph.
- (5) In the definition of “relative” in that paragraph—
- (a) in paragraphs (a) and (b) for “spouse or former spouse” substitute “ spouse, former spouse, civil partner or former civil partner ”, and
- (b) after “were married to each other” insert “ or were civil partners of each other ”.
- (6) After paragraph (3)(g) insert—
- “(h) the Civil Partnership Act 2004.”
- (7) In paragraph (7), after “matrimonial” insert “ or civil partnership ”.
- 2 (1) Amend Article 3 (meaning of “cohabitees”, “relevant child” and “associated persons”) as follows.
- (2) For paragraph (1)(a) substitute—

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- “(a) “cohabitees” are two persons who are neither married to each other nor civil partners of each other but are living together as husband and wife or as if they were civil partners;”.
- (3) In paragraph (1)(b), after “have subsequently married each other” insert “ or become civil partners of each other ”.
- (4) After paragraph (3)(a) insert—
“(aa) they are or have been civil partners of each other;”.
- (5) After paragraph (3)(e) insert—
“(eza) they have entered into a civil partnership agreement (as defined by section 197 of the Civil Partnership Act 2004) (whether or not that agreement has been terminated);”.
- 3 (1) Amend Article 4 (rights concerning matrimonial home where one spouse has no estate, etc.) as follows.
- (2) In paragraph (1)—
(a) in sub-paragraph (a)—
(i) after “one spouse” insert “ or civil partner (“A”) ”, and
(ii) for “that spouse” substitute “ A ”,
(b) in sub-paragraph (b), after “other spouse” insert “ or civil partner (“B”) ”.
- (3) In paragraph (2)—
(a) for “the spouse not so entitled” substitute “ B ”,
(b) for “(“matrimonial home rights”)” substitute “ (“home rights”) ”, and
(c) in sub-paragraph (a), for “the other spouse” substitute “ A ”.
- (4) In paragraph (3)—
(a) for “a spouse” and for “that spouse” substitute “ B ”, and
(b) for “the other spouse” (in both places) substitute “ A ”.
- (5) In paragraph (4)—
(a) for “A spouse's” substitute “ B's ”,
(b) in sub-paragraph (a), for “by the other spouse as the other spouse's” substitute “ by A as A's ”, and
(c) in sub-paragraph (b)—
(i) for “the spouse occupies the dwelling-house as that spouse's” substitute “ B occupies the dwelling-house as B's ”, and
(ii) for “by the other spouse as the other spouse's” substitute “ by A as A's ”.
- (6) In paragraph (5)—
(a) for “a spouse (“the first spouse”)” substitute “ B ”, and
(b) in sub-paragraph (b), for “the other spouse (“the second spouse”)” substitute “ A ”,
(c) for “the second spouse” (in both places) substitute “ A ”, and
(d) for “the first spouse” substitute “ B ”.
- (7) In paragraph (6)—
(a) for “a spouse” substitute “ B ”, and

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- (b) for “the other spouse” (in both places) substitute “ A ”.
 - (8) In paragraph (7), for the words from first “which” to the end substitute “which—
 - (a) in the case of spouses, has at no time been, and was at no time intended by them to be, a matrimonial home of theirs; and
 - (b) in the case of civil partners, has at no time been, and was at no time intended by them to be, a civil partnership home of theirs.”
 - (9) In paragraph (8)—
 - (a) for “A spouse’s matrimonial home rights” substitute “ B’s home rights ”,
 - (b) in sub-paragraph (a), after “marriage” insert “ or civil partnership ”, and
 - (c) in sub-paragraph (b), for “the other spouse” substitute “ A ”.
 - (10) In paragraph (9)—
 - (a) for “a spouse” substitute “ a person ”,
 - (b) for “matrimonial home rights” substitute “ home rights ”, and
 - (c) after “spouses” insert “ or civil partners ”.
 - (11) In the heading to Article 4, for “matrimonial home where one spouse” substitute “ home where one spouse or civil partner ” and, in the preceding cross-heading, after “matrimonial” insert “ or civil partnership ”.
- 4 (1) Amend Article 5 (effect of matrimonial home rights as charge on dwelling-house) as follows.
- (2) In paragraph (1), for “marriage, one spouse” substitute “ marriage or civil partnership, A ”.
 - (3) In paragraph (2), for “The other spouse’s matrimonial home rights” substitute “ B’s home rights ”.
 - (4) In paragraph (3)—
 - (a) in sub-paragraph (a), for “the spouse so entitled” substitute “ A ”, and
 - (b) in sub-paragraph (b), after “marriage” insert “ or of the formation of the civil partnership ”.
 - (5) In paragraph (4)—
 - (a) for “a spouse’s matrimonial home rights” substitute “ B’s home rights ”,
 - (b) for “the other spouse” substitute “ A ”, and
 - (c) for “either of the spouses” substitute “ A or B ”.
 - (6) In paragraph (5), for “the other spouse” substitute “ A ”.
 - (7) In paragraph (6), for “the spouses” substitute “ A and B ”.
 - (8) In paragraph (7)—
 - (a) for “a spouse’s matrimonial home rights” substitute “ B’s home rights ”,
 - (b) in sub-paragraph (a), for “the other spouse” substitute “ A ”, and
 - (c) in sub-paragraph (b), after “marriage” insert “ or civil partnership ”.
 - (9) In paragraph (8)—
 - (a) in sub-paragraph (a), for “a spouse’s matrimonial home rights” substitute “ B’s home rights ”, and
 - (b) for “the other spouse” (in both places) substitute “ A ”.

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- (10) In the heading to Article 5, for “matrimonial home rights” substitute “home rights”.
- 5 (1) Amend Article 6 (registration, etc. of matrimonial charge) as follows.
- (2) In paragraphs (1), (3), (4), (5) and (6), after “matrimonial” insert “or civil partnership”.
- (3) In the heading to Article 6, after “matrimonial” insert “or civil partnership”.
- 6 (1) Amend Article 7 (restriction on registration where spouse entitled to more than one matrimonial charge) as follows.
- (2) In paragraphs (1), (2) and (3), after “spouse” (in each place) insert “or civil partner”.
- (3) In paragraphs (1), (2), (3) and (4), after “matrimonial” (in each place) insert “or civil partnership”.
- (4) In paragraph (3), for “matrimonial home rights” substitute “home rights”.
- (5) In the heading to Article 7, after “matrimonial” insert “or civil partnership”.
- 7 (1) Amend Article 8 (cancellation of registration of matrimonial charge before completion of disposal of dwelling-house) as follows.
- (2) In paragraphs (1) and (2), after “matrimonial” insert “or civil partnership”.
- (3) In the heading to Article 8, after “matrimonial” insert “or civil partnership”.
- 8 (1) Amend Article 9 (cancellation of registration after termination of marriage, etc.) as follows.
- (2) In paragraph (1), for “matrimonial charge” substitute “matrimonial or civil partnership charge”.
- (3) In paragraphs (1)(a), (2)(a) and (b) and (3), after “spouse” insert “or civil partner”.
- (4) In paragraphs (1)(b), (2)(a) and (4), after “marriage” (in each place) insert “or civil partnership”.
- (5) In paragraphs (1)(c), (2), (3) and (4), after “matrimonial” (in each place) insert “or civil partnership”.
- (6) In paragraph (1)(c), for “spouse’s matrimonial home rights” substitute “spouse’s or civil partner’s home rights”.
- (7) In the heading to Article 9, after “marriage” insert “or civil partnership”.
- 9 (1) Amend Article 10 (release of matrimonial home rights and postponement of priority of matrimonial charge) as follows.
- (2) In paragraph (1), for “spouse entitled to matrimonial home rights” substitute “spouse or civil partner entitled to home rights”.
- (3) In paragraphs (2) and (3), for “matrimonial charge” (in each place) substitute “matrimonial or civil partnership charge”.
- (4) In paragraph (2), for “matrimonial home rights” substitute “home rights”.
- (5) In paragraph (3), after “spouse” insert “or civil partner”.

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- (6) In the heading to Article 10, after “matrimonial” (in each place) insert “ or civil partnership ”.
- 10 (1) Amend Article 11 (occupation orders where applicant has estate or interest etc. or has matrimonial home rights) as follows.
- (2) In paragraph (1)(a)(ii), for “matrimonial home rights” substitute “ home rights ”.
- (3) After paragraph (2) insert—
- “(2A) If a civil partnership agreement (within the meaning of the Civil Partnership Act 2004) is terminated, no application under this Article may be made by virtue of Article 3(3)(eza) by reference to that agreement after the end of the period of three years beginning with the day on which it is terminated.”
- (4) In paragraph (3)(f)—
- (a) for “matrimonial home rights” substitute “ home rights ”, and
- (b) after “spouse” insert “ or civil partner ”.
- (5) In paragraph (4), for “matrimonial home rights” substitute “ home rights ”.
- (6) In paragraph (5)—
- (a) for “matrimonial home rights” substitute “ home rights ”,
- (b) after “is the other spouse” insert “ or civil partner ”,
- (c) after “during the marriage” insert “ or civil partnership ”,
- (d) in sub-paragraph (a), after “spouse” insert “ or civil partner ”, and
- (e) in sub-paragraph (b), after “marriage” insert “ or civil partnership ”.
- (7) In the heading to Article 11, for “matrimonial home rights” substitute “ home rights ”.
- 11 In Article 12 (effect of order under Article 11 where rights are charge on dwelling-house), in paragraph (1)—
- (a) for “a spouse’s matrimonial home rights” substitute “ B’s home rights ”, and
- (b) for “the other spouse” (in each place) substitute “ A ”.
- 12 (1) Amend Article 13 (one former spouse with no existing right to occupy) as follows.
- (2) In paragraph (1)(a) and (b), after “former spouse” insert “ or former civil partner ”.
- (3) For paragraph (1)(c) substitute—
- “(c) the dwelling house—
- (i) in the case of former spouses, was at any time their matrimonial home or was at any time intended by them to be their matrimonial home, or
- (ii) in the case of former civil partners, was at any time their civil partnership home or was at any time intended by them to be their civil partnership home.”
- (4) In paragraph (2), after “former spouse” (in both places) insert “ or former civil partner ”.
- (5) In paragraph (6)(f), after “marriage” insert “ or civil partnership ”.
- (6) After paragraph (6)(g)(i), insert—

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- “(ia) for a property adjustment order under Part 2 of Schedule 15 to the Civil Partnership Act 2004;”.
- (7) In paragraph (9)(a), after “former spouses” insert “ or former civil partners ”.
- (8) In paragraphs (11) and (12), after “former spouse” insert “ or former civil partner ”.
- (9) For paragraph (13)(a) and (b) substitute—
- “(a) as if he were B (the person entitled to occupy the dwelling-house by virtue of that Article); and
- (b) as if the respondent were A (the person entitled as mentioned in paragraph (1)(a) of that Article).”
- (10) In the heading to Article 13, after “former spouse” insert “ or former civil partner ”.
- 13 In Article 14 (one cohabitee or former cohabitee with no existing right to occupy), for paragraph (13)(a) and (b) substitute—
- “(a) as if he were B (the person entitled to occupy the dwelling-house by virtue of that Article); and
- (b) as if the respondent were A (the person entitled as mentioned in paragraph (1)(a) of that Article).”
- 14 (1) Amend Article 15 (neither spouse entitled to occupy) as follows.
- (2) After paragraph (1) insert—
- “(1A) This Article also applies if—
- (a) one civil partner or former civil partner and the other civil partner or former civil partner occupy a dwelling-house which is or was the civil partnership home; but
- (b) neither of them is entitled to remain in occupation—
- (i) by virtue of a beneficial estate or contract; or
- (ii) by virtue of any statutory provision giving him the right to remain in occupation.”
- (3) In paragraph (3)(c), for “spouses” substitute “ parties ”.
- (4) In the heading to Article 15, after “spouse” insert “ or civil partner ”.
- 15 In Article 20 (non-molestation orders), after paragraph (4) insert—
- “(4ZA) If a civil partnership agreement (within the meaning of the Civil Partnership Act 2004) is terminated, no application under this Article may be made by virtue of Article 3(3)(eza) by reference to that agreement after the end of the period of three years beginning with the day on which it is terminated.”
- 16 (1) In Article 22 (evidence of agreement to marry), after paragraph (2) insert—
- “(3) Subject to paragraph (4), the court shall not make an order under Article 11 or 20 by virtue of Article 3(3)(eza) unless there is produced to it evidence in writing of the existence of the civil partnership agreement (within the meaning of the Civil Partnership Act 2004).
- (4) Paragraph (3) does not apply if the court is satisfied that the civil partnership agreement was evidenced by—
- (a) a gift by one party to the agreement to the other as a token of the agreement, or

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- (b) a ceremony entered into by the parties in the presence of one or more other persons assembled for the purpose of witnessing the ceremony.”
- (2) In the heading to Article 22, after “marry” insert “ or form a civil partnership ”.
- 17 In Article 24 (variation and discharge of orders), in paragraph (3)—
- (a) for “a spouse’s matrimonial home rights are” substitute “ B’s home rights are, under Article 12, ”, and
- (b) for “the other spouse” (in each place) substitute “ A ”.
- 18 (1) Amend Article 31 (dwelling-house subject to mortgage) as follows.
- (2) In paragraphs (3)(a) and (4), for “matrimonial home rights” substitute “ home rights ”.
- (3) In paragraph (5), after “spouse, former spouse” insert “ , civil partner, former civil partner ”.
- 19 (1) Amend Article 33 (actions by mortgagees: service of notice on certain persons) as follows.
- (2) In paragraphs (1) and (2), after “matrimonial” insert “ or civil partnership ”.
- 20 (1) Amend Article 39 (appeals) as follows.
- (2) At the end of paragraph (2)(b) insert “or
- (c) where the county court is a civil partnership proceedings county court exercising jurisdiction under the Civil Partnership Act 2004.”
- (3) At the end of paragraph (6) insert “ or a civil partnership proceedings county court exercising jurisdiction under the Civil Partnership Act 2004 in the same proceedings ”.
- 21 (1) Amend Schedule 2 (transfer of certain tenancies on divorce etc. or on separation of cohabitees) as follows.
- (2) In paragraph 1(2), before the definition of “cohabitee” insert—
- ““civil partner”, except in paragraph 2, includes (where the context requires) former civil partner;”.
- (3) In paragraph 2(1), after “spouse” (in both places) insert “ or civil partner ”.
- (4) For paragraph 2(2) substitute—
- “(2) The court may make a Part II order—
- (a) on granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter (whether, in the case of a decree of divorce or nullity of marriage, before or after the decree is made absolute), or
- (b) at any time when it has power to make a property adjustment order under Part 2 of Schedule 15 to the Civil Partnership Act 2004 with respect to the civil partnership.”
- (5) In paragraph 2(3), after “spouse” insert “ or civil partner ”.
- (6) Omit “or” at the end of paragraph 4(1)(a) and insert—

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“(aa) in the case of civil partners, a civil partnership home; or”.

- (7) In paragraph 5(a), after “spouses” insert “, civil partners”.
- (8) In paragraph 6, after “spouse” (in both places) insert “, civil partner”.
- (9) In paragraph 7(1) and (2), after “spouse” (in each place) insert “, civil partner”.
- (10) For paragraph 7(3) substitute—
- “(3) If the spouse, civil partner or cohabitee so entitled is a successor within the meaning of Chapter 2 of Part 2 of the Housing (Northern Ireland) Order 1983 (S.I. 1983/1118 (N.I. 15))—
- (a) his former spouse (or, in the case of judicial separation, his spouse),
 - (b) his former civil partner (or, if a separation order is in force, his civil partner), or
 - (c) his former cohabitee,
- is to be deemed also to be a successor within the meaning of that Chapter.”
- (11) In paragraph 8(1) and (2)(a) and (b), after “spouse” insert “, civil partner”.
- (12) In paragraph 8(3), after “widower” insert “ or surviving civil partner”.
- (13) In paragraph 9(1) (in both places), after “spouse” insert “, civil partner”.
- (14) In paragraph 10(1), after “spouses” insert “, civil partners”.
- (15) In paragraph 10(2), after “spouse” insert “, civil partner”.
- (16) For paragraph 11 and the heading preceding it, substitute—

“Date when order made between spouses or civil partners takes effect

- 11 The date specified in a Part II order as the date on which the order is to take effect must not be earlier than—
- (a) in the case of a marriage in respect of which a decree of divorce or nullity has been granted, the date on which the decree is made absolute;
 - (b) in the case of a civil partnership in respect of which a dissolution or nullity order has been made, the date on which the order is made final.”

- (17) For paragraph 12 and the heading preceding it substitute—

“Effect of remarriage or subsequent civil partnership

- 12 (1) If after the grant of a decree dissolving or annulling a marriage either spouse remarries or forms a civil partnership, that spouse is not entitled to apply, by reference to the grant of that decree, for a Part II order.
- (2) If after the making of a dissolution or nullity order either civil partner forms a subsequent civil partnership or marries, that civil partner is not entitled to apply, by reference to the making of that order, for a Part II order.
- (3) In sub-paragraphs (1) and (2)—

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- (a) the references to remarrying and marrying, include references to cases where the marriage is by law void or voidable, and
 - (b) the references to forming a civil partnership, include references to cases where the civil partnership is by law void or voidable.”
- (18) In paragraph 14(1)—
- (a) after “spouse” insert “ or civil partner ”, and
 - (b) for “spouse’s matrimonial home rights” substitute “ spouse’s or civil partner’s home rights ”.
- (19) In paragraph 14(2), after “spouse” insert “ , civil partner ”.

PART 2

CONSEQUENTIAL AMENDMENTS

Land Registration Act (Northern Ireland) 1970 (c. 18)

- 22 In Part 1 of Schedule 6 (registration of certain burdens), in paragraph 14A for “matrimonial charge (within the meaning of Article 5(1) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 or” substitute “ matrimonial or civil partnership charge (”.

Registration of Deeds Act (Northern Ireland) 1970 (c. 25)

- 23 In section 4(4A), for “matrimonial charge (within the meaning of Article 5(1) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 or” substitute “ matrimonial or civil partnership charge (”.

Land Acquisition and Compensation (Northern Ireland) Order 1973 (S.I. 1973/1896 (N.I. 21))

- 24 (1) Amend Article 30A (spouses having statutory rights of occupation) as follows.
- (2) In paragraph (1)—
- (a) for “one spouse (“A”)” substitute “ one spouse or civil partner (“A”) ”, and
 - (b) for “the other spouse (“B”) acquires matrimonial home rights” substitute “ the other spouse or civil partner (“B”) acquires home rights ”.
- (3) In paragraph (2), for “matrimonial home rights” substitute “ home rights ”.
- (4) In the heading to Article 30A, after “spouses” insert “ and civil partners ”.

Rent (Northern Ireland) Order 1978 (S.I. 1978/1050 (N.I. 20))

- 25 (1) Amend Article 14 (extended discretion of court in certain proceedings for possession) as follows.
- (2) In paragraph (4A)(b), for “tenant’s spouse or former spouse, having matrimonial home rights” substitute “ tenant’s spouse or former spouse, or civil partner or former civil partner, having home rights ”.
- (3) In paragraph (4B)—

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- (a) after “the spouse or former spouse” insert “, or the civil partner or former civil partner,” and
- (b) for “those matrimonial home rights” substitute “ those home rights ”.

(4) In paragraph (4C)—

- (a) in sub-paragraph (b), for “former spouse of the tenant” substitute “ former spouse or former civil partner of the tenant ”, and
- (b) in sub-paragraph (c) after “former spouse,” insert “ former civil partner, ”.

(5) In paragraph (4D), after “former spouse,” insert “ former civil partner, ”.

Housing (Northern Ireland) Order 1983 (S.I. 1983/1118 (N.I. 15))

26 In Article 36(1)(d) (rent not to be increased on account of tenant’s improvements), after “former spouse” insert “ civil partner, former civil partner, ”.

27 (1) Amend Article 47 (extended discretion of court in possession claims) as follows.

(2) In paragraph (5), for “tenant’s spouse or former spouse, having matrimonial home rights” substitute “ tenant’s spouse or former spouse, or civil partner or former civil partner, having home rights ”.

(3) In paragraph (6)—

- (a) after “the spouse or former spouse” insert “, or the civil partner or former civil partner ”, and
- (b) for “those matrimonial home rights” substitute “ those home rights ”.

(4) In paragraph (7)—

- (a) in sub-paragraph (b), for “former spouse of the tenant” substitute “ former spouse or former civil partner of the tenant ”,
- (b) in sub-paragraph (c), after “former spouse” insert “ former civil partner ”.

(5) In paragraph (8) after “former spouse,” insert “ former civil partner, ”.

Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19))

28 (1) Amend Article 309 (rights of occupation etc. of bankrupt’s spouse) as follows.

(2) In paragraph (1), for “matrimonial home rights” substitute “ home rights ”.

(3) In paragraph (2)—

- (a) for “a spouse’s matrimonial home rights” substitute “ a spouse’s or civil partner’s home rights ”, and
- (b) after “the other spouse” (in each place) insert “ or civil partner ”.

(4) In paragraph (3) after “spouse or former spouse” insert “ or civil partner or former civil partner ”.

29 (1) Amend Article 310 (rights of occupation of bankrupt) as follows.

(2) In paragraph (2), for “spouse (if any) has matrimonial home rights” substitute “ spouse or civil partner (if any) has home rights ”.

(3) In paragraph (3)—

- (a) in sub-paragraph (a), for “matrimonial home rights” substitute “ home rights ”, and

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- (b) in sub-paragraph (c), after “spouse” insert or “civil partner”.

PART 3

TRANSITIONAL PROVISION

- 30 (1) Any reference (however expressed) in any enactment, instrument or document (whether passed or made before or after the passing of this Act)—
- (a) to rights of occupation under, or within the meaning of, Part II of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 (S.I. 1984/1984 (N.I. 14)), or
 - (b) to matrimonial home rights under, or within the meaning of, the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6)),

is to be construed, so far as is required for continuing the effect of the instrument or document, as being or as the case requires including a reference to home rights under, or within the meaning of, the 1998 Order as amended by this Schedule.

- (2) Any reference (however expressed) in the 1998 Order or in any other enactment, instrument or document (including any enactment amended by this Schedule) to home rights under, or within the meaning of, the 1998 Order is to be construed as including, in relation to times, circumstances and purposes before the commencement of this Schedule, references to rights of occupation under, or within the meaning of, Part II of the 1984 Order and to matrimonial home rights under, or within the meaning of, the 1998 Order without the amendments made by this Schedule.
- (3) Any reference (however expressed) in any enactment, instrument or document (whether passed or made before or after the passing of this Act) to a matrimonial charge under, or within the meaning of—
- (a) Article 5(1) of the 1984 Order, or
 - (b) the 1998 Order,

is to be construed, so far as is required for continuing the effect of the instrument or document, as being or as the case requires including a reference to a matrimonial or civil partnership charge under, or within the meaning of, the 1998 Order as amended by this Schedule.

- (4) Any reference (however expressed) in the 1998 Order or in any other enactment, instrument or document (including any enactment amended by this Schedule) to a matrimonial or civil partnership charge under, or within the meaning of, the 1998 Order is to be construed as including, in relation to times, circumstances and purposes before the commencement of this Schedule, references to a matrimonial charge under, or within the meaning of—
- (a) Article 5(1) of the 1984 Order, or
 - (b) the 1998 Order.

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SCHEDULE 20

Section 213

MEANING OF OVERSEAS RELATIONSHIP: SPECIFIED RELATIONSHIPS

A relationship is specified for the purposes of section 213 (meaning of “overseas relationship”) if it is registered in a country or territory given in the first column of the table and fits the description given in relation to that country or territory in the second column—

<i>Country or territory</i>	<i>Description</i>
[^{F212} Andorra	unió estable de parella
[^{F213} [^{F214} Argentina	marriage]
Argentina: Autonomous City of Buenos Aires	unión civil
Australia: Australian Capital Territory	civil partnership
Australia: New South Wales	a relationship registered under the Relationships Register Act 2010
Australia: Queensland	civil partnership]
Australia: Tasmania	significant relationship]
[^{F215} Australia: Victoria	registered domestic relationship
Austria	eingetragene Partnerschaft]
Belgium	[^{F216} the relationship referred to as cohabitation légale, wettelijke samenwoning or gesetzliches zusammenwohnen]
[^{F214} Belgium	marriage]
[^{F217} [^{F214} Brazil	marriage]
Brazil	união estável]
[^{F218} [^{F214} Canada	marriage]]
[^{F219} Canada: Manitoba	the relationship referred to as common-law relationship or as union de fait]
Canada: Nova Scotia	domestic partnership
Canada: Quebec	[^{F220} the relationship referred to as union civile or as civil union]
[^{F221} Colombia	unión de hecho
Czech Republic	registrované partnersví
[^{F214} Denmark	marriage]]
Denmark	registreret partnerskab ^{F222}
	. . .
[^{F223} Ecuador	unión civil]

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Finland	[^{F224} the relationship referred to as rekisteröity parisuhde or as registrerad partnerskap]
France	[^{F225} pacte civil de solidarité]
Germany	Lebenspartnerschaft ^{F222}
	. . .
[^{F226} Greenland	the relationship referred to as nalunaarsukkamik inooqatigiinneq or as registreret partnerskab
Hungary	bejegyzett élettársi kapcsolat
[^{F214} Iceland	marriage]]
Iceland	staðfesta samvist ^{F222}
	. . .
[^{F227} Ireland	civil partnership
Isle of Man	civil partnership
Jersey	civil partnership
Liechtenstein	eingetragene Partnerschaft]
[^{F228} Luxembourg	the relationship referred to as partenariat enregistré or eingetragene partnerschaft]
[^{F229} Mexico: Coahuila]	[^{F229} pacto civil de solidaridad]
[^{F229} [^{F214} Mexico: Mexico City Federal District]]	[^{F229} [^{F214} marriage]]
[^{F229} Mexico: Mexico City Federal District]	[^{F229} sociedad de convivencia]
Netherlands	[^{F230} geregistreerd partnerschap]
[^{F214} Netherlands	marriage]
[^{F231} New Zealand	civil union]
[^{F232} [^{F214} Norway	marriage]]
Norway	registrert partnerskap ^{F222}
	. . .
[^{F233} [^{F214} Portugal	marriage]]
[^{F233} Slovenia	zakon o registraciji istospolne partnerske skupnosti]
[^{F233} South Africa	civil partnership]
[^{F233} [^{F214} South Africa	marriage]]
[^{F234} [^{F214} Spain	marriage]]

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[^{F235} [^{F214} Sweden	marriage]]
Sweden	registrerat partnerskap ^{F222}
	. . .
[^{F236} Switzerland	the relationship referred to as eingetragene Partnerschaft, as partenariat enregistré or as unione domestica registrata]
[^{F237} United States of America: California	domestic partnership]
[^{F238} [^{F214} United States of America: California	marriage]]
[^{F238} United States of America: Colorado	the relationship between designated beneficiaries]
[^{F237} United States of America: Connecticut	civil union]
[^{F239} [^{F214} United States of America: Connecticut]]	[^{F239} [^{F214} marriage]]
[^{F239} United States of America: Delaware]	[^{F239} civil union]
[^{F239} [^{F214} United States of America: District of Columbia]]	[^{F239} [^{F214} marriage]]
[^{F239} United States of America: Hawaii]	[^{F239} civil union]
[^{F239} United States of America: Hawaii]	[^{F239} reciprocal beneficiary relationship]
[^{F239} United States of America: Illinois]	[^{F239} civil union]
[^{F239} [^{F214} United States of America: Iowa]]	[^{F239} [^{F214} marriage]]
[^{F237} United States of America: Maine	domestic partnership]
[^{F237} [^{F214} United States of America: Massachusetts	marriage]]
[^{F240} United States of America: Nevada]	[^{F240} domestic partnership]
[^{F240} [^{F214} United States of America: New Hampshire]]	[^{F240} [^{F214} marriage]]
[^{F240} United States of America: New Jersey]	[^{F240} civil union]
[^{F237} United States of America: New Jersey	domestic partnership]
[^{F241} [^{F214} United States of America: New York]]	[^{F241} [^{F214} marriage]]
[^{F241} United States of America: Oregon]	[^{F241} domestic partnership]
[^{F241} United States of America: Rhode Island]	[^{F241} civil union]
United States of America: Vermont	civil union
[^{F242} [^{F214} United States of America: Vermont]]	[^{F242} [^{F214} marriage]]
[^{F242} United States of America: Washington]	[^{F242} state registered domestic partnership]

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[^{F242}United States of America: Wisconsin] [^{F242}domestic partnership]
[^{F242}Uruguay] [^{F242}unión concubinarial]

Textual Amendments

- F212** Sch. 20: entries inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(a)**
- F213** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 2**
- F214** Sch. 20: entries repealed (S.) (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), ss. **26(3)**, 36; S.S.I. 2014/287, art. 3, **sch.** (with art. 5); and words omitted (N.I.) (13.1.2020) by virtue of The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **17(7)(b)(ii)** (with regs. 6-9)
- F215** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 3**
- F216** Sch. 20: words in entry substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(b)**
- F217** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 4**
- F218** Sch. 20: entry inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(b)**
- F219** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 5**
- F220** Sch. 20: words in entry substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(b)**
- F221** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 6**
- F222** Sch. 20: words in brackets omitted (5.12.2005) by virtue of The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(f)**
- F223** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 7**
- F224** Sch. 20: words in entry substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(c)**
- F225** Sch. 20: words in entry substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(d)**
- F226** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 8**
- F227** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 9**
- F228** Sch. 20: entry inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(c)**
- F229** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 10**
- F230** Sch. 20: words in entry substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(e)**
- F231** Sch. 20: entry inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(d)**
- F232** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 11**
- F233** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 12**

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- F234** Sch. 20: entry inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(e)**
- F235** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 13**
- F236** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 14**
- F237** Sch. 20: entries inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(f)**
- F238** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 15**
- F239** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 16**
- F240** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 17**
- F241** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 18**
- F242** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 19**

Textual Amendments

- F212** Sch. 20: entries inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(a)**
- F213** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 2**
- F214** Sch. 20: entries repealed (S.) (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 26(3)**, 36; S.S.I. 2014/287, art. 3, **sch.** (with art. 5); and words omitted (N.I.) (13.1.2020) by virtue of The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **17(7)(b)(ii)** (with regs. 6-9)
- F215** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 3**
- F216** Sch. 20: words in entry substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(a)**
- F217** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 4**
- F218** Sch. 20: entry inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(b)**
- F219** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 5**
- F220** Sch. 20: words in entry substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(b)**
- F221** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 6**
- F222** Sch. 20: words in brackets omitted (5.12.2005) by virtue of The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(f)**
- F223** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 7**
- F224** Sch. 20: words in entry substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(c)**
- F225** Sch. 20: words in entry substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(d)**

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- F226** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 8**
- F227** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 9**
- F228** Sch. 20: entry inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(c)**
- F229** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 10**
- F230** Sch. 20: words in entry substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), **art. 3(e)**
- F231** Sch. 20: entry inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(d)**
- F232** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 11**
- F233** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 12**
- F234** Sch. 20: entry inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(e)**
- F235** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 13**
- F236** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 14**
- F237** Sch. 20: entries inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135), **art. 2(f)**
- F238** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 15**
- F239** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 16**
- F240** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 17**
- F241** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 18**
- F242** Words in Sch. 20 inserted (31.1.2013) by The Civil Partnership Act 2004 (Overseas Relationships) Order 2012 (S.I. 2012/2976), art. 1, **Sch. para. 19**

SCHEDULE 21

Section 247

REFERENCES TO STEPCHILDREN ETC. IN EXISTING ACTS

- 1 The Declinature Act 1681 (c. 79) (Senators of College of Justice not to sit in causes of persons related to them).
- 2 Section 21 of the Small Landholders (Scotland) Act 1911 (c. 49) (assignment of holding).
- [^{F243}2A Section 4(3) of the Workmen's Compensation Act 1925 (c. 84) (Member of a family).]

Status: Point in time view as at 02/03/2015.

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Textual Amendments

F243 Sch. 21 para. 2A inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(a)**

- 3 Section 68(2)(e) of the Marriage Act 1949 (c. 76) (solemnisation of marriages of stepchildren of servicemen in naval, military and air force chapels etc.).
- 4 Section 7(7) of the Leasehold Reform Act 1967 (c. 88) (rights of members of family succeeding to tenancy on death: member of another’s family).
- 5 Section 18(3) of that Act (residential rights and exclusion of enfranchisement or extension: adult member of another’s family).
- 6 Section 2(2) of the Employers' Liability (Compulsory Insurance) Act 1969 (c. 57) (employees to be covered).
- 7 Section 27(5) of the Parliamentary and other Pensions Act 1972 (c. 48) (pensions for dependants of Prime Minister or Speaker).
- 8 Section 184(5) of the Consumer Credit Act 1974 (c. 39) (associates).
-
- 9 Section 1(5) of the Fatal Accidents Act 1976 (c. 30) (right of action for wrongful act causing death: who are dependants).
- 10 The definition of “relative” in section 31(1) of the Credit Unions Act 1979 (c. 34) (interpretation, etc.).
- 11 Section 32(3) of the Estate Agents Act 1979 (c. 38) (“associate”: meaning of relative).
- [^{F245}11A Section 3(4) of the Pneumoconiosis etc. (Workers' Compensation) Act 1979 (“child” and “relative”: establishment of relationship).]

Textual Amendments

F245 Sch. 21 para. 11A inserted (3.7.2007) by [Welfare Reform Act 2007 \(c. 5\)](#), **ss. 59(4), 70**

- 12 Section 13(1) of the Administration of Justice Act 1982 (c. 53) (deduction of relationships).
- 13 Section 12(5) of the Mental Health Act 1983 (c. 20) (general provisions as to medical recommendations: persons who may not give recommendations).
- 14 Section 25C(10) of that Act (supervision applications: meaning of “close relative”).
- 15 Section 5(3) of the Mobile Homes Act 1983 (c. 34) (interpretation: member of another’s family).
- [^{F246}15A Section 11(6) of the Inheritance Tax Act 1984 (c. 51) (dispositions for maintenance of family).

Textual Amendments

F246 Sch. 21 para. 15A-15C inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(b)**

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15B Section 22(2) of that Act (gifts in consideration of marriage).

Textual Amendments

F246 Sch. 21 para. 15A-15C inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(b)**

15C Section 71(8) of that Act (accumulation and maintenance trusts).]

Textual Amendments

F246 Sch. 21 para. 15A-15C inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(b)**

16 Section 153(4) of the Companies Act 1985 (c. 6) (transactions not prohibited by section 151).

17 Section 203(1) of that Act (notification of family and corporate interests: person interested in shares).

18 Section 327(2) of that Act (extension of section 323 to spouses and children).

19 Section 328(8) of that Act (extension of section 324 to spouses and children).

20 Section 346(2) of that Act (“connected persons”).

21 Section 430E(8) of that Act (associates).

22 Section 742A(6) of that Act (meaning of “offer to the public”).

[^{F247}22A Section 743(b) of that Act (“employees' share scheme”).]

Textual Amendments

F247 Sch. 21 para. 22A inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(c)**

23 Section 74(4)(a) of the Bankruptcy (Scotland) Act 1985 (c. 66) (meaning of “associate”).

24 Section 113(2) of the Housing Act 1985 (c. 68) (members of a person’s family).

25 Section 186(2) of that Act (members of a person’s family).

26 Section 105(2) of the Housing Associations Act 1985 (c. 69) (members of a person’s family).

27 Section 20(6) of the Airports Act 1986 (c. 31) (powers of investment and disposal in relation to public airport companies).

28 Section 435(8) of the Insolvency Act 1986 (c. 45) (meaning of “associate”).

29 Section 70(2)(a) and (c), (3)(a) and (4) of the Building Societies Act 1986 (c. 53) (interpretation).

30 Section 83(2)(c) of the Housing (Scotland) Act 1987 (c. 26) (members of a person’s family).

31 Section 4(6) of the Landlord and Tenant Act 1987 (c. 31) (relevant disposals).

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- [^{F248}31A Paragraph 2(5) of Schedule 14 to the Income and Corporation Taxes Act 1988 (c. 1) (life assurance premiums payable to friendly societies and industrial assurance companies).]

Textual Amendments

F248 Sch. 21 para. 31A inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(d)**

- 32 Section 52(2)(a) of the Companies Act 1989 (c. 40) (meaning of “associate”).
- 33 The definition of “relative” in section 105(1) of the Children Act 1989 (c. 41) (interpretation).
- 34 Paragraph 1(2) of Schedule 2 to the Broadcasting Act 1990 (c. 42) (restrictions on the holding of licences).
- 35 Section 11(1) of the Agricultural Holdings (Scotland) Act 1991 (c. 55) (bequest of lease).
- [^{F249}35A Paragraphs 2(7), 2A(10) and 9(11) of Schedule 5 to the Taxation of Chargeable Gains Act 1992 (c. 12) (attribution of gains to settlors with interest in non-resident or dual resident settlement).]

Textual Amendments

F249 Sch. 21 para. 35A inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(e)**

- 36 Section 77(3)(c) of the Friendly Societies Act 1992 (c. 40) (information on appointed actuary to be annexed to balance sheet).
- 37 The definitions of “son” and “daughter” in section 119A(2) of that Act (meaning of “associate”).
- ^{F250}38

Textual Amendments

F250 Sch. 21 para. 38 repealed (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), ss. 354(4), 355, **Sch. 10** (with s. 20(2), Sch. 8)

- 39 Section 10(5) of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) (premises with a resident landlord: adult member of another’s family).
- 40 Section 61(2) of the Crofters (Scotland) Act 1993 (c. 44) (member of family).
- 41 Section 2 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) (intercourse with stepchild).
- 42 Section 161(1) of the Employment Rights Act 1996 (c. 18) (domestic servants).
- 43 The definition of “relative” in section 63(1) of the Family Law Act 1996 (c. 27) (interpretation of Part 4 of the 1996 Act).
- 44 Section 62(2) of the Housing Act 1996 (c. 52) (members of a person’s family: Part 1).

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- 45 Section 140(2) of that Act (members of a person’s family: Chapter 1).
46 Section 143P(3) of that Act (members of a person’s family: Chapter 1A).
47 The definition of “relative” in section 178(3) of that Act (meaning of associated person).
48 Section 422(4)(b) of the Financial Services and Markets Act 2000 (c. 8) (controller).
49 Paragraph 16(2) of Schedule 11 to that Act (offers of securities).
[^{F251}49A Section 80(4A) of the Care Standards Act 2000 (c. 14) (basic definitions).]

Textual Amendments

F251 Sch. 21 para. 49A inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(f)**

- 50 Section 108(2)(c) of the Housing (Scotland) Act 2001 (asp 10) (meaning of certain terms).
51 Section 1(3) of the Mortgage Rights (Scotland) Act 2001 (asp 11) (application to suspend enforcement of standard security).
52 Paragraph 3(8) of Schedule 6 to the Commonhold and Leasehold Reform Act 2002 (c. 15) (premises excluded from right to manage).
53 Section 127(6) of the Enterprise Act 2002 (c. 40) (associated persons).
[^{F252}54 Section 242(2) of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (works transport services).]

Textual Amendments

F252 Sch. 21 para. 54-63 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(g)**

- 55 Section 270A(3)(a) of that Act (limited exemption for qualifying childcare vouchers).

Textual Amendments

F252 Sch. 21 para. 54-63 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(g)**

- 56 Section 318(3) of that Act (childcare: exemption for employer-provided care).

Textual Amendments

F252 Sch. 21 para. 54-63 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(g)**

- 57 Section 318A(3) of that Act (childcare: limited exemption for other care).

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Textual Amendments

F252 Sch. 21 para. 54-63 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(g)**

58 Section 318C(8) of that Act (childcare: meaning of “qualifying child care”).

Textual Amendments

F252 Sch. 21 para. 54-63 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(g)**

59 Section 371(7) of that Act (travel costs and expenses where duties performed abroad: visiting spouse's or child's travel).

Textual Amendments

F252 Sch. 21 para. 54-63 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(g)**

60 Section 374(9) of that Act (non-domiciled employee's spouse's or child's travel costs and expenses where duties performed in UK).

Textual Amendments

F252 Sch. 21 para. 54-63 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(g)**

61 Section 27(3)(a) and (c) of the Sexual Offences Act 2003 (c. 42) (family relationships).

Textual Amendments

F252 Sch. 21 para. 54-63 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(g)**

62 Section 27(4) of the Human Tissue Act 2004 (c. 30) (provision with respect to consent).

Textual Amendments

F252 Sch. 21 para. 54-63 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(g)**

63 Section 54(9) of that Act (general interpretation).]

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Textual Amendments

F252 Sch. 21 para. 54-63 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order 2005 \(S.I. 2005/3137\)](#), **art. 2(g)**

SCHEDULE 22

Section 248

REFERENCES TO STEPCHILDREN ETC. IN EXISTING NORTHERN IRELAND LEGISLATION

- 1 The definition of “member of the family” in section 101 of the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)) (interpretation).
- 2 Section 1(3)(f) of the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 (c. 7 (N.I.)) (persons to have rights to acquire a fee simple or to obtain extension of a lease).
- 3 Section 19(1)(a) of that Act (family of a person).
- 4 Section 3(7) of the Pensions (Increase) Act (Northern Ireland) 1971 (c. 35 (N.I.)) (dependants).
- 5 Article 6 of the Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 (S.I. 1972/963 (N.I. 6)) (employees to be exempted).
- 6 Article 2(2) of the Fatal Accidents (Northern Ireland) Order 1977 (S.I. 1977/ 1251 (N.I. 18)) (dependants).
- [^{F254}6A Article 5(3) of the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 (“child” and “relative”: establishment of relationship).]

Textual Amendments

F254 Sch. 22 para. 6A inserted (29.6.2007) by [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\)](#) (N.I.), {ss. 53(3)}, 60

- 7 Article 2(5) of the Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I. 3)) (interpretation).
- 8 Article 24(3) of the Housing (Northern Ireland) Order 1983 (S.I. 1983/1118 (N.I. 15)) (interpretation).
- 9 The definition of “member of the family” in Article 2(2) of the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)) (interpretation).
- 10 Schedule 1 to the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/ 595 (N.I. 4)) (general provisions as to medical recommendations: persons who may not give recommendations).
- 11 ^{F255}

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F255 Sch. 22 paras. 11-16, 18 omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 242** (with art. 10)

12 **F256**

Textual Amendments

F256 Sch. 22 paras. 11-16, 18 omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 242** (with art. 10)

13 **F257**

Textual Amendments

F257 Sch. 22 paras. 11-16, 18 omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 242** (with art. 10)

14 **F258**

Textual Amendments

F258 Sch. 22 paras. 11-16, 18 omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 242** (with art. 10)

15 **F259**

Textual Amendments

F259 Sch. 22 paras. 11-16, 18 omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 242** (with art. 10)

16 **F260**

Textual Amendments

F260 Sch. 22 paras. 11-16, 18 omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 242** (with art. 10)

17 Article 4(8) of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (meaning of “associate”).

18 **F261**

Status: Point in time view as at 02/03/2015.

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Textual Amendments

F261 Sch. 22 paras. 11-16, 18 omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 242** (with art. 10)

PROSPECTIVE

- 19 Article 2(4) of the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20)) (meaning of “relative”).
- 20 The definition of “relative” in Article 2(2) of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)).
- 21 Article 196(1) of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)) (domestic servants).
- 22 The definition of “relative” in Article 2(2) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6)) (interpretation).
- 23 Article 3(2) of the Housing (Northern Ireland) Order 2003 (S.I. 2003/412 (N.I. 2)) (members of a person’s family).
- 24 The definition of “relative” in Article 2(2) of the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3)) (interpretation).
- [^{F262}25 Section 4(3) of the Workmen's Compensation Act (Northern Ireland) 1927 (Meaning of “workman”).]

Textual Amendments

F262 Sch. 22 paras. 25, 26 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order \(Northern Ireland\) 2005 \(S.R. 2005/542\)](#), **art. 2**

- 26 Article 5(3) of the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 (Meaning of “dependant”).]

Textual Amendments

F262 Sch. 22 paras. 25, 26 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Relationships Arising Through Civil Partnership\) Order \(Northern Ireland\) 2005 \(S.R. 2005/542\)](#), **art. 2**

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 23

Section 249

IMMIGRATION CONTROL AND FORMATION OF CIVIL PARTNERSHIPS

PART 1

INTRODUCTION

Application of Schedule

- [^{F263}A](1) Part 2 of this Schedule applies to a civil partnership that is to be formed in England and Wales by signing a civil partnership schedule unless each party to the civil partnership falls within exception A or exception B.
- (2) A party to the civil partnership falls within exception A if the person is a relevant national.
- (3) A party to the civil partnership falls within exception B if—
- (a) the person is exempt from immigration control, and
 - (b) the notice of civil partnership is accompanied by the specified evidence required by section 9A(2) that the person is exempt from immigration control.
- (4) In this [^{F264}Schedule], a reference to a person being a relevant national, or being exempt from immigration control, has the same meaning as in section 49 of the Immigration Act 2014.]

Textual Amendments

F263 Sch. 23 para. A1 inserted (1.3.2015) by [Immigration Act 2014 \(c. 22\)](#), **ss. 58(5)**, 75(3); S.I. 2015/371, [art. 2\(1\)\(j\)](#) (with [art. 6](#))

F264 Word in Sch. 23 para. A1(4) substituted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), [art. 1\(2\)](#), **Sch. 3 para. 8(a)** (with [art. 1\(3\)](#))

- [^{F265}(1A)] Part 3 of this Schedule applies if—
- (a) two people wish to register in Scotland as civil partners of each other, and
 - (b) one of them is subject to immigration control.
- (1B) Part 4 of this Schedule applies if—
- (a) two people wish to register in Northern Ireland as civil partners of each other, and
 - (b) one of them is subject to immigration control.]
- (2) Part 4 of this Schedule applies to a civil partnership that is to be formed in Northern Ireland by signing a civil partnership schedule unless each party to the civil partnership falls within exception A or exception B.
- (3) A party to the civil partnership falls within exception A if the person is a relevant national.
- (4) A party to the civil partnership falls within exception B if—

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the person is exempt from immigration control, and
- (b) the notice of civil partnership is accompanied by the evidence required by regulations made under section 54(2) of, and paragraph 3 of Schedule 5 to, the Immigration Act 2014.]

Textual Amendments

F265 Sch. 23 para. 1 substituted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), art. 1(2), **Sch. 3 para. 8(b)** (with art. 1(3))

F266 Sch. 23 para. 1(1A)(1B) substituted for Sch. 23 para. 1(1) (1.3.2015) by [Immigration Act 2014 \(c. 22\)](#), ss. **58(6)**, **75(3)**; S.I. 2015/371, art. 2(1)(j) (with art. 6)

The qualifying condition

2 ^{F267}

Textual Amendments

F267 Sch. 23 para. 2 repealed (9.5.2011) by [The Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(Remedial\) Order 2011 \(S.I. 2011/1158\)](#), art. **5(1)(a)**

PART 2

ENGLAND AND WALES

Application of this Part

[^{F268}3 This Part of this Schedule applies as mentioned in paragraph A1.]

Textual Amendments

F268 Sch. 23 para. 3 substituted (1.3.2015) by [Immigration Act 2014 \(c. 22\)](#), ss. **58(7)**, **75(3)**; S.I. 2015/371, art. 2(1)(j) (with art. 6)

Procedure for giving notice of proposed civil partnership

- 4 (1) Each notice of proposed civil partnership under Chapter 1 of Part 2 of this Act—
- (a) must be given to a registration authority specified for the purposes of this paragraph by regulations made by the Secretary of State, ^{F269} . . .
 - (b) must be delivered to the relevant individual in person by the two proposed civil partners.
 - [^{F270}(c) may be given only if each of the proposed civil partners has been resident in the area of a registration authority for the period of 7 days immediately before the giving of his or her notice (but the area need not be that of the registration authority to which the notice is given and the proposed civil partners need not have resided in the area of same registration authority), and

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- (d) must state, in relation to each of the proposed civil partners, the registration authority by reference to the area of which paragraph (c) is satisfied.]
- (2) “The relevant individual” means such employee or officer or other person provided by the specified registration authority as is determined in accordance with regulations made by the Secretary of State for the purposes of this sub-paragraph.
- (3) Regulations under sub-paragraph (2) may, in particular, describe a person by reference to the location or office where he works.
- (4) Before making any regulations under this paragraph the Secretary of State must consult the Registrar General.

Textual Amendments

- F269** Word in Sch. 23 para. 4(1)(a) omitted (5.12.2005) by virtue of [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 19(2)(a)** (subject to art. 1(2)(3))
- F270** Sch. 23 para. 4(1)(c)(d) inserted (5.12.2005) by [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 19(2)(b)** (subject to art. 1(2)(3))

Commencement Information

- I34** Sch. 23 para. 4 wholly in force at 5.12.2005; Sch. 23 para. 4 not in force at Royal Assent see s. 263; Sch. 23 para. 4 in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), **art. 2**, **Sch. 1** and Sch. 23 para. 4 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), **art. 2(1)**, **Sch. 1**

Declaration

5 **F271**

Textual Amendments

- F271** Sch. 23 para. 5 repealed (9.5.2011) by [The Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(Remedial\) Order 2011 \(S.I. 2011/1158\)](#), **art. 5(1)(b)**

Recording of notice

6 **F272**

Textual Amendments

- F272** Sch. 23 para. 6 repealed (9.5.2011) by [The Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(Remedial\) Order 2011 \(S.I. 2011/1158\)](#), **art. 5(1)(b)**

Supplementary

- 7 (1) Part 2 of this Act has effect in any case where this Part of this Schedule applies subject to any necessary modification.
- (2) In particular ^{F273}—

Status: Point in time view as at 02/03/2015.

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- (a) section 8(4)(b) has effect as if it required a declaration that the notice of proposed civil partnership is given in compliance with paragraph 4(1) above, and
 - (b) section 52 has effect as if the matters proof of which is not necessary in support of the civil partnership included compliance with this Part of this Schedule.]
- (3) An expression used in this Part of this Schedule and in Chapter 1 of Part 2 of this Act has the same meaning as in that Chapter.

Textual Amendments

F273 Words in Sch. 23 para. 7(2) inserted (5.12.2005) by [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 19(3)** (subject to art. 1(2)(3))

PART 3

SCOTLAND

Application of this Part

[^{F274} This Part of this Schedule applies as mentioned in paragraph [^{F275}1(1)].]

Textual Amendments

F274 Sch. 23 para. 8 substituted (1.3.2015) by [Immigration Act 2014 \(c. 22\)](#), ss. **58(8)**, 75(3); S.I. 2015/371, art. 2(1)(j) (with art. 6)

F275 Word in Sch. 23 para. 8 substituted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), art. 1(2), **Sch. 3 para. 8(c)** (with art. 1(3))

Procedure for giving notice of proposed civil partnership

- 9 (1) Notice under section 88—
- (a) may be submitted to the district registrar of a district specified for the purposes of this paragraph by regulations made by the Secretary of State, and
 - (b) may not be submitted to the district registrar of any other registration district.
- (2) Before making any regulations under this paragraph the Secretary of State must consult the Registrar General.

Commencement Information

I35 Sch. 23 para. 9 wholly in force at 5.12.2005; Sch. 23 para. 9 not in force at Royal Assent see s. 263; Sch. 23 para. 9 in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), art. 2, **Sch. 1** and Sch. 23 para. 9 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), art. 2(1), **Sch. 1**

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Pre-condition for making entry in civil partnership notice book etc.

- 10 (1) ^{F276}
- (2) Where the district registrar to whom notice is [^{F277} submitted by virtue of paragraph 9(1)] (here the “notified registrar”) is not the district registrar for the proposed place of registration (here the “second registrar”)—
- (a) the notified registrar shall ^{F278} . . . send the notices and any fee, [^{F279} paid, or any certificate or declaration submitted, in pursuance of section 88 in relation to the proposed civil partnership], to the second registrar, and
- (b) the second registrar shall be treated as having received the notices from the intended partners on the dates on which the notified registrar received them.
- (3) ^{F280}

Textual Amendments

- F276** Sch. 23 para. 10(1) repealed (9.5.2011) by [The Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(Remedial\) Order 2011 \(S.I. 2011/1158\)](#), [art. 5\(1\)\(c\)](#)
- F277** Words in Sch. 23 para. 10(2) substituted (9.5.2011) by [The Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(Remedial\) Order 2011 \(S.I. 2011/1158\)](#), [art. 5\(2\)](#)
- F278** Words in Sch. 23 para. 10(2)(a) repealed (9.5.2011) by [The Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(Remedial\) Order 2011 \(S.I. 2011/1158\)](#), [art. 5\(1\)\(d\)](#)
- F279** Words in Sch. 23 para. 10(2)(a) substituted (S.) (1.1.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), [ss. 59\(5\)](#), 63(2); [S.S.I. 2006/469](#), [art. 3](#), [Sch. 2](#)
- F280** Sch. 23 para. 10(3) repealed (9.5.2011) by [The Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(Remedial\) Order 2011 \(S.I. 2011/1158\)](#), [art. 5\(1\)\(e\)](#)

Commencement Information

- I36** Sch. 23 para. 10 wholly in force at 5.12.2005; Sch. 23 para. 10 not in force at Royal Assent see s. 263; Sch. 23 para. 10(1)(3) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 23 para. 10 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Supplementary

- 11 (1) Part 3 of this Act has effect in any case where this Part of this Schedule applies subject to any necessary modification.
- (2) An expression used in this Part of this Schedule and in Part 3 of this Act has the same meaning as in that Part.

PART 4

NORTHERN IRELAND

Application of this Part

- [^{F281}12 This Part of this Schedule applies as mentioned in paragraph [^{F282}1(2)].]

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F281** Sch. 23 para. 12 substituted (1.3.2015) by [Immigration Act 2014 \(c. 22\)](#), **ss. 58(9)**, 75(3); S.I. 2015/371, [art. 2\(1\)\(j\)](#) (with [art. 6](#))
- F282** Word in Sch. 23 para. 12 substituted (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/395\)](#), [art. 1\(2\)](#), **Sch. 3 para. 8(d)** (with [art. 1\(3\)](#))

Procedure for giving civil partnership notices

- 13 (1) The civil partnership notices must be given—
- (a) only to a prescribed registrar, and
 - (b) in prescribed cases by both parties together in person at a prescribed register office.
- (2) Before making any regulations under this paragraph the Secretary of State must consult the Registrar General.

Commencement Information

- I37** Sch. 23 para. 13 wholly in force at 5.12.2005; Sch. 23 para. 13 not in force at Royal Assent see s. 263; Sch. 23 para. 13 in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 23 para. 13 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Accompanying statement as to the qualifying condition

- 14 **F283**

Textual Amendments

- F283** Sch. 23 para. 14 repealed (9.5.2011) by [The Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(Remedial\) Order 2011 \(S.I. 2011/1158\)](#), [art. 5\(1\)\(f\)](#)

Civil partnership notice book and civil partnership schedule

- 15 (1) **F284**
- (2) If the prescribed registrar **F285** ... is not the registrar for the purposes of section 140(1), the prescribed registrar must send him the civil partnership notices and he is to be treated as having received them when the prescribed registrar received them.
- (3) **F286**

Textual Amendments

- F284** Sch. 23 para. 15(1) repealed (9.5.2011) by [The Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(Remedial\) Order 2011 \(S.I. 2011/1158\)](#), [art. 5\(1\)\(g\)](#)
- F285** Words in Sch. 23 para. 15(2) repealed (9.5.2011) by [The Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(Remedial\) Order 2011 \(S.I. 2011/1158\)](#), [art. 5\(1\)\(h\)](#)

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F286 Sch. 23 para. 15(3) repealed (9.5.2011) by [The Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(Remedial\) Order 2011 \(S.I. 2011/1158\)](#), [art. 5\(1\)\(i\)](#)

Commencement Information

I38 Sch. 23 para. 15 wholly in force at 5.12.2005; Sch. 23 para. 15 not in force at Royal Assent see s. 263; Sch. 23 para. 15(1)(3) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 23 para. 15 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Supplementary

- 16 (1) Part 4 of this Act has effect in any case where this Part of this Schedule applies subject to any necessary modification.
- (2) In particular, section 176 has effect as if the matters proof of which is not necessary in support of the civil partnership included compliance with this Part of this Schedule.
- (3) In this Part of this Schedule—
- (a) “prescribed” means prescribed by regulations made by the Secretary of State;
 - (b) “registrar” means a person appointed under section 152(1)(a) or (b) or (3);
 - (c) other expressions have the same meaning as in Chapter 1 of Part 4 of this Act.
- (4) Section 18(3) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) (provisions as to holders of offices) shall apply to this Part of this Schedule as if it were an enactment within the meaning of that Act.

Commencement Information

I39 Sch. 23 para. 16 wholly in force at 5.12.2005; Sch. 23 para. 16 not in force at Royal Assent see s. 263; Sch. 23 para. 16(3)(a) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 23 para. 16 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

PART 5

REGULATIONS

- 17 Any power to make regulations under this Schedule is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

Status: Point in time view as at 02/03/2015.

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SCHEDULE 24

Section 254

SOCIAL SECURITY, CHILD SUPPORT AND TAX CREDITS

PART 1

AMENDMENTS OF THE CHILD SUPPORT ACT 1991 (C. 48)

- 1 In section 8 (role of the courts with respect to maintenance for children), after subsection (11)(e) insert—
“(ea) Schedule 5, 6 or 7 to the Civil Partnership Act 2004; or”.
- 2 In section 15 (powers of inspectors), in subsection (7)—
(a) after “married” insert “ or is a civil partner ”, and
(b) after “spouse” insert “ or civil partner ”.
- 3 ^[F287]In section 55 (meaning of “child”), in subsection (2)—
(a) in paragraph (a), after “married” insert “ or a civil partner ”,
(b) in paragraph (b), after “marriage” insert “ , or been a party to a civil partnership, ”, and
(c) in paragraph (c), after “granted” insert “ or has been a party to a civil partnership in respect of which a nullity order has been made ”.]

Textual Amendments

F287 Sch. 24 para. 3 repealed (10.12.2012 for specified purposes, 29.7.2013 for specified purposes, 25.11.2013 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), s. 62\(3\), Sch. 8; S.I. 2012/3042, arts. 2\(g\)\(ii\), 3 \(with arts. 5, 6\) \(as amended \(29.7.2013\) by S.I. 2013/1860, art. 6 and \(24.6.2014\) by S.I. 2014/1635, art. 6\); S.I. 2013/1860, arts. 2\(g\)\(ii\), 3 \(with arts. 5, 7\) \(as amended \(24.6.2014\) by S.I. 2014/1635, art. 7\); S.I. 2013/2947, art. 2\(e\)\(ii\) \(with arts. 3-5\)](#)

- 4 For paragraph 6(5)(b) (as originally enacted) of Schedule 1 (maintenance assessments) substitute—
“(b) where the absent parent—
(i) is living together in the same household with another adult of the opposite sex (regardless of whether or not they are married),
(ii) is living together in the same household with another adult of the same sex who is his civil partner, or
(iii) is living together in the same household with another adult of the same sex as if they were civil partners,
income of that other adult”.
- 5 After paragraph 6(5) (as originally enacted) of that Schedule insert—
“(5A) For the purposes of this paragraph, two adults of the same sex are to be regarded as living together in the same household as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two adults of the opposite sex.”

Status: Point in time view as at 02/03/2015.

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- 6 In paragraph 10C of that Schedule (as substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act 2000 (c. 19)), for sub-paragraph (5) substitute—
- “(5) In sub-paragraph (4)(a), “couple” means—
- (a) a man and a woman who are married to each other and are members of the same household,
 - (b) a man and a woman who are not married to each other but are living together as husband and wife,
 - (c) two people of the same sex who are civil partners of each other and are members of the same household, or
 - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.
- (6) For the purposes of this paragraph, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”

PART 2

AMENDMENTS OF THE CHILD SUPPORT (NORTHERN IRELAND) ORDER 1991 (S.I. 1991/ 2628 (N.I. 23))

- 7 ^[F288]In Article 3 (meaning of “child”), in paragraph (2)—
- (a) in sub-paragraph (a), after “married” insert “ or a civil partner ”,
 - (b) in sub-paragraph (b), after “marriage” insert “ , or been a party to a civil partnership, ”, and
 - (c) in sub-paragraph (c), after “granted” insert “ or has been a party to a civil partnership in respect of which a nullity order has been made ”.]

Textual Amendments

F288 Sch. 24 para. 7 repealed (N.I.) (10.12.2012 for specified purposes, 29.7.2013 for specified purposes, 25.11.2013 in so far as not already in force) by [Child Maintenance Act \(Northern Ireland\) 2008 \(c. 10\)](#), s. 41(1), [Sch. 5](#); [S.R. 2012/440](#), arts. 2(1)(d)(ii), 3 (with art. 4) (as modified (30.6.2014) by [S.R. 2014/194](#), art. 4); [S.R. 2013/201](#), arts. 2(1)(d)(ii), 3 (with art. 4) (as modified (30.6.2014) by [S.R. 2014/194](#), art. 5); [S.R. 2013/276](#), art. 2(e)(ii) (with arts. 3-5)

- 8 In Article 10 (role of the courts with respect to maintenance for children), after paragraph (11)(d) insert—
- “(da) Schedule 15, 16 or 17 to the Civil Partnership Act 2004; or”.
- 9 In Article 17 (powers of inspectors), in paragraph (7)—
- (a) after “married” insert “ or is a civil partner ”, and
 - (b) after “spouse” insert “ or civil partner ”.
- 10 For paragraph 6(5)(b) (as originally enacted) of Schedule 1 (maintenance assessments) substitute—
- “(b) where the absent parent—

Status: Point in time view as at 02/03/2015.

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- (i) is living together in the same household with another adult of the opposite sex (regardless of whether or not they are married),
 - (ii) is living together in the same household with another adult of the same sex who is his civil partner, or
 - (iii) is living together in the same household with another adult of the same sex as if they were civil partners,
- income of that other adult.”

11 After paragraph 6(5) (as originally enacted) of that Schedule insert—

“(5A) For the purposes of this paragraph, two adults of the same sex are to be regarded as living together in the same household as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two adults of the opposite sex.”

12 In paragraph 10C of that Schedule (as substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))), for sub-paragraph (5) substitute—

“(5) In sub-paragraph (4)(a), “couple” means—

- (a) a man and a woman who are married to each other and are members of the same household,
- (b) a man and a woman who are not married to each other but are living together as husband and wife,
- (c) two people of the same sex who are civil partners of each other and are members of the same household, or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.

(6) For the purposes of this paragraph, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”

PART 3

AMENDMENTS OF THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (C. 4)

13 In section 20 (descriptions of contributory benefits), in subsection (1)(f)(ii), after “spouse” insert “ or civil partner ”.

14 In section 30A (incapacity benefit: entitlement), in subsection (2)(b)(ii), after “spouse” insert “ or deceased civil partner ”.

15 In section 30B (incapacity benefit: rate), in subsection (3)(a), after “people” insert “ or civil partners ”.

16 (1) Amend section 36 (bereavement payment) as follows.

(2) In subsection (1), after “spouse” (in each place) insert “ or civil partner ”.

(3) For subsection (2) substitute—

“(2) A bereavement payment shall not be payable to a person if—

Status: Point in time view as at 02/03/2015.

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- (a) that person and a person of the opposite sex to whom that person was not married were living together as husband and wife at the time of the spouse's or civil partner's death, or
- (b) that person and a person of the same sex who was not his or her civil partner were living together as if they were civil partners at the time of the spouse's or civil partner's death."
- 17 In section 36A (cases in which sections 37 to 41 apply), in subsection (2), after "spouse" insert " or civil partner ".
- 18 (1) Amend section 37 (widowed mother's allowance) as follows.
- (2) In subsection (3), after "remarries" insert " or forms a civil partnership ".
- (3) After subsection (4)(b) insert "or
- (c) for any period during which she and a woman who is not her civil partner are living together as if they were civil partners."
- 19 (1) Amend section 38 (widow's pension) as follows.
- (2) In subsection (2), after "remarries" insert " or forms a civil partnership ".
- (3) After subsection (3)(c) insert "or
- (d) for any period during which she and a woman who is not her civil partner are living together as if they were civil partners."
- 20 (1) Amend section 39A (widowed parent's allowance) as follows.
- (2) After "spouse" (in each place other than subsections (2)(b) and (4)), insert " or civil partner ".
- (3) After "spouse's" (in each place) insert " or civil partner's ".
- (4) In subsection (2), after paragraph (b) insert "or
- (c) the surviving civil partner is a woman who—
- (i) was residing together with the deceased civil partner immediately before the time of the death, and
- (ii) is pregnant as the result of being artificially inseminated before that time with the semen of some person, or as a result of the placing in her before that time of an embryo, of an egg in the process of fertilisation, or of sperm and eggs."
- (5) In subsection (4), after "remarries" insert " or forms a civil partnership ".
- (6) After subsection (4) insert—
- “(4A) The surviving civil partner shall not be entitled to the allowance for any period after she or he forms a subsequent civil partnership or marries, but, subject to that, the surviving civil partner shall continue to be entitled to it for any period throughout which she or he—
- (a) satisfies the requirements of subsection (2)(a) or (b) above; and
- (b) is under pensionable age.”
- (7) After subsection (5)(b) insert "or
- (c) for any period during which the surviving spouse or civil partner and a person of the same sex who is not his or her civil partner are living together as if they were civil partners."

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- 21 (1) Amend section 39B (bereavement allowance where no dependent children) as follows.
- (2) After “spouse” (in each place) other than subsection (4), insert “ or civil partner ”.
- (3) After “spouse's” (in each place) insert “ or civil partner's ”.
- (4) In subsection (4), after “remarries” insert “ or forms a civil partnership ”.
- (5) After subsection (4) insert—
- “(4A) The surviving civil partner shall not be entitled to the allowance for any period after she or he forms a subsequent civil partnership or marries, but, subject to that, the surviving civil partner shall continue to be entitled to it until—
- (a) she or he attains pensionable age, or
- (b) the period of 52 weeks mentioned in subsection (3) above expires, whichever happens first.”
- (6) After subsection (5)(b) insert “or
- (c) for any period during which the surviving spouse or civil partner and a person of the same sex who is not his or her civil partner are living together as if they were civil partners.”
- 22 In section 39C (rate of widowed parent’s allowance and bereavement allowance)—
- (a) after “spouse” (in each place) insert “ or civil partner ”, and
- (b) in subsection (5), after “spouse's” insert “ or civil partner's ”.
- 23 In section 46 (modifications of section 45 for calculating the additional pension in certain benefits)—
- (a) after “under pensionable age”, in subsection (2), insert “ or by virtue of section 39C(1) above or section 48A(4), 48B(2) or 48BB(5) below in a case where the deceased civil partner died under pensionable age ”,
- (b) after “spouse”, in paragraph (b)(i) of the definition of “N” in subsection (2), insert “ or civil partner ”, and
- (c) after “spouse” (in each place) in subsection (3), insert “ or civil partner ”.
- 24 (1) Amend section 48 (use of former spouse’s contributions) as follows.
- (2) In subsection (1)—
- (a) for “married” substitute “ in a relevant relationship ”,
- (b) for “marriage” substitute “ relationship ”, and
- (c) after “spouse” insert “ or civil partner ”.
- (3) In subsection (2), for “marriage” substitute “ relevant relationship ”.
- (4) For subsection (3) substitute—
- “(3) Where a person has been in a relevant relationship more than once, this section applies only to the last relevant relationship and the references to his relevant relationship and his former spouse or civil partner shall be construed accordingly.
- (4) In this section, “relevant relationship” means a marriage or civil partnership.”

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- 25 (1) Amend section 48A (category B retirement pension for married person) as follows.
- (2) After subsection (2) insert—
- “(2A) A person who—
- (a) has attained pensionable age, and
- (b) on attaining that age was a civil partner or forms a civil partnership after attaining that age,
- shall be entitled to a Category B retirement pension by virtue of the contributions of the other party to the civil partnership (“the contributing civil partner”) if the following requirement is met.
- (2B) The requirement is that the contributing civil partner—
- (a) has attained pensionable age and become entitled to a Category A retirement pension, and
- (b) satisfies the conditions specified in Schedule 3, Part 1, paragraph 5.”
- (3) In subsections (3) and (4), after “spouse” insert “ or contributing civil partner ”.
- (4) In subsection (4A), for “widow or widower” substitute “ widow, widower or surviving civil partner ”.
- (5) ^{F289}
- (6) Section 48A (as amended by this paragraph) does not confer a right to a Category B retirement pension on a person by reason of his or her forming a civil partnership with a person who was born before 6th April 1950.

Textual Amendments

F289 Sch. 24 Pt. 3 para. 25(5) repealed (6.4.2010) by [Pensions Act 2007 \(c. 22\)](#), ss. 27(4)(a), 30, [Sch. 7 Pt. 1](#)

- 26 (1) Amend section 48B (category B retirement pension for widows and widowers) as follows.
- (2) After subsection (1) insert—
- “(1A) A person (“the pensioner”) who attains pensionable age on or after 6th April 2010 and whose civil partner died—
- (a) while they were civil partners of each other, and
- (b) after the pensioner attained pensionable age,
- shall be entitled to a Category B retirement pension by virtue of the contributions of the civil partner if the civil partner satisfied the conditions specified in Schedule 3, Part 1, paragraph 5.”
- (3) In subsection (2), after “subsection (1)” insert “ or (1A) ”.
- (4) In subsection (3), after “spouse” (in each place) insert “ or civil partner ”.
- 27 (1) Amend section 48BB (category B retirement pension: entitlement by reference to benefits under section 39A or 39B) as follows.
- (2) After “spouse” (in each place) insert “ or civil partner ”.
- (3) After “spouse's” (in each place) insert “ or civil partner's ”.

Status: Point in time view as at 02/03/2015.

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- (4) In subsections (1)(b) and (3)(b), for “remarried” substitute “ following that death married or formed a civil partnership ”.
- 28 (1) Amend section 51 (category B retirement pension for widowers) as follows.
- (2) After subsection (1) insert—
- “(1A) A civil partner shall be entitled to a Category B retirement pension if—
- (a) his or her civil partner has died and they were civil partners of each other at the time of that death,
- (b) they were both over pensionable age at the time of that death, and
- (c) before that death the deceased civil partner satisfied the contribution conditions for a Category A retirement pension in Schedule 3, Part 1, paragraph 5.”
- (3) In subsection (2)—
- (a) for “man's” substitute “ person's ”, and
- (b) after “wife” insert “ or deceased civil partner ”.
- (4) In subsection (3), after “2002” insert “ or a surviving civil partner ”.
- (5) In subsection (4)—
- (a) for “man” substitute “ person ”, and
- (b) after “pension” insert “ under this section ”.
- (6) Section 51 (as amended by this paragraph) does not confer a right to a Category B retirement pension on a person who attains pensionable age on or after 6th April 2010.
- 29 In section 51A (special provision for married people), in subsection (1)—
- (a) after “person” insert “ or civil partner ”, and
- (b) after “marriage” insert “ or civil partnership ”.
- 30 In section 52 (special provision for surviving spouses), in subsection (1), after “spouse” insert “ or civil partner ”.
- 31 In section 60 (complete or partial failure to satisfy contributions conditions), in subsection (2)—
- (a) after “married” insert “ or a civil partner ”, and
- (b) for “widow or widower” substitute “ widow, widower or surviving civil partner ”.
- 32 In section 61A (contributions paid in error), in subsection (3)—
- (a) after “spouse” insert “ or civil partner ”, and
- (b) in paragraph (b), for “widows or widowers” substitute “ widows, widowers or surviving civil partners ”.
- 33 In section 62 (graduated retirement benefit), after subsection (1)(aa) insert—
- “(ab) for extending section 37 of that Act (increase of woman’s retirement pension by reference to her late husband’s graduated retirement benefit) to civil partners and their late civil partners and for that section (except subsection (5)) so to apply as it applies to women and their late husbands;”.
- 34 In section 77 (guardian’s allowance)—

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- (a) in subsection (6)(a)(ii), after “spouses” insert “ or civil partners ”, and
- (b) in subsection (8)(a), after “divorce” insert “ or the civil partnership of the child’s parents has been dissolved ”.

35 F290

Textual Amendments
F290 Sch. 24 para. 35 repealed (12.1.2010 (with effect on 6.4.2010)) by [Welfare Reform Act 2009 \(c. 24\)](#), ss. 58, 61, **Sch. 7 Pt. 2**

36 F291

Textual Amendments
F291 Sch. 24 Pt. 3 para. 36 repealed (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), ss. 27(3)(b), 30, **Sch. 7 Pt. 2**

37 F292

Textual Amendments
F292 Sch. 24 Pt. 3 para. 37 repealed (6.4.2010) by [Pensions Act 2007 \(c. 22\)](#), ss. 27(4)(b), 30, **Sch. 7 Pt. 2**

38 In section 113 (general provisions as to disqualification and suspension), in subsection (1), for “wife or husband,” substitute “ wife, husband or civil partner, ”.

- 39 In section 114 (persons maintaining dependants etc.)—
- (a) in subsection (2), for “wife” substitute “ wife, civil partner ”, and
 - (b) in subsection (3)(a), after “spouse” insert “ or civil partner ”.

40 After subsection (1)(a) of section 121 (treatment of certain marriages) insert—
 “(aa) for a voidable civil partnership which has been annulled, whether before or after the date when the regulations come into force, to be treated for the purposes of the provisions to which this subsection applies as if it had been a valid civil partnership which was dissolved at the date of annulment;”.

41 (1) Amend section 122 (interpretation of Parts 1 to 6 and supplementary provisions) as follows.

(2) In subsection (1), in the definition of “relative” after “by marriage” insert “ or civil partnership ”.

(3) After subsection (1) insert—
 “(1A) For the purposes of Parts 1 to 5 and this Part of this Act, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”

42 In section 124 (income support), in subsection (1)(c), (f) and (g), for “married or unmarried couple” substitute “ couple ”.

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- 43 In section 126 (trade disputes), in subsection (3)(b), (c) and (d), for “married or unmarried couple” substitute “ couple ”.
- 44 In section 127 (effect of return to work), for “married or unmarried couple” (in each place) substitute “ couple ”.
- 45 In section 132 (couples), in subsection (1), for “married or unmarried couple” substitute “ couple ”.
- 46 (1) Amend section 137 (interpretation of Part 7 and supplementary provisions) as follows.
- (2) In paragraphs (a), (b) and (c) of the definition of “family” in subsection (1), for “married or unmarried couple” substitute “ couple ”.
- (3) After the definition of “child” in subsection (1) insert—
- ““couple” means—
- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;”.
- (4) Omit the definitions of “married couple” and “unmarried couple” in subsection (1).
- (5) After subsection (1) insert—
- “(1A) For the purposes of this Part, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”
- 47 In section 143 (meaning of “person responsible for child”), in subsection (5), after “spouses” insert “ or civil partners ”.
- 48 (1) Amend section 145A (entitlement after death of child) as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), after “couple” insert “ or civil partnership ” and after “to whom he was married” insert “ or who was his civil partner ”,
- (b) in paragraph (b), after “couple” insert “ or a cohabiting same-sex couple ”, and
- (c) for “married couple or unmarried couple” substitute “ couple or partnership ”.
- (3) Before the definition of “married couple” in subsection (5) insert—
- ““civil partnership” means two people of the same sex who are civil partners of each other and are neither—
- (a) separated under a court order, nor

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(b) separated in circumstances in which the separation is likely to be permanent,

“cohabiting same-sex couple” means two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,”.

(4) After subsection (5) insert—

“(6) For the purposes of this section, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”

49 (1) Amend section 150 (interpretation of Part 10) as follows.

(2) In the definition of “war widow’s pension” in subsection (2)—

(a) after “any widow's” insert “ or surviving civil partner's ”, and

(b) after “widow” insert “ or surviving civil partner ”.

(3) For subsection (3) substitute—

“(3) In this Part of this Act, “couple” has the meaning given by section 137(1) above.”

50 In section 171ZL (entitlement to statutory adoption pay), in subsection (4)(b)—

(a) after “married couple” insert “ or civil partnership ”, and

(b) after “spouse” (in each place) insert “ or civil partner ”.

51 (1) Amend Schedule 4A (additional pension) as follows.

(2) In paragraph 1(2), after “under pensionable age,” insert “ or by virtue of section 39C(1), 48A(4) or 48B(2) above, in a case where the deceased civil partner died under pensionable age, ”.

(3) In paragraph 1(4)(a) and (b), (5), (6) and (7)(a) and (b), after “spouse” insert “ or civil partner ”.

52 (1) Amend Schedule 7 (industrial injuries benefits) as follows.

(2) For paragraph 4(3)(a) of Part 1 substitute—

“(a) a beneficiary is one of two persons who are—

(i) spouses or civil partners residing together,

(ii) a man and woman who are not married to each other but are living together as if they were husband and wife, or

(iii) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners, and”.

(3) In paragraph 5(2)(a)(ii) of Part 1, after “spouses” insert “ or civil partners ”.

(4) In Part 1—

(a) in paragraph 6(1), (3) and (4), after “spouse” (in each place) insert “ or civil partner ”, and

(b) in paragraph 6(4)(a), after “spouse's” insert “ or civil partner's ”.

(5) In paragraph 15 of Part 6—

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- (a) in sub-paragraph (2), after “remarries” insert “ or forms a civil partnership ”, and
 - (b) at the end of sub-paragraph (3), insert “ or is living together with a person of the same sex as if they were civil partners ”.
- 53 (1) Amend Schedule 8 (industrial injuries and diseases: old cases) as follows.
- (2) In paragraph 6(4)(d), and the substituted paragraph (d) in paragraph 6(5), after “spouse” (in each place) insert “ or civil partner ”.
- (3) After paragraph 8(1) insert—
- “(1A) Any reference in this Schedule to a member of a person’s family within the meaning of the Workmen’s Compensation Act 1925 is to be read as including a civil partner of his.”
- 54 In Schedule 9 (exclusions from entitlement to child benefit), in paragraph 3, after “married” insert “ or is a civil partner ”.

PART 4

AMENDMENTS OF THE SOCIAL SECURITY ADMINISTRATION ACT 1992 (C. 5)

- 55 In section 2AA (full entitlement to certain benefits conditional on work-focused interview for partner), in subsection (7), for the definition of “couple” substitute—
- ““couple” has the meaning given by section 137(1) of the Contributions and Benefits Act;”.
- 56 In section 3 (late claims for bereavement benefit where death is difficult to establish)
-
- (a) after “spouse” (in each place) insert “ or civil partner ”, and
 - (b) after “spouse's” (in each place) insert “ or civil partner's ”.
- 57 (1) Amend section 15A (payment out of benefit of sums in respect of mortgage interest etc.) as follows.
- (2) In subsection (4)—
- (a) in paragraph (a) of the definition of “partner”, for “to whom the borrower is married” substitute “ who is married to, or a civil partner of, the borrower ”, and
 - (b) in paragraph (b) of that definition, for “to whom the borrower is not married but who lives together with the borrower as husband and wife” substitute “ who is neither married to, nor a civil partner of, the borrower but who lives together with the borrower as husband and wife or as if they were civil partners ”.
- (3) After subsection (4A) insert—
- “(4B) For the purposes of this section, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”
- 58 (1) Amend section 71 (overpayments – general) as follows.

Status: Point in time view as at 02/03/2015.

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- (2) In subsection (9), for “married or unmarried couple” substitute “ couple ”.
- (3) After subsection (11) insert—
- “(12) In this section, “couple” has the meaning given by section 137(1) of the Contributions and Benefits Act.”
- 59 In section 73 (overlapping benefits – general), in subsections (2)(b) and (d) and (5) (b) and (d), for “wife or husband” substitute “ wife, husband or civil partner ”.
- 60 In section 74A (payment of benefit where maintenance payments collected by Secretary of State), in subsection (5)—
- (a) after the definition of “child maintenance” insert—
- ““couple” has the meaning given by section 137(1) of the Contributions and Benefits Act;”,
- (b) in the definition of “family”, for “married or unmarried couple” (in each place) substitute “ couple ”, and
- (c) omit the definitions of “married couple” and “unmarried couple”.
- 61 (1) Amend section 78 (recovery of social fund awards) as follows.
- (2) In subsection (3)(b), for “married or unmarried couple” substitute “ couple ”.
- (3) For subsection (5) substitute—
- “(5) In this section “couple” has the meaning given by section 137(1) of the Contributions and Benefits Act.”
- (4) In subsection (6)—
- (a) in paragraph (a), after “wife” insert “ or civil partner ”, and
- (b) in paragraph (b), after “husband” insert “ or civil partner ”.
- 62 In section 105 (failure to maintain – general), in subsection (4), after “spouse” insert “ or civil partner ”.
- 63 (1) Amend section 107 (recovery of expenditure on income support: additional amounts and transfer of orders) as follows.
- (2) In subsection (1)(b), after “wife” insert “ or civil partner ”.
- (3) In subsection (15), after paragraph (a)(ii) of the definition of “maintenance order” insert—
- “(iii) any order under Schedule 7 to the Civil Partnership Act 2004 for the making of periodical payments or for the payment of a lump sum;”.
- 64 In section 109B (power to require information), in subsection (5)(a), for “married, his spouse” substitute “ married or is a civil partner, his spouse or civil partner ”.
- 65 F293

Textual Amendments

F293 Sch. 24 para. 65 repealed (3.7.2007) by [Welfare Reform Act 2007 \(c. 5\)](#), ss. 40, 67, 70, Sch. 5 para. 14, [Sch. 8](#)

Status: Point in time view as at 02/03/2015.

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- 66 In section 156 (up-rating under section 150 of pensions increased under section 52(3) of the Contributions and Benefits Act)—
- (a) in subsection (1), after “spouse” insert “ or civil partner ”, and
 - (b) in subsections (2) and (3), after “spouse's” (in each place) insert “ or civil partner's ”.

PART 5

AMENDMENTS OF THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS (NORTHERN IRELAND) ACT 1992 (C. 7)

- 67 In section 20 (descriptions of contributory benefits), in subsection (1)(f)(ii), after “spouse” insert “ or civil partner ”.
- 68 In section 30A (incapacity benefit: entitlement), in subsection (2)(b)(ii), after “spouse” insert “ or deceased civil partner ”.
- 69 In section 30B (incapacity benefit: rate), in subsection (3)(a), after “people” insert “ or civil partners ”.
- 70 (1) Amend section 36 (bereavement payment) as follows.
- (2) In subsection (1), after “spouse” (in each place) insert “ or civil partner ”.
- (3) For subsection (2) substitute—
- “(2) A bereavement payment shall not be payable to a person if—
- (a) that person and a person of the opposite sex to whom that person was not married were living together as husband and wife at the time of the spouse’s or civil partner’s death, or
 - (b) that person and a person of the same sex who was not his or her civil partner were living together as if they were civil partners at the time of the spouse’s or civil partner’s death.”
- 71 In section 36A (cases in which sections 37 to 41 apply), in subsection (2), after “spouse” insert “ or civil partner ”.
- 72 (1) Amend section 37 (widowed mother’s allowance) as follows.
- (2) In subsection (3), after “remarries” insert “ or forms a civil partnership ”.
- (3) After subsection (4)(b) insert “or
- (c) for any period during which she and a woman who is not her civil partner are living together as if they were civil partners.”
- 73 (1) Amend section 38 (widow’s pension) as follows.
- (2) In subsection (2), after “remarries” insert “ or forms a civil partnership ”.
- (3) After subsection (3)(c) insert “or
- (d) for any period during which she and a woman who is not her civil partner are living together as if they were civil partners.”
- 74 (1) Amend section 39A (widowed parent’s allowance) as follows.
- (2) After “spouse” (in each place other than subsections (2)(b) and (4)), insert “ or civil partner ”.

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- (3) After “spouse's” (in each place) insert “ or civil partner's ”.
- (4) In subsection (2), after paragraph (b) insert “or
(c) the surviving civil partner is a woman who—
(i) was residing together with the deceased civil partner immediately before the time of the death, and
(ii) is pregnant as the result of being artificially inseminated before that time with the semen of some person, or as a result of the placing in her before that time of an embryo, of an egg in the process of fertilisation, or of sperm and eggs.”
- (5) In subsection (4), after “remarries” insert “ or forms a civil partnership ”.
- (6) After subsection (4) insert—
“(4A) The surviving civil partner shall not be entitled to the allowance for any period after she or he forms a subsequent civil partnership or marries, but, subject to that, the surviving civil partner shall continue to be entitled to it for any period throughout which she or he—
(a) satisfies the requirements of subsection (2)(a) or (b) above; and
(b) is under pensionable age.”
- (7) After subsection (5)(b) insert “or
(c) for any period during which the surviving spouse or civil partner and a person of the same sex who is not his or her civil partner are living together as if they were civil partners.”
- 75 (1) Amend section 39B (bereavement allowance where no dependent children) as follows.
- (2) After “spouse” (in each place other than subsection (4)), insert “ or civil partner ”.
- (3) After “spouse's” (in each place) insert “ or civil partner's ”.
- (4) In subsection (4), after “remarries” insert “ or forms a civil partnership ”.
- (5) After subsection (4) insert—
“(4A) The surviving civil partner shall not be entitled to the allowance for any period after she or he forms a subsequent civil partnership or marries, but, subject to that, the surviving civil partner shall continue to be entitled to it until—
(a) she or he attains pensionable age, or
(b) the period of 52 weeks mentioned in subsection (3) above expires, whichever happens first.”
- (6) After subsection (5)(b) insert “or
(c) for any period during which the surviving spouse or civil partner and a person of the same sex who is not his or her civil partner are living together as if they were civil partners.”
- 76 In section 39C (rate of widowed parent’s allowance and bereavement allowance)—
(a) after “spouse” (in each place) insert “ or civil partner ”, and
(b) in subsection (5), after “spouse's” insert “ or civil partner's ”.

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- 77 In section 46 (modifications of section 45 for calculating the additional pension in certain benefits)—
- (a) after “under pensionable age”, in subsection (2), insert “ or by virtue of section 39C(1) above or section 48A(4), 48B(2) or 48BB(5) below in a case where the deceased civil partner died under pensionable age ”,
 - (b) after “spouse”, in paragraph (b)(i) of the definition of “N” in subsection (2), insert “ or civil partner ”, and
 - (c) after “spouse” (in each place) in subsection (3), insert “ or civil partner ”.
- 78 (1) Amend section 48 (use of former spouse’s contributions) as follows.
- (2) In subsection (1)—
- (a) for “married” substitute “ in a relevant relationship ”,
 - (b) for “marriage” substitute “ relationship ”, and
 - (c) after “spouse” insert “ or civil partner ”.
- (3) In subsection (2), for “marriage” substitute “ relevant relationship ”.
- (4) For subsection (3) substitute—
- “(3) Where a person has been in a relevant relationship more than once, this section applies only to the last relevant relationship and the references to his relevant relationship and his former spouse or civil partner shall be construed accordingly.
- (4) In this section, “relevant relationship” means a marriage or civil partnership.”
- 79 (1) Amend section 48A (category B retirement pension for married person) as follows.
- (2) After subsection (2) insert—
- “(2A) A person who—
- (a) has attained pensionable age, and
 - (b) on attaining that age was a civil partner or forms a civil partnership after attaining that age,
- shall be entitled to a Category B retirement pension by virtue of the contributions of the other party to the civil partnership (“the contributing civil partner”) if the following requirement is met.
- (2B) The requirement is that the contributing civil partner—
- (a) has attained pensionable age and become entitled to a Category A retirement pension, and
 - (b) satisfies the conditions specified in Schedule 3, Part 1, paragraph 5.”
- (3) In subsections (3) and (4), after “spouse” insert “ or contributing civil partner ”.
- (4) In subsection (4A), for “widow or widower” substitute “ widow, widower or surviving civil partner ”.
- F294(5)
- (6) Section 48A (as amended by this paragraph) does not confer a right to a Category B retirement pension on a person by reason of his or her forming a civil partnership with a person who was born before 6th April 1950.

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Textual Amendments

F294 Sch. 24 para. 79(5) repealed (N.I.) (6.4.2010) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\), s. 19\(4\)](#) (a), [Sch. 6 Pt. 1](#) (with s. 4(5)(8), [Sch. 4 Pt. 3](#))

- 80 (1) Amend section 48B (category B retirement pension for widows and widowers) as follows.
- (2) After subsection (1) insert—
- “(1A) A person (“the pensioner”) who attains pensionable age on or after 6th April 2010 and whose civil partner died—
- (a) while they were civil partners of each other, and
- (b) after the pensioner attained pensionable age,
- shall be entitled to a Category B retirement pension by virtue of the contributions of the civil partner if the civil partner satisfied the conditions specified in Schedule 3, Part 1, paragraph 5.”
- (3) In subsection (2), after “subsection (1)” insert “ or (1A) ”.
- (4) In subsection (3), after “spouse” (in each place) insert “ or civil partner ”.
- 81 (1) Amend section 48BB (category B retirement pension: entitlement by reference to benefits under section 39A or 39B) as follows.
- (2) After “spouse” (in each place) insert “ or civil partner ”.
- (3) After “spouse's” (in each place) insert “ or civil partner's ”.
- (4) In subsections (1)(b) and (3)(b), for “remarried” substitute “ following that death married or formed a civil partnership ”.
- 82 (1) Amend section 51 (category B retirement pension for widowers) as follows.
- (2) After subsection (1) insert—
- “(1A) A civil partner shall be entitled to a Category B retirement pension if—
- (a) his or her civil partner has died and they were civil partners of each other at the time of that death,
- (b) they were both over pensionable age at the time of that death, and
- (c) before that death the deceased civil partner satisfied the contribution conditions for a Category A retirement pension in Schedule 3, Part 1, paragraph 5.”
- (3) In subsection (2)—
- (a) for “man's” substitute “ person's ”, and
- (b) after “wife” insert “ or deceased civil partner ”.
- (4) In subsection (3), after “2002” insert “ or a surviving civil partner ”.
- (5) In subsection (4)—
- (a) for “man” substitute “ person ”, and
- (b) after “pension” insert “ under this section ”.

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- (6) Section 51 (as amended by this paragraph) does not confer a right to a Category B retirement pension on a person who attains pensionable age on or after 6th April 2010.
- 83 In section 51A (special provision for married people), in subsection (1)—
(a) after “person” insert “ or civil partner ”, and
(b) after “marriage” insert “ or civil partnership ”.
- 84 In section 52 (special provision for surviving spouses), in subsection (1), after “spouse” insert “ or civil partner ”.
- 85 In section 60 (complete or partial failure to satisfy contribution conditions), in subsection (2)—
(a) after “married” insert “ or a civil partner ”, and
(b) for “widow or widower” substitute “ widow, widower or surviving civil partner ”.
- 86 In section 61A (contributions paid in error), in subsection (3)—
(a) after “spouse” insert “ or civil partner ”, and
(b) in paragraph (b), for “widows or widowers” substitute “ widows, widowers or surviving civil partners ”.
- 87 In section 62 (graduated retirement benefit), after subsection (1)(aa) insert—
“(ab) for extending section 36 of that Act (increase of woman’s retirement pension by reference to her late husband’s graduated retirement benefit) to civil partners and their late civil partners and for that section (except subsection (5)) so to apply as it applies to women and their late husbands;”.
- 88 In section 77 (guardian’s allowance)—
(a) in subsection (6)(a)(ii), after “spouses” insert “ or civil partners ”, and
(b) in subsection (8)(a), after “divorce” insert “ or the civil partnership of the child’s parents has been dissolved ”.
- 89 ^{F295}

Textual Amendments

F295 Sch. 24 para. 89 repealed (14.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), ss. 34(1)(2)(c), 36(1)(p), [Sch. 4 Pt. 2](#) (with s. 14(2))

- 90 [^{F296}In section 83A (pension increase for spouse)—
(a) in subsection (1), for “married pensioner” substitute “ pensioner who is married or a civil partner ”, and
(b) in subsections (2) and (3), after “spouse” (in each place) insert “ or civil partner ”.]

Textual Amendments

F296 Sch. 24 para. 90 repealed (N.I.) (11.2.2008) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1 \(N.I.\)\)](#), ss. 19, 21, [Sch. 6 Pt. 2](#) (with s. 4(5), [Sch. 4 Pt. 3](#))

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- 91 ^{F297} (1) Amend section 85 (pension increase (person with care of children)) as follows.
- (2) Omit subsection (1).
- (3) After subsection (1) insert—
- “(1A) Subject to subsections (2A) and (4) below, the weekly rate of a Category A retirement pension shall be increased by the amount specified in relation to that pension in Schedule 4, Part 4, column (3) for any period during which a person who is neither the spouse or civil partner of the pensioner nor a child has the care of a child or children in respect of whom the pensioner is entitled to child benefit.”
- (4) In subsection (2)—
- (a) for “the following provisions” substitute “ subsections (3) and (4) below ”, and
- (b) for “pension to which this section applies” substitute “ Category C retirement pension payable by virtue of section 78(1) above ”.
- (5) After subsection (2) insert—
- “(2A) Subsection (1A) above does not apply if the pensioner is a person whose spouse or civil partner is entitled to a Category B retirement pension, or to a Category C retirement pension by virtue of section 78(2) above or in such other cases as may be prescribed.”
- (6) In subsection (4), after “subsection” insert “ (1A) or ”.]

Textual Amendments

F297 Sch. 24 Pt. 5 para. 91 repealed (N.I.) (6.4.2010) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\), s. 19\(4\)\(b\)](#), [Sch. 6 Pt. 2](#) (with s. 4(5)(8), Sch. 4 Pt. 3)

- 92 In section 113 (general provisions as to disqualification and suspension), in subsection (1), for “wife or husband,” substitute “ wife, husband or civil partner, ”.
- 93 In section 114 (persons maintaining dependants etc.)—
- (a) in subsection (2), for “wife” substitute “ wife, civil partner ”, and
- (b) in subsection (3)(a), after “spouse” insert “ or civil partner ”.
- 94 In section 120 (treatment of certain marriages), after subsection (1)(a) insert—
- “(aa) for a voidable civil partnership which has been annulled, whether before or after the date when the regulations come into force, to be treated for the purposes of the provisions to which this subsection applies as if it had been a valid civil partnership which was dissolved at the date of annulment;”.
- 95 (1) Amend section 121 (interpretation of Parts 1 to 6 and supplementary provisions) as follows.
- (2) In subsection (1), in the definition of “relative” after “by marriage” insert “ or civil partnership ”.
- (3) After subsection (1) insert—

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“(1A) For the purposes of Parts 1 to 5 and this Part of this Act, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”

96 In section 123 (income support), in subsection (1)(c), (f) and (g), for “married or unmarried couple” substitute “couple”.

97 In section 125 (trade disputes), in subsection (3)(b), (c) and (d), for “married or unmarried couple” substitute “couple”.

98 In section 126 (effect of return to work), for “married or unmarried couple” (in each place) substitute “couple”.

99 (1) Amend section 133 (interpretation of Part 7 and supplementary provisions) as follows.

(2) In paragraphs (a), (b) and (c) of the definition of “family” in subsection (1), for “married or unmarried couple” substitute “couple”.

(3) After the definition of “child” in subsection (1) insert—

““couple” means—

(a) a man and woman who are married to each other and are members of the same household;

(b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;

(c) two people of the same sex who are civil partners of each other and are members of the same household; or

(d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;”.

(4) Omit the definitions of “married couple” and “unmarried couple” in subsection (1).

(5) After subsection (1) insert—

“(1A) For the purposes of this Part, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”

100 In section 139 (meaning of “person responsible for child”), in subsection (5), after “spouses” insert “or civil partners”.

101 (1) Amend section 141A (entitlement after death of child) as follows.

(2) In subsection (2)—

(a) in paragraph (a), after “couple” insert “or civil partnership” and after “to whom he was married” insert “or who was his civil partner”;

(b) in paragraph (b), after “couple” insert “or a cohabiting same-sex couple”, and

(c) for “married couple or unmarried couple” substitute “couple or partnership”.

(3) Before the definition of “married couple” in subsection (5) insert—

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““civil partnership” means two people of the same sex who are civil partners of each other and are neither—

- (a) separated under a court order, nor
- (b) separated in circumstances in which the separation is likely to be permanent,

“cohabiting same-sex couple” means two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.”.

- (4) After subsection (5) insert—
- “(6) For the purposes of this section, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”
- 102 (1) Amend section 146 (interpretation of Part 10) as follows.
- (2) In the definition of “war widow’s pension” in subsection (2)—
- (a) after “any widow's” insert “ or surviving civil partner's ”, and
 - (b) after “widow” insert “ or surviving civil partner ”.
- (3) For subsection (3) substitute—
- “(3) In this Part of this Act, “couple” has the meaning given by section 133(1) above.”
- 103 In section 167ZL (entitlement to statutory adoption pay), in subsection (4)(b)—
- (a) after “married couple” insert “ or civil partnership ”, and
 - (b) after “spouse” (in each place) insert “ or civil partner ”.
- 104 (1) Amend Schedule 4A (additional pension) as follows.
- (2) In paragraph 1(2), after “under pensionable age,” insert “ or by virtue of section 39C(1), 48A(4) or 48B(2) above, in a case where the deceased civil partner died under pensionable age, ”.
- (3) In paragraph 1(4)(a) and (b), (5), (6) and (7)(a) and (b), after “spouse” insert “ or civil partner ”.
- 105 (1) Amend Schedule 7 (industrial injuries benefits) as follows.
- (2) For paragraph 4(3)(a) of Part 1 substitute—
- “(a) a beneficiary is one of two persons who are—
- (i) spouses or civil partners residing together,
 - (ii) a man and woman who are not married to each other but are living together as if they were husband and wife, or
 - (iii) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners, and”.
- (3) In paragraph 5(2)(a)(ii) of Part 1, after “spouses” insert “ or civil partners ”.
- (4) In Part 1—

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- (a) in paragraph 6(1), (3) and (4), after “spouse” (in each place) insert “ or civil partner ”, and
 - (b) in paragraph 6(4)(a), after “spouse's” insert “ or civil partner's ”.
- (5) In paragraph 15 of Part 6—
- (a) in sub-paragraph (2), after “remarries” insert “ or forms a civil partnership ”, and
 - (b) at the end of sub-paragraph (3), insert “ or is living together with a person of the same sex as if they were civil partners ”.
- 106 In Schedule 9 (exclusions from entitlement to child benefit), in paragraph 3, after “married” insert “ or is a civil partner ”.

PART 6

AMENDMENTS OF THE SOCIAL SECURITY ADMINISTRATION (NORTHERN IRELAND) ACT 1992 (C. 8)

- 107 In section 2AA (full entitlement to certain benefits conditional on work-focused interview for partner), in subsection (7), for the definition of “couple” substitute—
- ““couple” has the meaning given by section 133(1) of the Contributions and Benefits Act;”.
- 108 In section 3 (late claims for bereavement benefit where death is difficult to establish)
- (a) after “spouse” (in each place) insert “ or civil partner ”, and
 - (b) after “spouse's” (in each place) insert “ or civil partner's ”.
- 109 (1) Amend section 13A (payment out of benefit of sums in respect of mortgage interest etc.) as follows.
- (2) In subsection (4)—
- (a) in paragraph (a) of the definition of “partner”, for “to whom the borrower is married” substitute “ who is married to, or a civil partner of, the borrower ”, and
 - (b) in paragraph (b) of that definition, for “to whom the borrower is not married but who lives together with the borrower as husband and wife” substitute “ who is neither married to, nor a civil partner of, the borrower but who lives together with the borrower as husband and wife or as if they were civil partners ”.
- (3) After subsection (4A) insert—
- “(4B) For the purposes of this section, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”
- 110 (1) Amend section 69 (overpayments – general) as follows.
- (2) In subsection (9), for “married or unmarried couple” substitute “ couple ”.
 - (3) After subsection (11) insert—

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- “(12) In this section, “couple” has the meaning given by section 133(1) of the Contributions and Benefits Act.”
- 111 In section 71 (overlapping benefits – general), in subsections (2)(b) and (d) and (5) (b) and (d), for “wife or husband” substitute “ wife, husband or civil partner ”.
- 112 In section 72A (payment of benefit where maintenance payments collected by Department), in subsection (5)—
- (a) after the definition of “child maintenance” insert—
- ““couple” has the meaning given by section 133(1) of the Contributions and Benefits Act;”,
- (b) in the definition of “family”, for “married or unmarried couple” (in each place) substitute “ couple ”, and
- (c) omit the definitions of “married couple” and “unmarried couple”.
- 113 (1) Amend section 74 (recovery of social fund awards) as follows.
- (2) In subsection (3)(b), for “married or unmarried couple” substitute “ couple ”.
- (3) For subsection (5) substitute—
- “(5) In this section, “couple” has the meaning given by section 133(1) of the Contributions and Benefits Act.”
- (4) In subsection (6)—
- (a) in paragraph (a), after “wife” insert “ or civil partner ”, and
- (b) in paragraph (b), after “husband” insert “ or civil partner ”.
- 114 In section 100 (failure to maintain – general), in subsection (4), after “spouse” insert “ or civil partner ”.
- 115 In section 102 (recovery of expenditure on income support: additional amounts and transfer of orders), in subsection (1)(b), after “wife” insert “ or civil partner ”.
- 116 In section 103B (power to require information), in subsection (5)(a), for “married, his spouse” substitute “ married or is a civil partner, his spouse or civil partner ”.
- 117 In section 136 (up-rating under section 132 of pensions increased under section 52(3) of the Contributions and Benefits Act)—
- (a) in subsection (1), after “spouse” insert “ or civil partner ”, and
- (b) in subsections (2) and (3), after “spouse's” (in each place) insert “ or civil partner's ”.

PART 7

AMENDMENTS OF THE JOBSEEKERS ACT 1995 (C. 18)

- 118 [F298 In section 1 (the jobseeker’s allowance), in subsection (4), in the definition of “a joint-claim couple”, for “married or unmarried couple” substitute “ couple ”.]

Textual Amendments

F298 Sch. 24 paras. 118-122 repealed (29.4.2013 for specified purposes, 1.7.2013 and 29.7.2013 for specified purposes, 28.10.2013 for specified purposes, 25.11.2013 for specified purposes, 24.2.2014 and 7.4.2014)

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for specified purposes, 23.6.2014 and further specified dates for specified purposes, 15.9.2014 and further specified dates for specified purposes, 26.11.2014 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1](#); S.I. 2013/983, arts. 4(1)(c), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by S.I. 2013/1511; (29.10.2013) by S.I. 2013/2657; (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (15.9.2014) by S.I. 2014/2321; (17.11.2014) by S.I. 2014/3067; (21.11.2014) by S.I. 2014/3094; (19.1.2015) by S.I. 2015/32 (as amended (10.2.2015) by S.I. 2015/101); (10.3.2015) by S.I. 2015/634; (20.7.2015) by S.I. 2015/1537; (23.11.2015) by S.I. 2015/1930; (6.4.2017) by S.I. 2017/483; (2.2.2018) by S.I. 2018/138; (16.1.2019) by S.I. 2019/10; and (31.1.2019) by S.I. 2019/167); S.I. 2013/1511, art. 4, Sch. (as amended: (29.10.2013) by S.I. 2013/2657; (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2013/2657, art. 4, Sch. (with art. 6) (as amended: (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2013/2846, art. 4, Sch. (with art. 5) (as amended: (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2014/209, art. 4, Sch. (as amended: (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2014/1583, art. 4, Sch. (as amended (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2014/2321, art. 4 (as amended: (17.11.2014) by S.I. 2014/3057; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2014/3094, art. 4 (with art. 6)

119 ^[F298]In section 3 (the income-based conditions), in subsection (1)(dd) and (e), for “married or unmarried couple” substitute “couple”.]

Textual Amendments

F298 Sch. 24 paras. 118-122 repealed (29.4.2013 for specified purposes, 1.7.2013 and 29.7.2013 for specified purposes, 28.10.2013 for specified purposes, 25.11.2013 for specified purposes, 24.2.2014 and 7.4.2014 for specified purposes, 23.6.2014 and further specified dates for specified purposes, 15.9.2014 and further specified dates for specified purposes, 26.11.2014 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1](#); S.I. 2013/983, arts. 4(1)(c), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by S.I. 2013/1511; (29.10.2013) by S.I. 2013/2657; (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (15.9.2014) by S.I. 2014/2321; (17.11.2014) by S.I. 2014/3067; (21.11.2014) by S.I. 2014/3094; (19.1.2015) by S.I. 2015/32 (as amended (10.2.2015) by S.I. 2015/101); (10.3.2015) by S.I. 2015/634; (20.7.2015) by S.I. 2015/1537; (23.11.2015) by S.I. 2015/1930; (6.4.2017) by S.I. 2017/483; (2.2.2018) by S.I. 2018/138; (16.1.2019) by S.I. 2019/10; and (31.1.2019) by S.I. 2019/167); S.I. 2013/1511, art. 4, Sch. (as amended: (29.10.2013) by S.I. 2013/2657; (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2013/2657, art. 4, Sch. (with art. 6) (as amended: (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2013/2846, art. 4, Sch. (with art. 5) (as amended: (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2014/209, art. 4, Sch. (as amended: (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2014/1583, art. 4, Sch. (as

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amended (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (17.11.2014) by [S.I. 2014/3067](#); (19.1.2015) by [S.I. 2015/32](#); (10.3.2015) by [S.I. 2015/634](#); and (20.7.2015) by [S.I. 2015/1537](#); [S.I. 2014/2321](#), art. 4 (as amended: (17.11.2014) by [S.I. 2014/3057](#); (19.1.2015) by [S.I. 2015/32](#); (10.3.2015) by [S.I. 2015/634](#); and (20.7.2015) by [S.I. 2015/1537](#)); [S.I. 2014/3094](#), art. 4 (with art. 6)

- 120 ^[F298]In section 15 (effect on other claimants), in subsection (2)(b), for “married or unmarried couple” substitute “ couple ”.]

Textual Amendments

F298 Sch. 24 paras. 118-122 repealed (29.4.2013 for specified purposes, 1.7.2013 and 29.7.2013 for specified purposes, 28.10.2013 for specified purposes, 25.11.2013 for specified purposes, 24.2.2014 and 7.4.2014 for specified purposes, 23.6.2014 and further specified dates for specified purposes, 15.9.2014 and further specified dates for specified purposes, 26.11.2014 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 14 Pt. 1**; [S.I. 2013/983](#), arts. 4(1)(c), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#); (23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I. 2018/138](#); (16.1.2019) by [S.I. 2019/10](#); and (31.1.2019) by [S.I. 2019/167](#)); [S.I. 2013/1511](#), art. 4, Sch. (as amended: (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (17.11.2014) by [S.I. 2014/3067](#); (19.1.2015) by [S.I. 2015/32](#); (10.3.2015) by [S.I. 2015/634](#); and (20.7.2015) by [S.I. 2015/1537](#)); [S.I. 2013/2846](#), art. 4, Sch. (with art. 5) (as amended: (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (17.11.2014) by [S.I. 2014/3067](#); (19.1.2015) by [S.I. 2015/32](#); (10.3.2015) by [S.I. 2015/634](#); and (20.7.2015) by [S.I. 2015/1537](#)); [S.I. 2014/209](#), art. 4, Sch. (as amended: (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (17.11.2014) by [S.I. 2014/3067](#); (19.1.2015) by [S.I. 2015/32](#); (10.3.2015) by [S.I. 2015/634](#); and (20.7.2015) by [S.I. 2015/1537](#)); [S.I. 2014/1583](#), art. 4, Sch. (as amended (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (17.11.2014) by [S.I. 2014/3067](#); (19.1.2015) by [S.I. 2015/32](#); (10.3.2015) by [S.I. 2015/634](#); and (20.7.2015) by [S.I. 2015/1537](#)); [S.I. 2014/2321](#), art. 4 (as amended: (17.11.2014) by [S.I. 2014/3057](#); (19.1.2015) by [S.I. 2015/32](#); (10.3.2015) by [S.I. 2015/634](#); and (20.7.2015) by [S.I. 2015/1537](#)); [S.I. 2014/3094](#), art. 4 (with art. 6)

- 121 ^[F298]In section 15A (trade disputes: joint-claim couples), in subsection (5)(c), for “married or unmarried couple” substitute “ couple ”.]

Textual Amendments

F298 Sch. 24 paras. 118-122 repealed (29.4.2013 for specified purposes, 1.7.2013 and 29.7.2013 for specified purposes, 28.10.2013 for specified purposes, 25.11.2013 for specified purposes, 24.2.2014 and 7.4.2014 for specified purposes, 23.6.2014 and further specified dates for specified purposes, 15.9.2014 and further specified dates for specified purposes, 26.11.2014 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 14 Pt. 1**; [S.I. 2013/983](#), arts. 4(1)(c), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#); (23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I.](#)

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122 [F298 In section 23 (recovery of sums in respect of maintenance), in subsection (1), after “spouse” insert “ or civil partner ”.]

Textual Amendments

F298 Sch. 24 paras. 118-122 repealed (29.4.2013 for specified purposes, 1.7.2013 and 29.7.2013 for specified purposes, 28.10.2013 for specified purposes, 25.11.2013 for specified purposes, 24.2.2014 and 7.4.2014 for specified purposes, 23.6.2014 and further specified dates for specified purposes, 15.9.2014 and further specified dates for specified purposes, 26.11.2014 for specified purposes) by Welfare Reform Act 2012 (c. 5), s. 150(3), Sch. 14 Pt. 1; S.I. 2013/983, arts. 4(1)(c), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by S.I. 2013/1511; (29.10.2013) by S.I. 2013/2657; (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (15.9.2014) by S.I. 2014/2321; (17.11.2014) by S.I. 2014/3067; (21.11.2014) by S.I. 2014/3094; (19.1.2015) by S.I. 2015/32 (as amended (10.2.2015) by S.I. 2015/101); (10.3.2015) by S.I. 2015/634; (20.7.2015) by S.I. 2015/1537; (23.11.2015) by S.I. 2015/1930; (6.4.2017) by S.I. 2017/483; (2.2.2018) by S.I. 2018/138; (16.1.2019) by S.I. 2019/10; and (31.1.2019) by S.I. 2019/167); S.I. 2013/1511, art. 4, Sch. (as amended: (29.10.2013) by S.I. 2013/2657; (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2013/2657, art. 4, Sch. (with art. 6) (as amended: (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2013/2846, art. 4, Sch. (with art. 5) (as amended: (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2014/209, art. 4, Sch. (as amended: (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2014/1583, art. 4, Sch. (as amended: (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (17.11.2014) by S.I. 2014/3067; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2014/2321, art. 4 (as amended: (17.11.2014) by S.I. 2014/3057; (19.1.2015) by S.I. 2015/32; (10.3.2015) by S.I. 2015/634; and (20.7.2015) by S.I. 2015/1537); S.I. 2014/3094, art. 4 (with art. 6)

123 In section 31 (termination of awards), in subsections (1) and (2), for “married or unmarried couple” substitute “ couple ”.

124 (1) Amend section 35 (interpretation) as follows.

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- (2) After the definition of “contribution-based jobseeker’s allowance” in subsection (1) insert—
- ““couple” means—
- (a) a man and woman who are married to each other and are members of the same household;
 - (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;
 - (c) two people of the same sex who are civil partners of each other and are members of the same household; or
 - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;”.
- (3) In paragraphs (a), (b) and (c) of the definition of “family” in subsection (1), for “married or unmarried couple” substitute “ couple ”.
- (4) Omit the definitions of “married couple” and “unmarried couple” in subsection (1).
- (5) After subsection (1) insert—
- “(1A) For the purposes of this Act, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”
- 125 In Schedule 1 (supplementary provisions), in paragraph 9C(1), for “married or unmarried couple” substitute “ couple ”.

PART 8

AMENDMENTS OF THE CHILD SUPPORT ACT 1995 (C. 34)

- 126 (1) Amend subsection (7) of section 10 (the child maintenance bonus) as follows.
- (2) After the definition of “child maintenance” insert—
- ““couple” means—
- (a) a man and woman who are married to each other and are members of the same household;
 - (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;
 - (c) two people of the same sex who are civil partners of each other and are members of the same household; or
 - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;”.
- (3) In the definition of “family” for “married or unmarried couple” (in each place) substitute “ couple ”.
- (4) Omit the definitions of “married couple” and “unmarried couple”.

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127 After section 10(7) insert—

“(7A) For the purposes of this section, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”

PART 9

AMENDMENTS OF THE CHILD SUPPORT (NORTHERN IRELAND) ORDER 1995 (S.I. 1995/ 2702 (N.I. 13))

128 (1) Amend paragraph (7) of Article 4 (the child maintenance bonus) as follows.

(2) After the definition of “child maintenance” insert—

““couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;”.

(3) In the definition of “family” for “married or unmarried couple” (in each place) substitute “couple”.

(4) Omit the definitions of “married couple” and “unmarried couple”.

129 After that paragraph insert—

“(7A) For the purposes of this Article, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”

PART 10

AMENDMENTS OF THE JOBSEEKERS (NORTHERN IRELAND) ORDER 1995 (S.I. 1995/2705 (N.I. 15))

130 (1) Amend Article 2 (interpretation) as follows.

(2) After the definition of “contribution-based jobseeker’s allowance” in paragraph (2) insert—

““couple” means—

- (a) a man and woman who are married to each other and are members of the same household;

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- (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;
 - (c) two people of the same sex who are civil partners of each other and are members of the same household; or
 - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;”.
- (3) In paragraphs (a), (b) and (c) of the definition of “family” in paragraph (2), for “married or unmarried couple” substitute “ couple ”.
- (4) Omit the definitions of “married couple” and “unmarried couple” in paragraph (2).
- (5) After paragraph (2) insert—
- “(2A) For the purposes of this Order, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”
- 131 In Article 3 (the jobseeker’s allowance), in paragraph (4), in the definition of “a joint-claim couple”, for “married or unmarried couple” substitute “ couple ”.
- 132 In Article 5 (the income-based conditions), in paragraphs (1)(dd) and (e), for “married or unmarried couple” substitute “ couple ”.
- 133 In Article 17 (effect on other claimants), in paragraph (2)(b), for “married or unmarried couple” substitute “ couple ”.
- 134 In Article 17A (trade disputes: joint-claim couples), in paragraph (5)(c), for “married or unmarried couple” substitute “ couple ”.
- 135 In Article 25 (recovery of sums in respect of maintenance), in paragraph (1), after “spouse” insert “ or civil partner ”.
- 136 In Article 32 (termination of awards), in paragraphs (1) and (2), for “married or unmarried couple” substitute “ couple ”.
- 137 In Schedule 1 (supplementary provisions), in paragraph 9C(1), for “married or unmarried couple” substitute “ couple ”.

PART 11

AMENDMENTS OF THE SOCIAL SECURITY ACT 1998 (C. 14)

- 138 (1) Amend section 72 (power to reduce child benefit for lone parents) as follows.
- (2) In subsection (2), after “spouse” (in each place) insert “ or civil partner ”.
- (3) After subsection (2) insert—
- “(3) For the purpose of this section, a parent is to be regarded as living with another person as his civil partner if, but only if, he would be regarded as living with the other person as his spouse, were they instead two people of the opposite sex.”

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PART 12

AMENDMENTS OF THE SOCIAL SECURITY (NORTHERN IRELAND) ORDER 1998 (S.I. 1998/ 1506 (N.I. 10))

- 139 (1) Amend Article 68 (power to reduce child benefit for lone parents) as follows.
- (2) In paragraph (2), after “spouse” (in each place) insert “ or civil partner ”.
- (3) After paragraph (2) insert—
- “(3) For the purpose of this Article, a parent is to be regarded as living with another person as his civil partner if, but only if, he would be regarded as living with the other person as his spouse, were they instead two people of the opposite sex.”.

PART 13

AMENDMENTS OF THE STATE PENSION CREDIT ACT 2002 (C. 16)

- 140 In sections 2(5)(a) and (8)(b), 3(1)(b), 4(1), 5, 6(3)(c)(ii) and 9(4)(a), (b) and (d), for “married or unmarried couple” substitute “ couple ”.
- 141 In section 2(5)(b), for “such a couple” substitute “ a couple ”.
- 142 (1) Amend subsection (1) of section 17 (other interpretation provisions) as follows.
- (2) After the definition of “the Contributions and Benefits Act” insert—
- ““couple” means—
- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;”.
- (3) In the definition of “foreign war widow’s or widower’s pension” for “widow or widower” (in each place) substitute “ widow, widower or surviving civil partner ”.
- (4) Omit the definitions of “married couple” and “unmarried couple”.
- (5) In the definition of “war widow’s or widower’s pension”—
- (a) in paragraph (a), for “any widow’s or widower’s” substitute “ any widow’s, widower’s or surviving civil partner’s ”, and
- (b) in paragraph (b), for “widow or widower” substitute “ widow, widower or surviving civil partner ”.
- 143 After section 17(1) insert—
- “(1A) For the purposes of this Act, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would

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be regarded as living together as husband and wife were they instead two people of the opposite sex.”

PART 14

AMENDMENTS OF THE TAX CREDITS ACT 2002 (C. 21)

- 144 (1) Amend section 3 (claims) as follows.
- (2) In subsection (3)(a), for “married couple or unmarried couple” substitute “couple”.
- (3) For subsections (5) and (6) substitute—
- “(5A) In this Part “couple” means—
- (a) a man and woman who are married to each other and are neither—
 - (i) separated under a court order, nor
 - (ii) separated in circumstances in which the separation is likely to be permanent,
 - (b) a man and woman who are not married to each other but are living together as husband and wife,
 - (c) two people of the same sex who are civil partners of each other and are neither—
 - (i) separated under a court order, nor
 - (ii) separated in circumstances in which the separation is likely to be permanent, or
 - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.”
- 145 In sections 4(1)(g), 11(6)(b) and (c), 17(10)(b), 24(2) and 32(6), for “married couple or an unmarried couple” (in each place) substitute “couple”.
- 146 In sections 4(1)(g) and 17(10)(b), for “the married couple or unmarried couple” substitute “the couple”.
- 147 (1) Renumber section 48 (interpretation) as subsection (1) of that section.
- (2) In subsection (1), after the definition of “child” insert—
- ““couple” has the meaning given by section 3(5A),”
- and omit the definitions of “married couple” and “unmarried couple”.
- (3) After subsection (1) insert—
- “(2) For the purposes of this Part, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”

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PART 15

AMENDMENTS OF THE STATE PENSION CREDIT ACT (NORTHERN IRELAND) 2002 (C. 14 (N.I.))

- 148 In sections 2(5)(a) and (8)(b), 3(1)(b), 4(1), 5, 6(3)(c)(ii) and 9(4)(a), (b) and (d), for “married or unmarried couple” substitute “couple”.
- 149 In section 2(5)(b), for “such a couple” substitute “a couple”.
- 150 (1) Amend subsection (1) of section 17 (other interpretation provisions) as follows.
- (2) After the definition of “the Contributions and Benefits Act” insert—
- ““couple” means—
- (a) a man and woman who are married to each other and are members of the same household;
 - (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;
 - (c) two people of the same sex who are civil partners of each other and are members of the same household; or
 - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;”.
- (3) In the definition of “foreign war widow’s or widower’s pension” for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”.
- (4) Omit the definitions of “married couple” and “unmarried couple”.
- (5) In the definition of “war widow’s or widower’s pension”—
- (a) in paragraph (a), for “any widow’s or widower’s” substitute “any widow’s, widower’s or surviving civil partner’s”, and
 - (b) in paragraph (b), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 151 After section 17(1) insert—
- “(1A) For the purposes of this Act, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”

SCHEDULE 25

Section 256

AMENDMENT OF CERTAIN ENACTMENTS RELATING TO PENSIONS

Fire Services Act 1947 (c. 41)

- 1 In section 26 (firemen’s pension scheme), in subsections (1) and (2A), for “widows,” substitute “surviving spouses, surviving civil partners,”.

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House of Commons Members' Fund Act 1948 (c. 36)

- 2 In section 4 (provision for cases of special hardship), in subsection (1)(b), for “widowers” substitute “widowers, surviving civil partners”.

Parliamentary and other Pensions Act 1972 (c. 48)

F299³

Textual Amendments

F299 Sch. 25 para. 3 repealed (25.4.2013) by [Public Service Pensions Act 2013 \(c. 25\)](#), s. 41(1)(b), [Sch. 11 para. 7](#) (with [Sch. 11 para. 8](#))

Theatres Trust Act 1976 (c. 27)

- 4 In section 3 (employment of staff), in subsection (d)(iii) (power to secure pensions and gratuities payable to or in respect of officers and servants), for “widow,” substitute “surviving spouse, surviving civil partner,”.

SCHEDULE 26

Section 257

AMENDMENT OF CERTAIN ENACTMENTS RELATING TO THE ARMED FORCES

Greenwich Hospital Act 1865 (c. 89)

- 1 In section 5 (power to appoint pensions to officers, etc.), after “widows” insert “or surviving civil partners”.

Navy and Marines (Property of Deceased) Act 1865 (c. 111)

- 2 In section 4 (disposal of residue belonging to deceased person in civil service of navy), after “widow” insert “or surviving civil partner”.

Pensions Commutation Act 1871 (c. 36)

- 3 (1) In section 4 (power to Treasury to commute pensions), in subsection (2) —
 (a) after “marries” insert “or forms a civil partnership”, and
 (b) after “widow” insert “or surviving civil partner”.
- (2) In section 4(3), for “wife” substitute “wife, civil partner”.

Greenwich Hospital Act 1883 (c. 32)

- 4 In section 2 (power to grant pensions, allowances, and gratuities), in subsection (1), after “widows” insert “or surviving civil partners”.

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Commencement Information

- I40** Sch. 26 para. 4 wholly in force at 5.12.2005; Sch. 26 para. 4 not in force at Royal Assent see s. 263; Sch. 26 para. 4 in force for certain purposes at 15.4.2005 by S.I. 2005/1112, [art. 2](#), [Sch. 1](#) and Sch. 26 para. 4 in force otherwise at 5.12.2005 by S.I. 2005/3175, [art. 2\(1\)](#), [Sch. 1](#)

Pensions and Yeomanry Pay Act 1884 (c. 55)

- 5 In section 4 (distribution of money not exceeding £5,000 without requiring probate), after “widower” insert “surviving civil partner”.

Commencement Information

- I41** Sch. 26 para. 5 wholly in force at 5.12.2005; Sch. 26 para. 5 not in force at Royal Assent see s. 263; Sch. 26 para. 5 in force for certain purposes at 15.4.2005 by S.I. 2005/1112, [art. 2](#), [Sch. 1](#) and Sch. 26 para. 5 in force otherwise at 5.12.2005 by S.I. 2005/3175, [art. 2\(1\)](#), [Sch. 1](#)

Regimental Debts Act 1893 (c. 5)

- 6 In section 10 (application of residue undisposed of), in subsection (2), for “widows” substitute “widows, surviving civil partners”.
- 7 In section 24 (application of Act to cases of insanity), in paragraph (a), for “wife or husband” substitute “wife, husband or civil partner”.

Naval Medical Compassionate Fund Act 1915 (c. 28)

F300g

Textual Amendments

- F300** Sch. 26 para. 8 repealed (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 5](#); S.I. 2012/669, [art. 4\(f\)\(i\)](#)

Naval and Military War Pensions, &c., (Administrative Expenses) Act 1917 (c. 14)

- 9 (1) In section 5 (alteration of purposes for which voluntary funds may be applied in certain cases)—
- (a) after “wives,” (in each place) insert “civil partners,” and
 - (b) after “widows,” (in each place) insert “surviving civil partners,”.
- (2) In section 6 (power of Secretary of State to accept and administer gifts for assisting disabled officers and men), after “widows,” insert “surviving civil partners,”.

War Pensions (Administrative Provisions) Act 1919 (c. 53)

- 10 In section 8 (appeals to Pensions Appeal Tribunals), in subsection (1), for “the motherless child or” substitute “surviving civil partner or the orphan,”.

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War Pensions Act 1920 (c. 23)

- 11 In section 7 (restoration of forfeited pensions), in subsection (2), after “wife,” insert “civil partner,”.
- 12 In section 8 (statutory right of widow or dependant to a pension), for “widow” substitute “widow, surviving civil partner”.

Admiralty Pensions Act 1921 (c. 39)

- 13 In section 2 (restoration of forfeited pension), in subsection (2), after “wife,” insert “civil partner,”.

Greenwich Hospital Act 1942 (c. 35)

- 14 (1) In section 1 (extension of powers to grant pensions to persons employed for the purposes of Greenwich Hospital), in subsection (1)(a) and (b) for “widows” substitute “widows, surviving civil partners”.
- (2) In section 1(2), for “spouses” substitute “spouses, civil partners”.

Pensions Appeal Tribunals Act 1943 (c. 39)

- 15 In section 1 (appeals against rejection of war pension claims made in respect of members of the naval, military or air forces), in subsection (4)(ii) —
- (a) after “widower,” insert “surviving civil partner,”,
 - (b) for “husband” substitute “husband, civil partner”,
 - (c) after “marriage” insert “or civil partnership”, and
 - (d) after “place” insert “or been formed”.

Greenwich Hospital Act 1947 (10 & 11 Geo. 6 c. 5)

- 16 In section 2 (extension of power to grant pensions, etc.), in subsection (1), after “widows” insert “and surviving civil partners”.

Polish Resettlement Act 1947 (c. 19)

- 17 In section 1 (power to apply Royal Warrant as to pensions etc. to certain Polish forces), in subsection (1), after “widows,” insert “surviving civil partners,”.

Commencement Information

I42 Sch. 26 para. 17 wholly in force at 5.12.2005; Sch. 26 para. 17 not in force at Royal Assent see s. 263; Sch. 26 para. 17 in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 26 para. 17 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

- 18 In section 2 (allowances from the Assistance Board), in subsection (2)(c)—
- (a) for “of men” substitute “or civil partners of persons”,
 - (b) for “woman” substitute “person”,
 - (c) for “of a man” substitute “or civil partner of a person”, and
 - (d) for “re-married” substitute “subsequently married or formed a civil partnership”.

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Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 (c. 24)

- 19 (1) Amend section 1 (deduction from pay in respect of liabilities for maintenance, etc.) as follows.
- (2) In subsection (1), in paragraphs (a), (aa) and (b) after “wife” insert “or civil partner”.
- (3) In subsection (2A), after paragraph (a) insert—
- “(aa) if, in proceedings in connection with the dissolution or annulment of a civil partnership, an order has been made for the payment of any periodical or other sum in respect of the maintenance of the person who, if the civil partnership had subsisted, would have been the civil partner of any such person as is mentioned in subsection (1) above, references in this section to that person’s civil partner include references to the person in whose favour the order was made; and”.

Royal Patriotic Fund Corporation Act 1950 (c. 10)

- 20 In section 1 (extension of objects of soldiers' effects fund), in subsection (1)—
- (a) for “widows or children” substitute “widows, surviving civil partners or children”, and
- (b) after “widows,” insert “surviving civil partners,”.

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65)

- 21 In section 23(1) (interpretation of Part 2)—
- (a) in paragraph (a) of the definition of “dependant”, for “wife” substitute “spouse or civil partner”, and
- (b) in the definition of “statutory tenancy”, for “widow” substitute “surviving spouse or surviving civil partner”.
- 22 In paragraph (a) of section 25(6) (meaning of “dependant”), for “wife” substitute “spouse or civil partner”.
- 23 In section 27(5) (interpretation of section), for “wife” (in each place) substitute “spouse or civil partner”.
- 24 In section 38(5) (interpretation of section), for “wife” (in each place) substitute “spouse or civil partner”.
- 25 (1) Amend section 46 (general provisions as to payments to make up civil remuneration) as follows.
- (2) In subsection (2), for “wife” substitute “spouse or civil partner”.
- (3) In subsection (3)—
- (a) the words from “a widow entitled to a widow’s pension” to the end of paragraph (iv) become paragraph (a) of the subsection (so that paragraphs (i) to (iv) become sub-paragraphs of that paragraph (a)),
- (b) in that paragraph (a), for “widow entitled to a widow’s pension” substitute “surviving spouse entitled to a surviving spouse’s pension”,
- (c) in sub-paragraph (iv) of that paragraph (a), at the end insert “or”, and
- (d) before “there may” insert the following paragraph—
- “(b) a surviving civil partner entitled to a surviving civil partner’s pension by virtue of any of those provisions,”.

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- 26 In section 52(2)(a) (“service pay” includes marriage etc. allowances), after
“marriage,” insert “civil partnership,”.
- 27 (1) Amend Schedule 3 (financial provisions consequential on treating a person dying on
service as alive and the converse) as follows.
- (2) In paragraph 1(3), for “widow” substitute “surviving spouse, surviving civil partner
”.
- (3) In paragraph 2(4), for “wife” (in each place) substitute “spouse, civil partner”.

Army Act 1955 (3 & 4 Eliz. 2 c. 18)

- 28 (1) Section 150 (enforcement of maintenance and affiliation orders by deduction from
pay) is amended as follows.
- (2) In subsection (1)(a) and (aa), after “wife” insert “or civil partner”.
- (3) In subsection (5), after “marriage had subsisted;” insert— “references to a civil
partner include, in relation to an order made in proceedings in connection with the
dissolution or annulment of a civil partnership, references to a person who would
have been the civil partner of the defendant if the civil partnership had subsisted.”
- 29 In section 151 (deductions from pay for maintenance of wife or child), in
subsection (1)—
- (a) after “wife” (in the first place) insert “or civil partner”, and
- (b) for “wife” (in the second place) substitute “wife, civil partner”.

Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)

- 30 (1) Section 150 (enforcement of maintenance and affiliation orders by deduction from
pay) is amended as follows.
- (2) In subsection (1)(a) and (aa), after “wife” insert “or civil partner”.
- (3) In subsection (5), after “marriage had subsisted;” insert— “references to a civil
partner include, in relation to an order made in proceedings in connection with the
dissolution or annulment of a civil partnership, references to a person who would
have been the civil partner of the defendant if the civil partnership had subsisted.”
- 31 In section 151 (deductions from pay for maintenance of wife or child), in
subsection (1)—
- (a) after “wife” (in the first place) insert “or civil partner”, and
- (b) for “wife” (in the second place) substitute “wife, civil partner”.

Naval Discipline Act 1957 (c. 53)

- 32 (1) Section 101 (service of proceedings for maintenance etc.) is amended as follows.
- (2) In subsection (5)(a) and (b), after “wife” insert “or civil partner”.
- (3) In subsection (5A), after paragraph (a) insert—
- “(aa) references to the civil partner of a person include, in relation to an
order made in proceedings in connection with the dissolution or
annulment of a civil partnership, references to a person who would

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have been his civil partner if the civil partnership had subsisted; and”.

Courts-Martial (Appeals) Act 1968 (c. 20)

- 33 In section 48A (appeals on behalf of deceased persons), in subsection (3)(a), for “widow or widower” substitute “ widow, widower or surviving civil partner ”.

SCHEDULE 27

Section 261(1)

MINOR AND CONSEQUENTIAL AMENDMENTS: GENERAL

Explosive Substances Act 1883 (c. 3)

- 1 In section 6 (inquiry by Attorney-General, and apprehension of absconding witnesses), in subsection (2), for “husband or wife” (in both places) substitute “ spouse or civil partner ”.

Partnership Act 1890 (c. 39)

- 2 In section 2 (rules for determining existence of partnership), in rule (3)(c), after “widow” insert “ , widower, surviving civil partner ”.

Law of Distress Amendment Act 1908 (c. 53)

- 3 In section 4(1) (exclusion of certain goods), after “husband or wife”, insert “ or civil partner ”.

Census Act 1920 (c. 41)

- 4 In the Schedule (matters in respect of which particulars may be required), in paragraph 5 after “as to marriage” insert “ or civil partnership ”.

Trustee Act 1925 (c. 19)

- 5 (1) Amend section 31(2)(i) (trust on reaching 18 or marrying under that age of accumulations during infancy) as follows.
- (2) In sub-paragraph (a)—
- (a) after “marries under that age” insert “ or forms a civil partnership under that age ”, and
- (b) for “or until his marriage” substitute “ , or until his marriage or his formation of a civil partnership, ”.
- (3) In sub-paragraph (b), after “marriage” insert “ , or formation of a civil partnership, ”.
- (4) In the words after that sub-paragraph, after “marriage” insert “ or formation of a civil partnership ”.
- 6 In section 33(1)(ii)(a) and (b) (trust to maintain principal beneficiary and his spouse and issue on failure of protective trust under paragraph (i)), for “wife or husband” substitute “ spouse or civil partner ”.

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Law of Property Act 1925 (c. 20)

- 7 In section 205(1)(xxi) (which defines “valuable consideration” as including marriage), after “includes marriage” insert “, and formation of a civil partnership,”.

Judicial Proceedings (Regulation of Reports) Act 1926 (c. 61)

- 8 (1) Amend section 1 (restriction on publication of reports of judicial proceedings) as follows.
 - (2) In subsection (1)(b), for “or for restitution of conjugal rights” substitute “ or for the dissolution or annulment of a civil partnership or for the separation of civil partners ”.
 - (3) Omit subsection (5).

Population (Statistics) Act 1938 (c. 12)

- 9 In the Schedule (particulars which may be required), in paragraph 2—
 - (a) in paragraph (a), for “or divorced;” substitute “ , divorced, a civil partner or former civil partner, and, if a former civil partner, whether the civil partnership ended on death or dissolution; ”, and
 - (b) in paragraph (b), after “surviving spouse” insert “ or civil partner ”.

Landlord and Tenant (Requisitioned Land) Act 1942 (c. 13)

- 10 In section 13(1) (definition of “member of the family”), after “the wife or husband of the tenant,” insert “ the civil partner of the tenant, ”.

Limitation (Enemies and War Prisoners) Act 1945 (c. 16)

- 11 In section 2 (interpretation), in the definition of “statute of limitation”, after the entry relating to the Matrimonial Causes Act 1973 insert— “ section 51(2) of the Civil Partnership Act 2004, ”.

Statistics of Trade Act 1947 (c. 39)

- 12 In section 10 (information from persons entering or leaving the United Kingdom by air), in subsection (1), after “marriage” insert “ or civil partnership ”.

Marriage Act 1949 (c. 76)

- 13 (1) Amend section 1 (marriages within prohibited degrees) as follows.
 - (2) In subsection (1), for the words from “between a man” to “the said Part I,” substitute “ between a person and any person mentioned in the list in Part 1 of Schedule 1 ”.
 - (3) In subsection (2), for the words from “between a man” to “the said Part II,” substitute “ between a person and any person mentioned in the list in Part 2 of Schedule 1 ”.
 - (4) ^{F301}
 - (5) ^{F301}
 - (6) ^{F301}

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Textual Amendments

F301 Sch. 27 para. 13(4)-(6) repealed (1.3.2007) by [The Marriage Act 1949 \(Remedial\) Order 2007 \(S.I. 2007/438\)](#), [art. 3\(c\)](#)

Commencement Information

I43 Sch. 27 para. 13 fully in force (so far as unrepealed); Sch. 23 para. 13 not in force at Royal Assent see s. 263; Sch. 27 para. 13(1)-(3) in force at 5.12.2005 and Sch. 27 para. 13(6) in force at 5.12.2005 for specified purposes by [S.I. 2005/3175](#), [art. 2](#)

- 14 In section 27 (notice of marriage), in subsection (3), for “the name and surname, marital status, occupation, place of residence and nationality of each of the persons to be married” substitute “ the name and surname, occupation, place of residence and nationality of each of the persons to be married, whether either of them has previously been married or formed a civil partnership and, if so, how the marriage or civil partnership ended ”.

Commencement Information

I44 Sch. 27 para. 14 wholly in force at 5.12.2005; Sch. 27 para. 14 not in force at Royal Assent see s. 263; Sch. 27 para. 14 in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 27 para. 14 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(2\)](#)

- 15 In section 28A (power to require evidence), for subsection (3) substitute—
- “(3) “Specified evidence”, in relation to a person, means such evidence as may be specified in guidance issued by the Registrar General—
- (a) of the person’s name and surname,
 - (b) of the person’s age,
 - (c) as to whether the person has previously been married or formed a civil partnership and, if so, as to the ending of the marriage or civil partnership, and
 - (d) of the person’s nationality.”
- 16 In section 78(1) (interpretation), in the definition of “child”, after “ “child”” insert “ , except where used to express a relationship, ”.
- 17 For Schedule 1 (kindred and affinity) substitute—

“SCHEDULE 1

KINDRED AND AFFINITY

PART 1

PROHIBITED DEGREES: KINDRED

- 1 (1) The list referred to in section 1(1) is—
- Adoptive child
 - Adoptive parent
 - Child

Status: Point in time view as at 02/03/2015.

Changes to legislation: Civil Partnership Act 2004 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Former adoptive child
Former adoptive parent
Grandparent
Grandchild
Parent
Parent’s sibling
Sibling
Sibling’s child

(2) In the list “sibling” means a brother, sister, half-brother or half-sister.

PART 2

DEGREES OF AFFINITY REFERRED TO IN SECTION 1(2) AND (3)

- 2 The list referred to in section 1(2) is as follows—
- Child of former civil partner
 - Child of former spouse
 - Former civil partner of grandparent
 - Former civil partner of parent
 - Former spouse of grandparent
 - Former spouse of parent
 - Grandchild of former civil partner
 - Grandchild of former spouse

PART 3

DEGREES OF AFFINITY REFERRED TO IN SECTION 1(4) AND (5)

- 3 The list referred to in section 1(4) is as follows—
- Parent of former spouse
 - Parent of former civil partner
 - Former spouse of child
 - Former civil partner of child.”

Commencement Information

145 Sch. 27 para. 17 partly in force at 5.12.2005; Sch. 27 para. 17 not in force at Royal Assent see s. 263; Sch. 27 para. 17 in force for certain purposes at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)\(5\)](#), [Sch. 1](#)

Maintenance Orders Act 1950 (c. 37)

- 18 (1) Amend section 16 (application of Part 2) as follows.
- (2) After subsection (2)(a)(viii) insert—
- “(ix) Part 1, 8 or 9 of Schedule 5 to the Civil Partnership Act 2004, Schedule 6 to that Act or paragraph 5 or 9 of Schedule 7 to that Act;”.

Status: Point in time view as at 02/03/2015.

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(3) After subsection (2)(b)(ix) insert—
“(x) an order made on an application under Schedule 11 to the Civil Partnership Act 2004;”.

(4) After subsection (2)(c)(ix) insert—
“(x) Part 1, 7 or 8 of Schedule 15 to the Civil Partnership Act 2004, Schedule 16 to that Act or paragraph 5 or 9 of Schedule 17 to that Act;”.

Births and Deaths Registration Act 1953 (c. 20)

19 In section 41 (interpretation), in the definition of “relative”, after “by marriage” insert “ or civil partnership ”.

Pharmacy Act 1954 (c. 61)

20 In section 17(c) (benevolent fund: distressed relatives eligible for relief), for “widows,” substitute “ surviving spouses, surviving civil partners, ”.

Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (c. 58)

21 In section 1 (records of deaths, births and marriages among armed forces and service civilians and their families overseas), in subsection (1), for “and marriages solemnised,” substitute “ marriages solemnised and civil partnerships formed, ”.

Commencement Information

I46 Sch. 27 para. 21 wholly in force at 5.12.2005; Sch. 27 para. 21 not in force at Royal Assent see s. 263; Sch. 27 para. 21 in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 27 para. 21 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(2\)](#)

Maintenance Orders Act 1958 (c. 39)

22 (1) Amend section 4 (variation of orders registered in magistrates' courts) as follows.

^{F302}(2)

(3) In subsection (6B) (no application may be made for variation under the Act of certain registered orders), after “1984” insert “ or under Schedule 7 to the Civil Partnership Act 2004 ”.

Textual Amendments

F302 Sch. 27 para. 22(2) repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 99](#); [S.I. 2014/954](#), [art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Offices, Shops and Railway Premises Act 1963 (c. 41)

23 In section 2 (exception for premises in which only employer's relatives or outworkers work), in subsection (1), after “wife” insert “ , civil partner ”.

Status: Point in time view as at 02/03/2015.

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Industrial and Provident Societies Act 1965 (c. 12)

F303 24

Textual Amendments

F303 Sch. 27 para. 24 repealed (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 7](#) (with [Sch. 5](#))

25 In section 25 (provision for intestacy), in subsection (2), after “widower” insert “, surviving civil partner”.

Criminal Appeal Act 1968 (c. 19)

26 In section 44A (appeals in cases of death), in subsection (3)(a), after “widower” insert “ or surviving civil partner”.

Theft Act 1968 (c. 60)

27 (1) Amend section 30 (husband and wife) as follows.

(2) In subsections (4) and (5), after “wife or husband” in each place except paragraph (a) (ii) to the proviso to subsection (4) insert “ or civil partner”.

(3) At the end of paragraph (a)(ii) to the proviso insert “or
(iii) an order (wherever made) is in force providing for the separation of that person and his or her civil partner.”,
and omit “or” at the end of paragraph (a)(i) to the proviso.

(4) For the heading to section 30 substitute “ Spouses and civil partners”.

28 In section 31 (effect on civil proceedings and rights), in subsection (1)—

(a) for “wife or husband” substitute “ spouse or civil partner”, and

(b) for “married after the making of the statement or admission) against the wife or husband” substitute “ married or became civil partners after the making of the statement or admission) against the spouse or civil partner”.

Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c. 63)

29 (1) Amend section 2 (restriction of publicity for certain matrimonial etc. proceedings) as follows.

(2) In subsection (1), after paragraph (d) insert—

“(da) proceedings under Part 9 of Schedule 5 to the Civil Partnership Act 2004 (provision corresponding to the provision referred to in paragraph (c) above);

(db) proceedings under section 58 of the 2004 Act (declarations as to subsistence etc. of civil partnership);”.

(3) In subsection (3), after “(1)(d)” insert “ or (db)”.

Status: Point in time view as at 02/03/2015.

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Civil Evidence Act 1968 (c. 64)

- 30 In section 14 (privilege against incrimination of self or spouse)—
- (a) in subsection (1)(b), for “husband or wife” substitute “ spouse or civil partner ”, and
 - (b) in the heading, after “spouse” insert “ or civil partner ”.

Gaming Act 1968 (c. 65)

- 31 In Schedule 2 (grant, renewal, cancellation and transfer of licences), in paragraph 35A(8)(a) for “wife or husband” substitute “ spouse or civil partner ”.

Medicines Act 1968 (c. 67)

- 32 In section 114 (supplementary provisions as to rights of entry and related rights), in subsection (4), for “married) the husband or wife” substitute “ married or a civil partner) the spouse or civil partner ”.

Employers' Liability (Compulsory Insurance) Act 1969 (c. 57)

- 33 In section 2(2)(a) (persons whom employer is not required to insure) after “husband, wife,” insert “ civil partner, ”.

Administration of Justice Act 1970 (c. 31)

- 34 In Schedule 8 (meaning of “maintenance order” in Part 2 of the Act and in the Maintenance Orders Act 1958), after paragraph 14 insert—

“15 An order for periodical or other payments made under Schedule 5, 6 or 7 to the Civil Partnership Act 2004.”

Attachment of Earnings Act 1971 (c. 32)

- 35 In Schedule 1 (maintenance orders to which the 1971 Act applies), after paragraph 14 insert—

“15 An order made under Schedule 5 to the Civil Partnership Act 2004 (financial relief in the High Court or a county court etc.), for periodical or other payments.

16 An order made under Schedule 6 to the 2004 Act (financial relief in magistrates' courts etc.), for maintenance or other payments to or in respect of a civil partner or child.”

Criminal Damage Act 1971 (c. 48)

- 36 In section 9 (evidence in connection with offences under the 1971 Act)—
- (a) for “wife or husband” substitute “ spouse or civil partner ”, and
 - (b) for “married after the making of the statement or admission) against the wife or husband” substitute “ married or became civil partners after the making of the statement or admission) against the spouse or civil partner ”.

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Immigration Act 1971 (c. 77)

- 37 In section 5(4) (members of another’s family for purposes of deportation)—
- (a) in paragraph (a), after “his wife” insert “ or civil partner, ” and
 - (b) in paragraph (b), after “her husband” insert “ or civil partner, ”.

Local Government Act 1972 (c. 70)

- 38 In section 95 (pecuniary interests for purposes of section 94), after subsection (3) insert—
- “(4) In the case of civil partners living together the interest of one civil partner, shall, if known to the other, be deemed for the purpose of section 94 above to be also an interest of the other.”

- 39 In section 96 (general notices and recording of disclosures for purposes of section 94), in subsection (1), after “spouse” (in each place) insert “ or civil partner ”.

Matrimonial Causes Act 1973 (c. 18)

- 40 In section 11 (grounds on which marriage is void), at the end of paragraph (b) insert “ or a civil partner ”.
- 41 (1) Amend section 14 (marriages governed by foreign law or celebrated abroad under English law) as follows.
- (2) In subsection (1), at the beginning insert “ Subject to subsection (3) ”.
 - (3) After subsection (2) insert—

“(3) No marriage is to be treated as valid by virtue of subsection (1) if, at the time when it purports to have been celebrated, either party was already a civil partner.”
- 42 In section 24A (orders for sale of property), in subsection (5), after “re-marriage of” insert “ , or formation of a civil partnership by, ”.
- 43 (1) Amend section 28 (duration of continuing financial provision orders in favour of party to marriage, and effect of remarriage) as follows.
- (2) In subsection (1)(a) and (b) after “remarriage of” insert “ , or formation of a civil partnership by, ”.
 - (3) In subsection (2)—
 - (a) after “remarriage of” insert “ , or formation of a civil partnership by, ”, and
 - (b) after “the remarriage” insert “ or formation of the civil partnership ”.
 - (4) In subsection (3), after “remarries whether at any time before or after the commencement of this Act”, insert “ or forms a civil partnership ”.
 - (5) In the heading to section 28, after “remarriage” insert “ or formation of civil partnership ”.
- 44 In section 35 (alteration of agreements by court during lives of parties), in subsection (4)(a) and (b), after “remarriage of” insert “ , or formation of a civil partnership by, ”.

Status: Point in time view as at 02/03/2015.

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- 45 (1) Amend section 38 (orders for repayment in certain cases of sums paid after cessation of order by reason of remarriage) as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), after “remarriage of”, insert “, or formation of a civil partnership by, ”, and
- (b) in paragraph (b), after “remarriage” insert “ or formation of the civil partnership ”.
- (3) In subsection (6)—
- (a) in paragraph (a), after “remarriage of” insert “, or formation of a civil partnership by, ” and
- (b) in the words following paragraph (b), after “had remarried” insert “ or formed a civil partnership ”.
- (4) In the heading to section 38, after “remarriage” insert “ or formation of civil partnership ”.
- 46 In section 52 (interpretation), after subsection (3), insert —
- “(3A) References in this Act to the formation of a civil partnership by a person include references to a civil partnership which is by law void or voidable.”

Fair Trading Act 1973 (c. 41)

- 47 In section 30 (offences in connection with exercise of powers under section 29), in subsection (6) for “married) the husband or wife” substitute “ married or a civil partner) the spouse or civil partner ”.

Slaughterhouses Act 1974 (c. 3)

- 48 In section 10 (temporary continuance of licence on death), for “his personal representative, or of his widow or any other member of his family, until the expiration of two months from his death,” substitute “ the deceased’s personal representative, or widow or widower or surviving civil partner or any other member of the deceased’s family, until the end of two months from the deceased’s death, ”.

Health and Safety at Work etc. Act 1974 (c. 37)

- 49 In section 20 (powers of inspectors), in subsection (7), for “husband or wife” substitute “ spouse or civil partner ”.

Consumer Credit Act 1974 (c. 39)

- 50 In section 165 (obstruction of authorised officers), in subsection (3), for “married) the husband or wife” substitute “ married or a civil partner) the spouse or civil partner ”.

- 51 (1) Amend section 184 (associates) as follows.

- (2) For subsection (1) substitute—

“(1) A person is an associate of an individual if that person is—

(a) the individual’s husband or wife or civil partner,

(b) a relative of—

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- (i) the individual, or
- (ii) the individual’s husband or wife or civil partner, or
- (c) the husband or wife or civil partner of a relative of—
 - (i) the individual, or
 - (ii) the individual’s husband or wife or civil partner.”

(3) In subsection (2), after “husband or wife” insert “ or civil partner ”.

(4) In subsection (5)—

- (a) omit the word “and” immediately before “references”,
- (b) for “or wife;” substitute “ or wife, and references to a civil partner include a former civil partner; ”, and
- (c) for “had been a child born to him in wedlock” substitute “ were the legitimate child of the relationship in question ”.

Friendly Societies Act 1974 (c. 46)

52 (1) Amend section 66 (power of member to nominate person to receive sums payable on his death) as follows.

(2) In subsection (5), for “husband, wife,” substitute “ spouse, civil partner, ”.

(3) After subsection (7) insert—

“(7A) The formation of a civil partnership by a member of the society or branch revokes any nomination previously made by that member under this section.”

Rehabilitation of Offenders Act 1974 (c. 53)

53 In section 7 (limitations on rehabilitation under the 1974 Act, etc.), in subsection (2) (c), after “the marriage of any minor,” insert “ or the formation of a civil partnership by any minor, ”.

Sex Discrimination Act 1975 (c. 65)

54 In section 82(5) (general interpretation: meaning of “near relative”)

- (a) after “wife or husband” (in both places) insert “ or civil partner ”, and
- (b) for “by affinity” substitute “ by marriage or civil partnership ”.

Race Relations Act 1976 (c. 74)

55 In section 78(5) (general interpretation: meaning of “near relative”)—

- (a) after “wife or husband” (in both places) insert “ or civil partner ”, and
- (b) for “by affinity” substitute “ by marriage or civil partnership ”.

Criminal Law Act 1977 (c. 45)

56 In section 2 (exemptions from liability for conspiracy), in subsection (2)(a), after “spouse” insert “ or civil partner ”.

Status: Point in time view as at 02/03/2015.

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Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)

- 57 In section 4 (duration of orders for financial provision for a party to a marriage), in subsection (2)—
- (a) after “remarriage of” insert “, or formation of a civil partnership by,” and
 - (b) after “the remarriage” insert “ or formation of the civil partnership”.
- 58 (1) Amend section 35 (orders for repayment in certain cases of sums paid after cessation of order by reason of remarriage) as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), after “remarriage of” insert “, or formation of a civil partnership by,” and
 - (b) in paragraph (b), after “that remarriage” insert “ or the formation of that civil partnership”.
- (3) In subsection (7)—
- (a) in paragraph (a), after “remarriage of” insert “, or formation of a civil partnership by,” and
 - (b) in the words following paragraph (b)—
 - (i) after “the remarriage” insert “ or the formation of that civil partnership”, and
 - (ii) after “had remarried” insert “ or formed a civil partnership”.
- (4) In the heading to section 35, after “remarriage” insert “ or formation of civil partnership”.

Interpretation Act 1978 (c. 30)

- 59 At the appropriate place in Schedule 1 (words and expressions defined) insert—
- ““Civil partnership” means a civil partnership which exists under or by virtue of the Civil Partnership Act 2004 (and any reference to a civil partner is to be read accordingly).”

Protection of Children Act 1978 (c. 37)

- 60 In section 1A (marriage and other relationships), in subsections (1)(a) and (2)(a) after “were married” insert “ or civil partners of each other”.

Credit Unions Act 1979 (c. 34)

- 61 (1) Amend section 31(1) (interpretation) as follows.
- (2) After the definition of “charitable” insert—
- ““civil partner” includes former civil partner;”.
- (3) In the definition of “relative”—
- (a) in paragraphs (a), (b) and (c), after “spouse” insert “ or civil partner”, and
 - (b) in the words following paragraph (c), for “a child born in wedlock” substitute “ the legitimate child of the relationship in question”.

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Estate Agents Act 1979 (c. 38)

- 62 In section 27 (obstruction and personation of authorised officers), in subsection (4), for “husband or wife” substitute “ spouse or civil partner ”.
- 63 (1) Amend section 32 (associates) as follows.
- (2) In subsection (2), after “spouse” insert “ or civil partner ”.
- (3) In subsection (3)—
- (a) omit the word “and” immediately before “references”,
 - (b) for “reputed spouse;” substitute “ reputed spouse, and references to a civil partner include a former civil partner; ”, and
 - (c) for “had been a child born to him in wedlock” substitute “ were the legitimate child of the relationship in question ”.

Magistrates' Courts Act 1980 (c. 43)

F304 64

Textual Amendments

F304 Sch. 27 para. 64 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 99](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

F305 65

Textual Amendments

F305 Sch. 27 para. 65 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 99](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Disused Burial Grounds (Amendment) Act 1981 (c. 18)

- 66 In section 9 (interpretation), in the definition of “relative”, for “husband or wife” substitute “ spouse or civil partner ”.

Forgery and Counterfeiting Act 1981 (c. 45)

- 67 In section 5 (offences relating to money orders, share certificates, passports, etc.), in subsection (5)(l)—
- (a) after “adoptions, marriages” insert “ , civil partnerships ”, and
 - (b) for “register marriages” substitute “ issue certified copies relating to such entries ”.

F306 Senior Courts Act 1981(c. 54)

Textual Amendments

F306 Words in Sch. 27 para. 68 cross-heading substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604](#), art. 2(d)

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- 68 In section 18(1) (restrictions on appeals to Court of Appeal), before paragraph (g) insert—
- “(fa) from a dissolution order, nullity order or presumption of death order under Chapter 2 of Part 2 of the Civil Partnership Act 2004 that has been made final, by a party who, having had time and opportunity to appeal from the conditional order on which that final order was founded, has not appealed from the conditional order;”.
- 69 (1) Amend section 72 (withdrawal of privilege against incrimination of self or spouse in certain proceedings) as follows.
- (2) In subsection (1), after “spouse” insert “ or civil partner ”.
- (3) In subsection (3), for “married after the making of the statement or admission) against the spouse” substitute “ married or became civil partners after the making of the statement or admission) against the spouse or civil partner ”.
- 70 In paragraph 3 of Schedule 1 (business assigned to Family Division of High Court), after sub-paragraph (h) insert—
- “(i) all civil partnership causes and matters (whether at first instance or on appeal);
- (j) applications for consent to the formation of a civil partnership by a minor or for a declaration under paragraph 7 of Schedule 1 to the Civil Partnership Act 2004;
- (k) applications under section 58 of that Act (declarations relating to civil partnerships).”

Commencement Information

I47 Sch. 27 para. 70 wholly in force at 5.12.2005; Sch. 27 para. 70 not in force at Royal Assent see s. 263; Sch. 27 para. 70 in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 27 para. 70 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(2\)](#)

British Nationality Act 1981 (c. 61)

- 71 In section 3(6)(a) (registration as British citizen of minor whose parents' marriage has terminated etc.), after “marriage” insert “ or civil partnership ”.
- 72 In section 6(2) (naturalisation of person married to British citizen), after “is married to a British citizen” insert “ or is the civil partner of a British citizen ”.
- 73 In section 10(2)(b) (registration as British citizen after pre-1983 renunciation of citizenship), after “has been married to” insert “ , or has been the civil partner of, ”.
- 74 In section 12(5) (renunciation: persons who have married deemed of full age), after “has been married” insert “ , or has formed a civil partnership, ”.
- 75 In section 17(6)(a) (registration as British overseas territories citizen of minor whose parents' marriage has terminated etc.), after “marriage” insert “ or civil partnership ”.
- 76 In section 18(2) (naturalisation of person married to a British overseas territories citizen), after “is married to such a citizen” insert “ or is the civil partner of such a citizen ”.

Status: Point in time view as at 02/03/2015.

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- 77 In section 22(2)(b) (naturalisation as British overseas territories citizen after pre-1983 renunciation of citizenship), after “has been married to” insert “, or has been the civil partner of, ”.
- 78 (1) Amend paragraphs 4(d) and 8(d) of Schedule 1 (requirements for naturalisation under sections 6(2) and 18(2)) as follows.
- (2) In the paragraph (f) set out in each of those provisions, after “to whom the applicant is married” insert “, or of whom the applicant is the civil partner, ”.

Forfeiture Act 1982 (c. 34)

- 79 In section 3 (application for financial provision not affected by forfeiture rule), in subsection (2), for paragraph (b) and the word “and” immediately preceding it substitute—
- “(b) sections 31(6) and 36(1) of the Matrimonial Causes Act 1973 (variation by court in England and Wales of periodical payments orders and maintenance agreements in respect of marriages);
 - (c) paragraphs 60(2) and 73(2) of Schedule 5 to the Civil Partnership Act 2004 (variation by court in England and Wales of periodical payments orders and maintenance agreements in respect of civil partnerships); and
 - (d) section 13(4) of the Family Law (Scotland) Act 1985 (variation etc. of periodical allowances in respect of marriages and civil partnerships).”

Representation of the People Act 1983 (c. 2)

- 80 (1) Amend section 14 (service qualification) as follows.
- (2) In subsection (1)(d), for “wife or husband” substitute “ spouse or civil partner ”.
- (3) For subsection (1)(e) substitute—
- “(e) is the spouse or civil partner of a person mentioned in paragraph (b) or paragraph (c) above and is residing outside the United Kingdom to be with his or her spouse or civil partner.”.
- 81 In section 16 (contents of service declaration), for “wife or husband” substitute “ spouse or civil partner ”.
- 82 In section 59 (supplemental provisions as to members of forces and service voters), in subsection (3)(b), for “by him and any wife of his or, as the case may be, by her and any husband of hers,” substitute “ by that person and any spouse or civil partner of that person ”.
- 83 In section 61 (other voting offences), in subsection (4), for “husband, wife,” substitute “ spouse, civil partner, ”.
- 84 In section 141 (duty to answer relevant questions), in subsections (1)(a)(i) and (2) (a), for “husband or wife,” substitute “ spouse or civil partner, ”.
- 85 (1) Amend Schedule 1 (parliamentary elections rules) as follows.
- (2) ^{F307}
- (3) ^{F307}

Status: Point in time view as at 02/03/2015.

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(4) In rule 39(3)(b), for “husband, wife,” substitute “ spouse, civil partner, ”.

(5) ^{F307}

Textual Amendments

F307 Sch. 27 para. 85(2)(3)(5) repealed (1.1.2007 for E.W.S. except in so far as relating to sub para. (4) and 1.7.2008 for N.I. except in so far as relating to sub para. (4)) by [Electoral Administration Act 2006 \(c. 22\)](#), ss. 74(2), 77, [Sch. 2](#); [S.I. 2006/3412](#), [art. 3](#), Sch. 1 para. 14(cc)(vii); [S.I. 2008/1316](#), [arts. 2\(2\)](#), 4(aa)(iv)

Mental Health Act 1983 (c. 20)

86 In—

(a) ^{F308}

(b) ^{F309}

after “husband, wife” insert “ , civil partner ”.

Textual Amendments

F308 Sch. 27 para. 86(a) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 55, 56, [Sch. 11 Pt. 3](#); [S.I. 2008/1900](#), [art. 2\(p\)](#) (with [art. 3](#), [Sch.](#))

F309 Sch. 27 para. 86(b) and preceding word repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 55, 56, [Sch. 11 Pt. 5](#); [S.I. 2008/1210](#), [art. 2\(d\)](#) (with [art. 4](#))

Mobile Homes Act 1983 (c. 34)

87 In section 3(3) (succession to agreements to which Act applies), for “or widower” (in each place) substitute “ , widower or surviving civil partner ”.

88 In section 5(3) (meaning of “member of another’s family”)—

(a) after “spouse,” insert “ civil partner, ”

(b) in paragraph (a), after “marriage” insert “ or civil partnership ”, and

(c) in the words after paragraph (b), after “as husband and wife” insert “ or as if they were civil partners ”.

Dentists Act 1984 (c. 24)

89 In section 41(4) (family or representatives may carry on deceased dentist’s business for three years), for “his widow” (in each place) substitute “ his surviving spouse or his surviving civil partner ”.

Matrimonial and Family Proceedings Act 1984 (c. 42)

90 (1) Amend section 12 (applications for financial relief after overseas divorce etc.) as follows.

(2) In subsection (2) (no application may be made after remarriage), for “remarries” substitute “ forms a subsequent marriage or civil partnership, ”.

(3) For subsection (3) substitute—

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“(3) The reference in subsection (2) above to the forming of a subsequent marriage or civil partnership includes a reference to the forming of a marriage or civil partnership which is by law void or voidable.”

F31091

Textual Amendments
F310 Sch. 27 paras. 91-94 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 210](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

F31092

Textual Amendments
F310 Sch. 27 paras. 91-94 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 210](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

F31093

Textual Amendments
F310 Sch. 27 paras. 91-94 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 210](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

F31094

Textual Amendments
F310 Sch. 27 paras. 91-94 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 210](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

95 In section 40(4)(b) (enforcement in High Court of orders of divorce county court), after “a divorce county court” insert “ or a civil partnership proceedings county court ”.

F31196

Textual Amendments
F311 Sch. 27 para. 96 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 210](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Police and Criminal Evidence Act 1984 (c. 60)

97 (1) Amend section 80 (compellability of accused’s spouse) as follows.

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- (2) In subsections (2), (2A) and (3), for “wife or husband” (in each place) substitute “spouse or civil partner”.
- (3) After subsection (5) insert—
- “(5A) In any proceedings a person who has been but is no longer the civil partner of the accused shall be compellable to give evidence as if that person and the accused had never been civil partners.”
- (4) In the heading to section 80, after “accused’s spouse” insert “ or civil partner ”.
- 98 In section 80A (rule where accused’s spouse not compellable)—
- (a) for “wife or husband” substitute “ spouse or civil partner ”, and
- (b) in the heading, after “spouse” insert “ or civil partner ”.

Companies Act 1985 (c. 6)

99 F312

Textual Amendments

F312 Sch. 27 para. 99 repealed (20.1.2007) by [Companies Act 2006 \(c. 46\)](#), ss. 1295, 1300, [Sch. 16](#); S.I. 2006/3428, [art. 7\(b\)](#), [Sch. 3 Pt. 1](#) (with [arts. 6, 8, Sch. 5](#)) (as amended by S.I. 2007/3495, [art. 11, Sch. 5](#))

100 F313

Textual Amendments

F313 Sch. 27 para. 100 repealed (6.4.2007) by [Companies Act 2006 \(c. 46\)](#), ss. 1295, 1300, [Sch. 16](#); S.I. 2006/3428, [art. 7\(c\)](#), [Sch. 4 Pt. 1](#) (with [arts. 6, 8, Sch. 5](#)) (as amended by S.I. 2007/3495, [art. 11, Sch. 5](#))

101 F314

Textual Amendments

F314 Sch. 27 para. 101 repealed (6.4.2007) by [Companies Act 2006 \(c. 46\)](#), ss. 1295, 1300, [Sch. 16](#); S.I. 2006/3428, [art. 7\(c\)](#), [Sch. 4 Pt. 1](#) (with [arts. 6, 8, Sch. 5](#)) (as amended by S.I. 2007/3495, [art. 11, Sch. 5](#))

102 F315

Textual Amendments

F315 Sch. 27 para. 102 repealed (1.10.2007) by [Companies Act 2006 \(c. 46\)](#), ss. 1295, 1300, [Sch. 16](#); S.I. 2007/2194, [art. 8](#), [Sch. 2 Pt. 1](#) (with [arts. 7, 12](#))

103 In section 430E (associates), in subsection (8) after “spouse” insert “ or civil partner ”.

104 F316

Status: Point in time view as at 02/03/2015.

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Textual Amendments

F316 Sch. 27 para. 104 repealed (6.4.2008 and 1.10.2009) by [Companies Act 2006 \(c. 46\)](#), ss. 1295, 1300, [Sch. 16](#); S.I. 2007/3495, [art. 8\(a\)](#), Sch. 2 Pt. 1 (with [arts. 7, 12](#)); S.I. 2008/2860, [art. 4](#), Sch. 1 Pt. 1 (with [arts. 7, 8](#))

105 **F317**

Textual Amendments

F317 Sch. 27 para. 105 repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), ss. 1295, 1300, [Sch. 16](#); S.I. 2007/3495, [art. 8\(a\)](#), Sch. 2 Pt. 1 (with [arts. 7, 12](#))

Enduring Powers of Attorney Act 1985 (c. 29)

- 106 In section 3 (scope of authority etc. of attorney under enduring power), in subsection (5)(a), for “or marriage” substitute “, marriage or the formation of a civil partnership”.
- 107 In Schedule 1 (notification prior to registration of instrument creating power of attorney), in paragraph 2(1)—
 - (a) in paragraph (a), after “wife” insert “ or civil partner ”, and
 - (b) in paragraph (e), after “widower” insert “ or surviving civil partner ”.
- 108 Paragraphs 106 and 107 apply in relation to the exercise of powers under enduring powers of attorney created before the passing of this Act as well as in relation to those created on or after its passing.

Food and Environment Protection Act 1985 (c. 48)

- 109 In Schedule 2 (officers and their powers), in paragraph 2A(4), after “spouse” insert “ or civil partner ”.

Child Abduction and Custody Act 1985 (c. 60)

- 110 In section 24A (power to order disclosure of child’s whereabouts), in subsection (2), after “spouse” insert “ or civil partner ”.

Airports Act 1986 (c. 31)

- 111 In section 20 (powers of investment and disposal in relation to public airport companies), in subsection (6)(b), after “widowers” insert “, civil partners, surviving civil partners”.

Insolvency Act 1986 (c. 45)

- 112 In section 215 (proceedings under sections 213, 214), in subsection (3)(b), after “marriage” insert “ or the formation of a civil partnership ”.
- 113 In section 283A (bankrupt’s home ceasing to form part of estate), in subsection (1)—
 - (a) in paragraph (b), after “spouse” insert “ or civil partner ”, and

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- (b) in paragraph (c), after “spouse” insert “ or former civil partner ”.
- 114 In section 313 (charge on bankrupt’s home), in subsection (1), after “former spouse” insert “ or by his civil partner or former civil partner ”.
- 115 In section 313A (low value home: application for sale, possession or charge), in subsection (1)—
- (a) in paragraph (a)(ii), after “spouse” insert “ or civil partner ”, and
- (b) in paragraph (a)(iii), after “spouse” insert “ or former civil partner ”.
- 116 In section 329 (debts to spouse), in subsection (1), after “spouse” (in each place) insert “ or civil partner ”.
- 117 In section 332 (saving for bankrupt’s home), in subsection (1), after “former spouse” insert “ or by his civil partner or former civil partner ”.
- 118 In section 335A (rights under trusts of land), in subsection (2)(b)—
- (a) for “bankrupt’s spouse or former spouse” substitute “ bankrupt’s spouse or civil partner or former spouse or former civil partner ”, and
- (b) in sub-paragraphs (i) and (ii), for “spouse or former spouse” substitute “ spouse, civil partner, former spouse or former civil partner ”.
- 119 In section 339 (transactions at an undervalue), in subsection (3)(b), after “marriage” insert “ or the formation of a civil partnership ”.
- 120 In section 366 (inquiry into bankrupt’s dealings and property), in subsection (1)(a), after “former spouse” insert “ or civil partner or former civil partner ”.
- 121 In section 423 (transactions defrauding creditors), in subsection (1)(b), after “marriage” insert “ or the formation of a civil partnership ”.
- 122 (1) Amend section 435 (meaning of “associate”) as follows.
- (2) For subsection (2) substitute—
- “(2) A person is an associate of an individual if that person is—
- (a) the individual’s husband or wife or civil partner,
- (b) a relative of—
- (i) the individual, or
- (ii) the individual’s husband or wife or civil partner, or
- (c) the husband or wife or civil partner of a relative of—
- (i) the individual, or
- (ii) the individual’s husband or wife or civil partner.”
- (3) In subsection (3), after “husband or wife” insert “ or civil partner ”.
- (4) In subsection (8), at the end insert “ and references to a civil partner include a former civil partner ”.

Building Societies Act 1986 (c. 53)

- 123 In section 70 (interpretation), in—
- (a) subsection (2)(a) and (c), and
- (b) subsection (4),
- after “spouse” (in each place) insert “ or civil partner ”.

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Family Law Act 1986 (c. 55)

- 124 In section 33 (power to order disclosure of child’s whereabouts), in subsection (2), after “spouse” insert “ or civil partner ”.
- 125 In section 50 (non-recognition of divorce or annulment in another jurisdiction no bar to remarriage), for the words from “re-marrying” to the end substitute “ forming a subsequent marriage or civil partnership in that part of the United Kingdom or cause the subsequent marriage or civil partnership of either party (wherever it takes place) to be treated as invalid in that part. ”

Consumer Protection Act 1987 (c. 43)

- 126 In section 47 (savings for certain privileges), in subsection (2), after “spouse” insert “ or civil partner ”.

Criminal Justice Act 1988 (c. 33)

- 127 In section 160A (marriage and other relationships), in subsections (1)(a) and (2)(a), after “were married” insert “ or civil partners of each other ”.

Companies Act 1989 (c. 40)

- 128 **F318**

Textual Amendments

F318 Sch. 27 para. 128 repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), ss. 1295, 1300, [Sch. 16](#); S.I. 2007/3495, [art. 8\(a\)](#), [Sch. 2 Pt. 1](#) (with arts. 7, 12)

Children Act 1989 (c. 41)

- 129 (1) Amend section 8 (residence, contact and other orders with respect to children) as follows.
- (2) After subsection (4)(b) insert—
“(ba) Schedule 5 to the Civil Partnership Act 2004;”.
- (3) After subsection (4)(e) insert—
“(ea) Schedule 6 to the Civil Partnership Act 2004;”.
- 130 In section 48 (powers to assist in discovery of children who may be in need of emergency protection), in subsection (2), after “spouse” insert “ or civil partner ”.
- 131 In section 50 (recovery of abducted children etc.), in subsection (11), after “spouse” insert “ or civil partner ”.
- 132 In section 98 (self-incrimination), in subsections (1) and (2), after “spouse” insert “ or civil partner ”.

Local Government and Housing Act 1989 (c. 42)

- 133 In section 19 (members' interests) in subsection (7), after “spouse” insert “ or civil partner ”.

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- 134 In section 69 (companies subject to local authority influence), in subsection (6)(c), after “spouse” insert “ or civil partner ”.

Opticians Act 1989 (c. 44)

- 135 In section 29(1) (family or representatives may use deceased optician’s title for three years), in paragraphs (b) and (d), for “his widow” substitute “ his surviving spouse or his surviving civil partner ”.

Food Safety Act 1990 (c. 16)

- 136 In section 43 (continuance of registration or licence on death) in subsection (2), for the words from “the deceased’s personal representative” to “his death” substitute “the deceased’s personal representative, or widow or widower or surviving civil partner or any other member of the deceased’s family, until the end of—
(a) the period of three months beginning with the deceased’s death”.

Courts and Legal Services Act 1990 (c. 41)

- 137 In section 10 (family proceedings in magistrates' courts and related matters), in subsection (1), after “Domestic Proceedings and Magistrates' Courts Act 1978” insert “ or Schedule 6 to the Civil Partnership Act 2004 ”.
- 138 In section 58A (conditional fee agreements: supplementary), omit “and” at the end of subsection (2)(f) and insert—
“(fa) Chapter 2 of Part 2 of the Civil Partnership Act 2004 (proceedings for dissolution etc. of civil partnership);
(fb) Schedule 5 to the 2004 Act (financial relief in the High Court or a county court etc.);
(fc) Schedule 6 to the 2004 Act (financial relief in magistrates' courts etc.);
(fd) Schedule 7 to the 2004 Act (financial relief in England and Wales after overseas dissolution etc. of a civil partnership); and”.

Broadcasting Act 1990 (c. 42)

- 139 In paragraph 1(2) of Part 1 of Schedule 2 (restrictions on the holding of licences)—
(a) in paragraphs (a) and (d), after “husband or wife” (in each place) insert “ or civil partner ”, and
(b) at the end insert “ and references to a civil partner shall include a former civil partner ”.

Local Government Finance Act 1992 (c. 14)

- 140 (1) In section 9(1)(a) (joint and several liability for council tax of married couple resident in same dwelling), after “is married to” insert “ , or is the civil partner of, ”.
- (2) After section 9(3) insert—
“(4) For the purposes of this section two persons are civil partners of each other if they are of the same sex and either—
(a) they are civil partners of each other; or

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(b) they are not civil partners of each other but are living together as if they were civil partners.”

(3) In section 18(1)(b) (power to make regulations to deal with death of a person liable for council tax as a spouse under section 9), after “spouse” insert “ or civil partner ”.

Commencement Information

I48 Sch. 27 para. 140 wholly in force at 5.12.2005; Sch. 27 para. 140 not in force at Royal Assent see s. 263; Sch. 27 para. 140(3) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 27 para. 140 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(2\)](#)

Friendly Societies Act 1992 (c. 40)

141 In section 77 (information on appointed actuary to be annexed to balance sheet), in subsection (3)(a), after “spouse” insert “ or civil partner ”.

142 In section 119A (meaning of “associate”), in subsection (1)(a), after “wife or husband” insert “ or civil partner ”.

143 In Schedule 2 (the activities of a friendly society), in Head A, in class II—
(a) in the second column (description), after “Marriage” insert “ , civil partnership ”, and
(b) in the third column (nature of business), after “sum on marriage” insert “ or on the formation of a civil partnership ”.

Trade Union and Labour Relations Act 1992 (c. 52)

144 In section 23 (restriction on enforcement of awards against certain property), in subsection (3)(b) for “the wife” substitute “ the spouse or civil partner ”.

145 In section 241 (intimidation or annoyance by violence or otherwise), in subsection (1)(a), for “wife” substitute “ spouse or civil partner ”.

146 In section 292 (death of employee or employer), in subsection (3)(b), after “widow,” insert “ surviving civil partner, ”.

Charities Act 1993 (c. 10)

^{F319}147

Textual Amendments

F319 Sch. 27 para. 147 repealed (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), ss. 354(4), 355, [Sch. 10](#) (with s. 20(2), [Sch. 8](#))

Pension Schemes Act 1993 (c. 48)

148 In section 101E(1)(b) after “or widower” insert “ or surviving civil partner ”.

Pension Schemes (Northern Ireland) Act 1993 (c. 49)

149 In section 97E(1)(b) after “or widower” insert “ or surviving civil partner ”.

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Disability Discrimination Act 1995 (c. 50)

- 150 (1) In section 23 (exemption for small dwellings), amend subsection (7) as follows.
- (2) In the definition of “near relative”—
- (a) after “spouse” insert “ or civil partner ”, and
- (b) for “by affinity)” substitute “ by marriage or civil partnership) ”.
- (3) For the definition of “partner” substitute—
- ““partner” means the other member of a couple consisting of—
- (a) a man and a woman who are not married to each other but are living together as husband and wife, or
- (b) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.”

Employment Rights Act 1996 (c. 18)

- 151 In section 57A (time off for dependants), in subsection (3)(a), after “spouse” insert “ or civil partner ”.

Family Law Act 1996 (c. 27)

- 152 (1) Amend section 64 (provision for separate representation for children) as follows.
- (2) Omit “or” at the end of subsection (1)(c).
- (3) At the end of subsection (1)(d) insert “or
- (e) Schedule 5 or 6 to the Civil Partnership Act 2004.”

Trusts of Land and Appointment of Trustees Act 1996 (c. 47)

- 153 In paragraph 3 of Schedule 1 (family charges), after “in consideration of marriage” insert “ or the formation of a civil partnership ”.

Civil Procedure Act 1997 (c. 12)

- 154 In section 7 (power of courts to make orders for preserving evidence etc.), in subsection (7), after “spouse” insert “ or civil partner ”.

National Minimum Wage Act 1998 (c. 39)

- 155 In section 14 (powers of officers), in subsection (2), for “married, the person’s spouse” substitute “ married or a civil partner, the person’s spouse or civil partner ”.

Access to Justice Act 1999 (c. 22)

F320 156

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Textual Amendments

F320 Sch. 27 para. 156 repealed (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 5 Pt. 2](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

Welfare Reform and Pensions Act 1999 (c. 30)

- 157 (1) Amend section 23 (supply of pension information in connection with divorce etc.) as follows.
- (2) After subsection (1)(a)(i) insert—
- “(ia) financial relief under Schedule 5 or 7 to the Civil Partnership Act 2004 (England and Wales powers in relation to domestic and overseas dissolution of civil partnerships etc.)”.
- (3) In subsection (1)(a)(ii)—
- (a) after “1984” insert “ or Schedule 11 to the 2004 Act ”, and
- (b) at the end, omit “or”.
- (4) In subsection (1)(a)(iii) for “(corresponding Northern Ireland powers);” substitute “(Northern Ireland powers corresponding to those mentioned in sub-paragraph (i)), or
- (iv) financial relief under Schedule 15 or 17 to the 2004 Act (Northern Ireland powers corresponding to those mentioned in sub-paragraph (ia));”.
- (5) In subsection (1)(b), for “or (iii)” substitute “ (ia), (iii) or (iv) ”.
- 158 (1) Amend section 24 (charges by pension arrangements in relation to earmarking orders) as follows.
- (2) After paragraph (a) insert—
- “(aa) an order under Part 1 of Schedule 5 to the Civil Partnership Act 2004 (financial provision orders in connection with dissolution of civil partnerships etc.) so far as it includes provision made by virtue of Part 6 of that Schedule (powers to include provision about pensions),”.
- (3) At the end of paragraph (b) omit “or” and after paragraph (c) insert “, or
- (d) an order under Part 1 of Schedule 15 to the 2004 Act so far as it includes provision made by virtue of Part 5 of that Schedule (Northern Ireland powers corresponding to those mentioned in paragraph (aa)).”
- 159 (1) Amend section 28 (activation of pension sharing) as follows.
- (2) After subsection (1)(a) insert—
- “(aa) a pension sharing order under Schedule 5 to the Civil Partnership Act 2004,”.
- (3) After subsection (1)(d) insert—

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- “(da) an order under Schedule 7 to the 2004 Act (financial relief in England and Wales after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (aa),”.
- (4) In subsection (1)(f)—
- (a) at the end of sub-paragraph (i) insert “ or between persons who are civil partners of each other ”, and
 - (b) at the end of sub-paragraph (iii) insert “ or (as the case may be) on the grant, in relation to the civil partnership, of decree of dissolution or of declarator of nullity ”.
- (5) In subsection (1)(g), after “divorce etc.” insert “ or under Schedule 11 to the 2004 Act (financial provision in Scotland after overseas proceedings) ”.
- (6) In subsection (1)(h) for “Northern Ireland legislation, and” substitute “ the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)), ”.
- (7) After subsection (1)(i) insert—
- “(j) a pension sharing order under Schedule 15 to the 2004 Act, and
 - (k) an order under Schedule 17 to the 2004 Act (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (j).”
- (8) In subsection (7)(a), omit “matrimonial”.
- (9) In subsection (8)—
- (a) in paragraph (a), after “divorce” insert “ , dissolution ”, and
 - (b) at the end of paragraph (b) insert “ or, where the order is under Schedule 11 to the 2004 Act, the date of disposal of the application under paragraph 2 of that Schedule ”.
- (10) In subsection (9)—
- (a) omit “matrimonial”, and
 - (b) in paragraphs (a) and (b)(i), after “divorce” insert “ , dissolution ”.
- 160 (1) Amend section 34 (“implementation period”) as follows.
- (2) In subsection (1)(b)(i), omit “matrimonial”.
- (3) In subsection (2)—
- (a) omit “matrimonial”, and
 - (b) in paragraph (b), after “divorce” insert “ , dissolution ”.
- 161 (1) Amend section 48 (activation of benefit sharing) as follows.
- (2) After subsection (1)(a) insert—
- “(aa) a pension sharing order under Schedule 5 to the Civil Partnership Act 2004,”.
- (3) After subsection (1)(d) insert—
- “(da) an order under Schedule 7 to the 2004 Act (financial relief in England and Wales after overseas dissolution etc. of a civil

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partnership) corresponding to such an order as is mentioned in paragraph (aa),”.

(4) In subsection (1)(f)—

- (a) at the end of sub-paragraph (i) insert “ or between persons who are civil partners of each other ”, and
- (b) at the end of sub-paragraph (iii) insert “ or (as the case may be) on the grant, in relation to the civil partnership, of decree of dissolution or of declarator of nullity ”.

(5) In subsection (1)(g), after “divorce etc.” insert “ or under Schedule 11 to the 2004 Act (financial provision in Scotland after overseas proceedings) ”.

(6) In subsection (1)(h) for “Northern Ireland legislation, and” substitute “ the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)), ”.

(7) After subsection (1)(i) insert—

- “(j) a pension sharing order under Schedule 15 to the 2004 Act, and
- (k) an order under Schedule 17 to the 2004 Act (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (j).”

(8) In subsection (6)(a), omit “matrimonial”.

(9) In subsection (7)—

- (a) in paragraph (a), after “divorce” insert “ , dissolution ”, and
- (b) at the end of paragraph (b) insert “ or, where the order is under Schedule 11 to the 2004 Act, the date of disposal of the application under paragraph 2 of that Schedule ”.

(10) In subsection (8)—

- (a) omit “matrimonial”, and
- (b) in paragraphs (a) and (b)(i), after “divorce” insert “ , dissolution ”.

Immigration and Asylum Act 1999 (c. 33)

162 After section 24 insert—

“24A Duty to report suspicious civil partnerships

(1) Subsection (3) applies if—

- (a) a registration authority to whom a notice of proposed civil partnership has been given under section 8 of the Civil Partnership Act 2004,
- (b) any person who, under section 8 of the 2004 Act, has attested a declaration accompanying such a notice,
- (c) a district registrar to whom a notice of proposed civil partnership has been given under section 88 of the 2004 Act, or
- (d) a registrar to whom a civil partnership notice has been given under section 139 of the 2004 Act,

has reasonable grounds for suspecting that the civil partnership will be a sham civil partnership.

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- (2) Subsection (3) also applies if—
- (a) two people register as civil partners of each other under Part 2, 3 or 4 of the 2004 Act in the presence of the registrar, and
 - (b) before, during or immediately after they do so, the registrar has reasonable grounds for suspecting that the civil partnership will be, or is, a sham civil partnership.
- (3) The person concerned must report his suspicion to the Secretary of State without delay and in such form and manner as may be prescribed by regulations.
- (4) The regulations are to be made—
- (a) in relation to England and Wales, by the Registrar General for England and Wales with the approval of the Chancellor of the Exchequer;
 - (b) in relation to Scotland, by the Secretary of State after consulting the Registrar General of Births, Deaths and Marriages for Scotland;
 - (c) in relation to Northern Ireland, by the Secretary of State after consulting the Registrar General in Northern Ireland.
- (5) “Sham civil partnership” means a civil partnership (whether or not void)—
- (a) formed between a person (“A”) who is neither a British citizen nor a national of an EEA State other than the United Kingdom and another person (whether or not such a citizen or such a national), and
 - (b) formed by A for the purpose of avoiding the effect of one or more provisions of United Kingdom immigration law or the immigration rules.
- (6) “The registrar” means—
- (a) in relation to England and Wales, the civil partnership registrar acting under Part 2 of the 2004 Act;
 - (b) in relation to Scotland, the authorised registrar acting under Part 3 of the 2004 Act;
 - (c) in relation to Northern Ireland, the registrar acting under Part 4 of the 2004 Act.”

Commencement Information

I49 Sch. 27 para. 162 wholly in force at 5.12.2005; Sch. 27 para. 162 not in force at Royal Assent see s. 263; Sch. 27 para. 162 in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 27 para. 162 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(2\)](#)

163 In section 166 (regulations and orders), in subsection (6)(b) after “24(3)” insert “, 24A(3)”.

Representation of the People Act 2000 (c. 2)

164 (1) Amend Schedule 4 (absent voting in Great Britain) as follows.

- (2) In paragraph 3(3)(c), for “his spouse,” (in both places) substitute “ his spouse or civil partner, ”.

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(3) In paragraph 6(6), for “husband, wife,” substitute “ spouse, civil partner, ”.

Financial Services and Markets Act 2000 (c. 8)

165 F321

Textual Amendments

F321 Sch. 27 para. 165 repealed (21.3.2009) by [The Financial Services and Markets Act 2000 \(Controllers\) Regulations 2009 \(S.I. 2009/534\)](#), **reg. 9(1)**

166 In Schedule 11 (offers of securities), in paragraph 16(2), after “wife, husband, widow, widower” insert “ , civil partner, surviving civil partner, ”.

Land Registration Act 2002 (c. 9)

167 In section 125 (privilege against self-incrimination), in subsection (2), after “spouse” insert “ or civil partner ”.

Enterprise Act 2002 (c. 40)

168 In section 127 (associated persons), in subsections (4)(a) and (c) and (6), after “spouse” (in each place) insert “ , civil partner ”.

169 In section 222 (bodies corporate: accessories), in subsection (10), after “spouse” in paragraphs (a), (c), (d) and (e) (in each place) insert “ or civil partner ”.

Licensing Act 2003 (c. 17)

170 In section 101 (minimum of 24 hours between event periods), in subsection (3)(a) and (d), after “spouse” insert “ or civil partner ”.

Local Government Act 2003 (c. 26)

171 In paragraph 2(1)(a) of Schedule 4 (spouse of employee of the Valuation Tribunal Service disqualified for appointment as member of the Service), after “is married to” insert “ or is the civil partner of ”.

Courts Act 2003 (c. 39)

172 In section 76 (further provision about scope of Family Procedure Rules), in subsection (2)(b), after “divorce county court” insert “ or civil partnership proceedings county court (within the meaning of Part 5 of the Matrimonial and Family Proceedings Act 1984) ”.

Sexual Offences Act 2003 (c. 42)

173 (1) Amend section 23 (sections 16 to 19: marriage exception) as follows.
(2) At the end of subsection (1)(b) insert “ or civil partners of each other ”.
(3) In subsection (2), for “were lawfully married at the time” substitute “ were at the time lawfully married or civil partners of each other ”.

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- (4) In the heading to section 23 for “marriage exception” substitute “ exception for spouses and civil partners ”.
- 174 (1) Amend section 28 (sections 25 and 26: marriage exception) as follows.
- (2) At the end of subsection (1)(b) insert “ or civil partners of each other ”.
- (3) In subsection (2), for “were lawfully married at the time” substitute “ were at the time lawfully married or civil partners of each other ”.
- (4) In the heading to section 28 for “marriage exception” substitute “ exception for spouses and civil partners ”.
- 175 (1) Amend section 43 (sections 38 and 41: marriage exception) as follows.
- (2) At the end of subsection (1)(b) insert “ or civil partners of each other ”.
- (3) In subsection (2), for “were lawfully married at the time” substitute “ were at the time lawfully married or civil partners of each other ”.
- (4) In the heading to section 43 for “marriage exception” substitute “ exception for spouses and civil partners ”.

SCHEDULE 28

Section 261(2)

CONSEQUENTIAL AMENDMENTS: SCOTLAND

PART 1

AMENDMENTS OF THE SUCCESSION (SCOTLAND) ACT 1964 (C. 41)

- 1 In section 1(2) (intestacy: saving for legal rights or prior rights), after “spouse” insert “ or civil partner ”.
- 2 In section 2(1)(e) (intestacy: succession rights of surviving spouse)—
- (a) for “or a wife” substitute “ , wife or civil partner ”, and
- (b) after “spouse” insert “ or civil partner ”.
- 3 In section 5(1) (representation on intestacy), for “or spouse” substitute “ , spouse or civil partner ”.
- 4 In section 8 (prior rights on intestacy in dwelling house and furniture), in subsections (1), (3) and (4), after “spouse” (in each place, including the provisos to subsections (1) and (3)) insert “ or civil partner ”.
- 5 In section 9 (prior right to financial provision on intestacy)—
- (a) in subsection (1), for “or wife, the surviving spouse” substitute “ , wife or civil partner the survivor ”, and
- (b) in the proviso to that subsection and in subsections (2), (3), (4) and (6), after “spouse”, (in each place) insert “ or civil partner ”.
- 6 In section 10(2) (calculation of legal rights), for “jus relictii, jus relictæ or legitim” substitute “ legal rights ”.

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- 7 In section 15(2)(a) (transfer of heritage in satisfaction of claim to legal rights or prior rights), after “spouse” insert “ or civil partner ”.
- 8 In section 16(2) (transfer of interest of tenant notwithstanding condition prohibiting assignation), after “spouse” insert “ or civil partner ”.
- 9 In section 31(1) (presumption of survivorship in respect of claims to property)—
 (a) after “spouse” insert “ or civil partner ”, and
 (b) in paragraph (a), after “wife” insert “ or civil partners to each other ”.
- 10 In section 36(1) (interpretation), in the definition of “prior rights”, after “spouse” insert “ or civil partner ”.

PART 2

AMENDMENTS OF THE FAMILY LAW (SCOTLAND) ACT 1985 (C. 37)

- 11 In section 1(1) (obligation of aliment), after paragraph (b) insert—
 “(bb) a partner in a civil partnership to the other partner,”.
- 12 (1) Amend section 2 (actions for aliment) as follows.
 (2) in subsection (2), after paragraph (a) insert—
 “(aa) for dissolution of a civil partnership, separation of civil partners or declarator of nullity of a civil partnership,”.
- (3) In subsection (9), after “wife” insert “ or the partners in a civil partnership ”.
- 13 In section 6(1) (interim aliment)—
 (a) in paragraph (a), for “party” (in both places) substitute “ person ”,
 (b) after paragraph (b) insert—
 “(c) in an action for dissolution of a civil partnership, separation of civil partners or declarator of nullity of a civil partnership, by either partner against the other partner,”.
- 14 (1) Amend section 8 (orders for financial provision) as follows.
 (2) In subsection (1)—
 (a) after “either party to the marriage” insert “ and in an action for dissolution of a civil partnership, either partner ”, and
 (b) in each of paragraphs (a) to (c), for “marriage” substitute “ action ”.
- (3) In subsection (5), after “marriage” insert “ or the partners in a civil partnership ”.
- 15 (1) Amend section 9 (principles to be applied in deciding what order if any to make for financial provision) as follows.
 (2) In subsection (1)—
 (a) in paragraph (a), at the end insert “ or as the case may be the net value of the partnership property should be so shared between the partners in the civil partnership ”,
 (b) in paragraph (b), for “party” (in each place) substitute “ person ”,
 (c) in paragraph (c), the existing words “after divorce, for a child of the marriage under the age of 16 years” become sub-paragraph (i), after that sub-paragraph insert—

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- “(ii) after dissolution of the civil partnership, for a child under that age who has been accepted by both partners as a child of the family,”
- and for “parties” substitute “ persons ”,
- (d) in paragraph (d), for “party” (in both places) substitute “ person ”, the existing words “the date of the decree of divorce, to the loss of that support on divorce” become sub-paragraph (i) and after that sub-paragraph insert—
- “(ii) the date of the decree of dissolution of the civil partnership, to the loss of that support on dissolution,” and
- (e) in paragraph (e), for “party” substitute “ person ”, after first “divorce” insert “ or of the dissolution of the civil partnership, ” and after second “divorce” insert “ or dissolution ”.
- (3) In subsection (2), in the definitions of “economic advantage” and “contributions”, after “marriage” insert “ or civil partnership ”.
- 16 (1) Amend section 10 (sharing of value of matrimonial property) as follows.
- (2) In subsection (1)—
- (a) after “property” insert “ or partnership property ”, and
- (b) for “the parties to the marriage” substitute “ persons ”.
- (3) In subsection (2)—
- (a) omit first “matrimonial”,
- (b) for “the parties or either of them” substitute “ one or both of the parties to the marriage or as the case may be of the partners ”,
- (c) in paragraph (a), after “property” insert “ or before the registration of the partnership so far as they relate to the partnership property ”, and
- (d) in paragraph (b), at the end insert “ or partnership ”.
- (4) In subsection (3)—
- (a) in paragraph (a), for “parties” substitute “ persons ”, and
- (b) in paragraph (b), at the end insert “ or for dissolution of the civil partnership ”.
- (5) After subsection (4) insert—
- “(4A) Subject to subsection (5) below, in this section and in section 11 of this Act “the partnership property” means all the property belonging to the partners or either of them at the relevant date which was acquired by them or by one of them (otherwise than by way of gift or succession from a third party)—
- (a) before the registration of the partnership for use by them as a family home or as furniture or furnishings for such a home, or
- (b) during the partnership but before the relevant date.”
- (6) In subsection (5)—
- (a) for “party” (in each place) substitute “ person ”, and
- (b) at the end insert “ or partnership property ”.
- (7) In subsection (6)—

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- (a) in paragraph (a), for “parties” substitute “ persons ” and at the end insert “ or partnership property ”,
 - (b) in paragraph (b), after “property” insert “ or partnership property ”, for “parties” substitute “ persons ” and at the end insert “ or partnership ”,
 - (c) in paragraph (c), for “party” substitute “ person ”,
 - (d) in paragraph (d), after “property” insert “ or partnership property ” and for “matrimonial” substitute “ family ”, and
 - (e) in paragraph (e), at the end insert “ or the dissolution of the civil partnership ”.
- (8) In subsection (7), for “parties” (in both places) substitute “ persons ”.
- 17 (1) Amend section 11 (factors to be taken into account) as follows.
- (2) In subsection (2)—
 - (a) in paragraph (a), for “party” (in both places) substitute “ person ”, and
 - (b) in paragraph (b), after “property” insert “ or the partnership property ”.
 - (3) In subsection (3)(g), for “parties” substitute “ persons ”.
 - (4) In subsection (4)—
 - (a) in each of paragraphs (a) and (c), for “party” substitute “ person ”,
 - (b) in paragraph (b), for “party prior to divorce” substitute “ person prior to divorce or to the dissolution of the civil partnership ”, and
 - (c) in paragraph (d), for “parties” substitute “ persons ”.
 - (5) In subsection (5)—
 - (a) in paragraph (a), for “party” substitute “ person ”,
 - (b) in paragraph (b), at the end insert “ or of the civil partnership ”,
 - (c) in paragraph (c), for “parties during the marriage” substitute “ persons during the marriage or civil partnership ”, and
 - (d) in paragraph (d), for “parties” substitute “ persons ”.
 - (6) In subsection (6), for “party” substitute “ person ”.
 - (7) In subsection (7), after “party” insert “ to the marriage or as the case may be of either partner ”.
- 18 (1) Amend section 12 (orders for payment of capital sum or transfer of property) as follows.
- (2) In subsection (1)—
 - (a) in paragraph (a), at the end insert “ or of dissolution of a civil partnership ”, and
 - (b) in paragraph (b), for “decree of divorce” substitute “ the decree ”.
 - (3) In subsection (4), the existing words “either party to the marriage” become paragraph (a) and after that paragraph insert the following paragraph—
 - “(b) either partner.”.
- 19 (1) Amend section 12A (orders for payment of capital sum: pensions lump sums) as follows.
- (2) In subsection (1)—

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- (a) for “(“the liable party”)” substitute “ or a partner in a civil partnership (“the liable person”) ”, and
 - (b) in paragraph (a), after “property” insert “ or the partnership property ” and for “party” substitute “ person ”.
- (3) In subsection (2), for “(“the other party”)” substitute “ or as the case may be to the other partner (“the other person”) ”.
- (4) In each of subsections (3) to (8), for “party”, wherever it occurs, substitute “ person ”.
- 20 (1) Amend section 13 (orders for periodical allowance) as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), at the end insert “ or of dissolution of a civil partnership ”,
 - (b) in paragraph (b), for “decree of divorce” substitute “ the decree ”, and
 - (c) in paragraph (c), for “decree of divorce” substitute “ such decree ”.
- (3) In subsection (4), after “executor” insert “ , or as the case may be either partner or his executor, ”.
- (4) in subsection (7)—
- (a) in paragraph (a), for “party” substitute “ person ” and for “party's” substitute “ person's ”, and
 - (b) for paragraph (b) substitute—
 - “(b) shall cease to have effect on the person receiving payment—
 - (i) marrying,
 - (ii) entering into a civil partnership, or
 - (iii) dying,except in relation to any arrears due under it.”.
- 21 (1) Amend section 14 (incidental orders) as follows.
- (2) In subsection (1), at the end insert “ or of dissolution of a civil partnership ”.
- (3) In subsection (2)—
- (a) in paragraph (c), after “marriage” insert “ , or as the case may be the partners, ”,
 - (b) in paragraph (d), the existing words “the matrimonial home” become sub-paragraph (i), after that sub-paragraph insert “ or ” and the following sub-paragraph—
 - “(ii) the family home of the partnership,”,and for “party to the marriage” substitute “ person ”,
 - (c) in paragraph (e), for “parties” substitute “ persons ”, the existing words “the matrimonial home” become sub-paragraph (i) and after that sub-paragraph insert “ or ” and the following sub-paragraph—
 - “(ii) the family home of the partnership,”,
 - (d) in paragraph (g), for “party to the marriage” substitute “ person ”, and
 - (e) in paragraph (h), at the end insert “ or in any corresponding settlement in respect of the civil partnership ”.
- (4) In subsection (3), for “decree of divorce” substitute “ the decree ”.
- (5) After subsection (5) insert—

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- “(5A) So long as an incidental order granting a partner in a civil partnership the right to occupy a family home or the right to use furnishings and plenishings therein remains in force then—
- (a) section 102(1), (2), (5)(a) and (9) of the Civil Partnership Act 2004, and
 - (b) subject to section 15(3) of this Act, section 111 of that Act,
- shall, except to the extent that the order otherwise provides, apply in relation to the order in accordance with subsection (5B).
- (5B) Those provisions apply—
- (a) as if that partner were a non-entitled partner and the other partner were an entitled partner within the meaning of section 101 or 106(2) of that Act as the case may require,
 - (b) as if the right to occupy a family home under that order were a right specified in paragraph (a) or (b) of section 101(1) of that Act, and
 - (c) with any other necessary modification.”
- (6) In subsection (7), at the end insert “ or of dissolution of a civil partnership ”.
- 22 (1) Amend section 16 (agreements on financial provision) as follows.
- (2) In subsection (1)—
- (a) after “marriage” insert “ or the partners in a civil partnership ”, and
 - (b) after “divorce” insert “ or on dissolution of the civil partnership ”.
- (3) In subsection (3)—
- (a) after “marriage” insert “ or the partners in a civil partnership ”,
 - (b) after first “divorce” insert “ or on dissolution of the civil partnership ”,
 - (c) in paragraphs (a) to (c), for “party” and “party's” (in each place) substitute, respectively, “ person ” and “ person's ”, and
 - (d) after second “divorce” insert “ or of dissolution of the civil partnership ”.
- 23 (1) Amend section 17 (financial provision on declarator of nullity of marriage) as follows.
- (2) In subsection (1)—
- (a) after first “marriage” insert “ or of a civil partnership ”,
 - (b) after first “divorce” insert “ or for dissolution of a civil partnership ”,
 - (c) after second “marriage” insert “ and “action for dissolution of a civil partnership” includes an action for declarator of nullity of a civil partnership ”, and
 - (d) for “and “divorce”” substitute “ , “divorce” and “dissolution of a civil partnership” ”.
- (3) In subsection (2)—
- (a) after first “marriage” insert “ or of nullity of a civil partnership ”, and
 - (b) at the end insert “ or civil partnership ”.
- 24 In section 18(1) (orders relating to avoidance transactions), for “party” (in both places) substitute “ person ”.
- 25 In section 21 (award of aliment or custody where divorce or separation refused)—

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- (a) for “or separation” substitute “, separation or dissolution of a civil partnership”, and
 - (b) for “parties” substitute “ persons ”.
- 26 (1) In section 22 (expenses of action)—
 - (a) for “party to a marriage” substitute “ person ”,
 - (b) for paragraph (a) substitute—
 - “(a) an action for aliment brought—
 - (i) by either party to a marriage, or
 - (ii) by either party in a civil partnership,on his own behalf against the other party or partner”,
 - (c) in paragraph (b), after “separation” insert “ (whether of the parties to a marriage or the civil partners in a civil partnership) ”,
 - (d) after paragraph (b) insert—
 - “(bb) an action for dissolution of a civil partnership, declarator that a civil partnership exists or declarator of nullity of a civil partnership”, and
 - (e) after fifth “marriage” insert “ or the other partner in the civil partnership ”.
- 27 In section 24(1) (marriage not to affect property rights or legal capacity)—
 - (a) after fifth “marriage” insert “ or civil partnership ”,
 - (b) in paragraph (a), after “marriage” insert “, or as the case may be the partners in the civil partnership, ”, and
 - (c) in paragraph (b), for “the parties to the marriage” substitute “ those parties or partners ”.
- 28 (1) Amend section 25 (presumption of equal shares in household goods) as follows.
 - (2) In subsection (1)—
 - (a) after first and third “marriage” insert “ or civil partnership ”, and
 - (b) after second “marriage” insert “ or the partners in a civil partnership ”,
 - (3) In subsection (2), the existing words “the parties were married” become paragraph (a) and after that paragraph insert—
 - “(b) the partners were in civil partnership”, and
 - (4) In subsection (3)—
 - (a) for “in any matrimonial” substitute “ or civil partnership in any family ”, and
 - (b) after second “marriage” insert “ or the partners ”.
- 29 In section 26 (presumption of equal shares in money and property derived from housekeeping allowance)—
 - (a) after first “marriage” insert “ or civil partnership ”,
 - (b) after second “marriage” insert “ or as the case may be of a partner in a civil partnership ”, and
 - (c) after second and third “party” insert “ or partner ”.
- 30 In section 27(1) (interpretation)—
 - (a) at the appropriate places insert—
 - ““civil partnership”, in relation to an action for declarator of nullity of a civil partnership, means purported civil partnership”,

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“partner”, in relation to a civil partnership, includes a person who has a partner in a civil partnership which has been terminated and an ostensible partner in a civil partnership which has been annulled,” and

- (b) in the definition of “family”, at the end insert “ and in relation to a civil partnership means the members of the civil partnership together with any child accepted by them both as a child of the family. ”

PART 3

AMENDMENTS OF THE BANKRUPTCY (SCOTLAND) ACT 1985 (C. 66)

- 31 In section 16(4) (presentation of petition for recall of sequestration), for “section 41(1)(b)” substitute “ sections 41(1)(b) and 41A(1)(b) ”.
- 32 In section 17(8)(b) (duties of clerk of court in relation to recall of sequestration), after “41(1)(b)(ii)” insert “ or 41A(1)(b)(ii) ”.
- 33 In section 20(4) (powers of interim trustee in relation to obtaining information as to debtor’s assets)—
- (a) in paragraph (b), after “spouse” insert “ or civil partner ”, and
- (b) after “debtor, spouse” insert “ , civil partner ”.
- 34 In section 32(3)(b) (the expression “relevant obligations”), at the end insert “ or former civil partner ”.
- 35 In section 34(7) (gratuitous alienations: saving for operation of Married Women’s Policies of Assurance (Scotland) Act 1880), at the end insert “ including the operation of that section as applied by section 132 of the Civil Partnership Act 2004 ”.
- 36 (1) Amend section 40 (power of permanent trustee in relation to debtor’s family home) as follows.
- (2) In subsection (2), after paragraph (a) insert—
- “(aa) the needs and financial resources of the debtor’s civil partner or former civil partner;”.
- (3) In paragraph (d) of that subsection, for “paragraph (a) or (b)” substitute “ paragraphs (a) to (b) ”.
- (4) In subsection (4)—
- (a) in paragraph (a), after “spouse” (in each place) insert “ or civil partner ”,
- (b) in paragraph (b), after “spouse” (in each place) insert “ or civil partner ”, and
- (c) in paragraph (c)(i), after “spouse” (in each place) insert “ or civil partner ”.
- 37 After section 41 insert—

“41A Protection of rights of civil partner against arrangements intended to defeat them

- (1) If a debtor’s sequestrated estate includes a family home of which the debtor, immediately before the date of issue of the act and warrant of the permanent trustee (or, if more than one such act and warrant is issued in the

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sequestration, of the first such issue) was an entitled partner and the other partner in the civil partnership is a non-entitled partner—

- (a) the permanent trustee shall, where he—
 - (i) is aware that the entitled partner is in civil partnership with the non-entitled partner; and
 - (ii) knows where the non-entitled partner is residing, inform the non-entitled partner, within the period of 14 days beginning with that date, of the fact that sequestration of the entitled partner’s estate has been awarded, of the right of petition which exists under section 16 of this Act and of the effect of paragraph (b) below; and
- (b) the Court of Session, on the petition under section 16 of this Act of the non-entitled partner presented either within the period of 40 days beginning with that date or within the period of 10 weeks beginning with the date of sequestration may—
 - (i) under section 17 of this Act recall the sequestration; or
 - (ii) make such order as it thinks appropriate to protect the occupancy rights of the non-entitled partner,if it is satisfied that the purpose of the petition for sequestration was wholly or mainly to defeat the occupancy rights of the non-entitled partner.

(2) In subsection (1) above—

“entitled partner” and “non-entitled partner” have the same meanings as in section 101 of the Civil Partnership Act 2004;

“family home” has the meaning assigned by section 135 of the 2004 Act; and

“occupancy rights” means the rights conferred by subsection (1) of that section 101.”

38 In section 44(1)(b) (request for order requiring private examination of certain persons before sheriff)—

- (a) after “debtor’s spouse” insert “ or civil partner ”, and
- (b) after “such spouse” insert “ , civil partner ”.

39 In section 51(3)(b) (meaning of “postponed debt”), at the end insert “ or civil partner ”.

40 In section 74 (interpretation), in each of subsections (2) and (4), for “husband or wife” (in each place) substitute “ husband, wife or civil partner ”.

41 (1) Amend Schedule 1 (determination of amount of creditor’s claim) as follows.

(2) In paragraph 2(1)(a), the words “in the case of spouses (or, where the aliment is payable to a divorced person in respect of a child, former spouses)” become paragraph 2(1)(a)(i).

(3) At the end of paragraph 2(1)(a)(i) insert “, or
(ii) in the case of civil partners (or, where the aliment is payable to a former civil partner in respect of a child after dissolution of a civil partnership, former civil partners),”.

(4) In paragraph 2(2), after “divorce” insert “ or on dissolution of a civil partnership ”.

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PART 4

MISCELLANEOUS AMENDMENTS

PROSPECTIVE

Damages (Scotland) Act 1976 (c. 13)

42

F322

Textual Amendments

F322 Sch. 28 para. 42 repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), ss. 45(2), 46(2), [Sch. 3](#); [S.S.I. 2006/212](#), [art. 2](#) (subject to [arts. 3-13](#))

Marriage (Scotland) Act 1977 (c. 15)

43

Amend section 3 (notice of intention to marry) as follows—

(a) in subsection (1), after paragraph (a) insert—

“(aa) if he has previously been in civil partnership and the civil partnership has been dissolved, a copy of the decree of dissolution or annulment;”, and

(b) in subsection (2), after “paragraph (a)” insert “, (aa)”.

44

In section 5(4)(b) (ground on which there is a legal impediment to a marriage), at the end insert “ or in civil partnership ”.

Presumption of Death (Scotland) Act 1977 (c. 27)

45

(1) Amend section 1(3) (jurisdiction of Court of Session to entertain action of declarator) as follows.

(2) In paragraph (b)(i), after “spouse” insert “ or civil partner ”.

(3) After paragraph (b) insert “; or

(c) in a case where the pursuer in the action is the civil partner of the missing person, the following conditions are met—

(i) the two people concerned registered as civil partners of each other in Scotland; and

(ii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.”

46

(1) Amend section 3 (effect of decree) as follows.

(2) In subsection (1), after “marriage” insert “ or of a civil partnership ”.

(3) In subsection (3)—

(a) after first “marriage” insert “ or civil partnership ”, and

(b) for “the dissolution of the marriage” substitute “ its dissolution ”.

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Administration of Justice Act 1982 (c. 53)

- 47 In section 13(1) (interpretation), in the definition of “relative”, after paragraph (a) insert—
“(aa) the civil partner or former civil partner;”.

Rent (Scotland) Act 1984 (c. 58)

- 48 In Schedule 1 (statutory tenants by succession)—
(a) in paragraph 2, after “spouse” (in both places) insert “ or civil partner ” and after “spouse's” insert “ or civil partner's ”, and
(b) in paragraph 6, after “spouse” (in both places) insert “ or civil partner ”.
- 49 In Schedule 1A (statutory or statutory assured tenants by succession: certain cases), in paragraph 2—
(a) in sub-paragraph (1), after “spouse” (in both places) insert “ or civil partner ” and after “spouse's” insert “ or civil partner's ”,
(b) in sub-paragraph (2), at the end insert “ and a person who was living with the original tenant in a relationship which had the characteristics of the relationship between civil partners shall be treated as the civil partner of the original tenant ”, and
(c) in sub-paragraph (3), after “couples” insert “ or under section 101 of the Civil Partnership Act 2004 ” and after “spouse” insert “ , or as the case may be as the surviving civil partner, ”.

Mental Health (Scotland) Act 1984 (c. 36)

- 50 (1) Amend section 53 (definition of “relative” and “nearest relative”) as follows.
(2) In subsection (1)(a), at the end insert “ or civil partner ”.
(3) In subsection (4)—
(a) in paragraph (b), for “or wife” substitute “ , wife or civil partner ” and after “spouse” insert “ or civil partner ”, and
(b) in paragraph (c), after “wife,” insert “ civil partner, ”.
- (4) After subsection (5) insert—
“(5A) In this section “civil partner” includes a person who is living with the patient in a relationship which has the characteristics of the relationship between civil partners (or, if the patient is for the time being an in-patient in a hospital, was so living until the patient was admitted), and has been or had been so living for a period of not less than 6 months; but a person shall not be treated by virtue of this subsection as the nearest relative of a partner in a civil partnership unless the civil partner of the patient is disregarded by virtue of paragraph (b) of subsection (4) of this section.”
- (5) In subsection (6)(b)—
(a) after “married patient” insert “ or of a partner in a civil partnership ”, and
(b) after “wife” insert “ , or as the case may be the civil partner, ”.
- 51 In section 54 (children and young persons in care of local authority), for “or wife” substitute “ , wife or civil partner ”.

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Housing Associations Act 1985 (c. 69)

- 52 (1) Amend section 105 (meaning of “member of a person’s family”) as follows.
- (2) In subsection (1)(a)—
- (a) after “spouse” insert “ or civil partner ”, and
 - (b) at the end insert “ or in a relationship which has the characteristics of the relationship between civil partners ”.
- (3) In subsection (2)(a), after “a relationship by marriage” insert “ or civil partnership ”.

Debtors (Scotland) Act 1987 (c. 18)

- 53 In section 106 (interpretation), in paragraph (a) of the definition of “maintenance order”—
- (a) after “divorce” insert “ or on dissolution of a civil partnership ”, and
 - (b) after “marriage” insert “ or of nullity of a civil partnership ”.

Housing (Scotland) Act 1987 (c. 26)

- 54 In section 83 (“members of a person’s family”)—
- (a) in subsection (1)(a), after “spouse” insert “ or civil partner ”,
 - (b) in subsection (2)(a), after “marriage” insert “ or by virtue of civil partnership ”, and
 - (c) in subsection (3), after “references to” insert “ that person’s civil partner or to ”.

Civil Evidence (Scotland) Act 1988 (c. 32)

- 55 (1) Amend section 8 (evidence in actions concerning family relationships, etc.) as follows.
- (2) In subsection (2), for “separation or declarator of marriage, nullity of marriage” substitute “ for dissolution of civil partnership, for separation of spouses or of civil partners, for declarator of marriage or of nullity of marriage or of civil partnership or for ”.
- (3) After subsection (3) insert—
- “(3A) Subject to subsection (4) below, in any action for dissolution of civil partnership, separation of civil partners or declarator of nullity of civil partnership, the evidence referred to in subsection (1) above shall consist of or include evidence other than that of a partner in the civil partnership (or purported civil partnership).”
- (4) In subsection (4), after “(3)” insert “ or (3A) ”.

Housing (Scotland) Act 1988 (c. 43)

- 56 (1) Amend section 31 (right of succession of spouse) as follows.
- (2) In subsection (1), after “spouse” (in both places) insert “ or civil partner ”.
- (3) In subsection (3)(b), after “spouse” insert “ or civil partner ”.

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(4) In subsection (4)—

- (a) the existing words from “as his” to the end become paragraph (a), and
- (b) after that paragraph insert the following paragraph—

“(b) in a relationship which had the characteristics of the relationship between civil partners shall be treated as the tenant’s civil partner”.

57 In Part 1 of Schedule 5 (grounds on which sheriff must order possession), in paragraph (b) of ground 1, after “spouse’s” insert “ or civil partner’s ”.

Crofters (Scotland) Act 1993 (c. 44)

58 In section 61(2) (interpretation), for “or husband” substitute “ , husband or civil partner ”.

Civil Evidence (Family Mediation) (Scotland) Act 1995 (c. 6)

59 In section 1(2) (inadmissibility in civil proceedings of information as to what occurred during family mediation), after paragraph (c) insert the following paragraph—

“(cc) between partners in a civil partnership or persons in a purported civil partnership concerning matters arising out of the breakdown or termination of their relationship,”.

Children (Scotland) Act 1995 (c. 36)

60 (1) Amend section 12 (restrictions on decrees for divorce, separation or annulment affecting children) as follows.

(2) In subsection (1), the existing words “divorce, judicial separation, or declarator of nullity of marriage” become paragraph (a) and after that paragraph insert “ or ” and the following paragraph—

“(b) dissolution or declarator of nullity of a civil partnership or separation of civil partners,”.

(3) ^{F323}

Textual Amendments

F323 Sch. 28 para. 60(3) repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), ss. 45(2), 46(2), [Sch. 3](#); [S.S.I. 2006/212](#), [art. 2](#) (subject to arts. 3-13)

Commencement Information

I50 Sch. 28 para. 60 partly in force; Sch. 28 para. 60 not in force at Royal Assent see s. 263; Sch. 28 para. 60(1)(2) in force at 5.12.2005 by [S.S.I. 2005/604](#), [arts. 2, 4](#)

^{F324}61

Status: Point in time view as at 02/03/2015.

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Textual Amendments

F324 Sch. 28 para. 61 repealed (24.6.2013) by [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, [sch. 2](#)

Sexual Offences (Amendment) Act 2000 (c. 44)

- 62 In section 3(2)(c) (abuse of position of trust: defence), after “to” insert “, or in civil partnership with,”.

Housing (Scotland) Act 2001 (asp 10)

- 63 In section 31(c) (effect of work on rent)—
- (a) after “spouse” insert “ or civil partner ”, and
 - (b) for “husband and wife except that the persons are of the same sex” substitute “ civil partners ”.
- 64 (1) Amend section 108 (meaning of “family” etc.) as follows.
- (2) In subsection (1)(a), after “spouse” insert “ or civil partner ”.
 - (3) In subsection (2)(a), after “marriage” insert “ or by virtue of civil partnership ”.
- 65 (1) Amend Schedule 2 (grounds for recovery of possession of house) as follows.
- (2) In paragraph 5—
 - (a) in sub-paragraph (a), after “spouse” insert “ or civil partner ”, and
 - (b) in sub-paragraph (b), for “husband and wife except that the persons are of the same sex” substitute “ civil partners ”.
 - (3) In paragraph 15—
 - (a) in sub-paragraph (a), for “(or former spouse)” substitute “ or civil partner (or former spouse or former civil partner) ”, and
 - (b) in sub-paragraph (b), for “husband and wife except that the persons are of the same sex” substitute “ civil partners ”.
- 66 In Schedule 3 (succession: qualified persons), in paragraph 2(1)(a)—
- (a) in sub-head (i), after “spouse” insert “ or civil partner ”, and
 - (b) in sub-head (ii), for “husband and wife except that the persons are of the same sex” substitute “ civil partners ”.

Criminal Justice (Scotland) Act 2003 (asp 7)

- 67 (1) Amend section 14 (victim statements) as follows.
- (2) In subsection (10)(a), at the end insert “ or civil partner ”.
 - (3) For subsection (11) substitute—
 - “(11) In subsection (10)(b), “cohabitee” means a person who has lived with the victim—
 - (a) as if in a married relationship; or
 - (b) in a relationship which had the characteristics of the relationship between civil partners,

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for at least six months and was so living immediately before the offence (or apparent offence) was perpetrated.”

Agricultural Holdings (Scotland) Act 2003 (asp 11)

- 68 (1) Amend section 71 (meaning of “family”) as follows.
- (2) In subsection (2)(a), after “spouse” insert “ or civil partner ”, and
- (3) In subsection (3)(a), after “marriage” insert “ or by virtue of civil partnership ”.

Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)

- 69 (1) Amend section 254 (meaning of “nearest relative”) as follows.
- (2) In subsection (2)(a), at the end insert “ or civil partner ”.
- (3) In subsection (3), after “spouse” insert “ or civil partner ”.
- (4) In subsection (7)(a)(ii), for “husband and wife except that the person and the relevant person are of the same sex” substitute “ civil partners ”.
- 70 In section 313(5)(a)(ii) (defence in respect of sexual offence), after “spouse” insert “ or civil partner ”.

SCHEDULE 29

Section 261(3)

MINOR AND CONSEQUENTIAL AMENDMENTS: NORTHERN IRELAND

Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.))

- 1 In section 46 (miscellaneous definitions), in subsection (2), after the definition of “barrister-at-law” insert—
- ““civil partnership” means a civil partnership which exists under the Civil Partnership Act 2004 (and any reference to a civil partner shall be construed accordingly);”.

Trustee Act (Northern Ireland) 1958 (c. 23 (N.I.))

- 2 (1) Amend section 32(3)(a) (trust on reaching 18 or marrying under that age of accumulations during infancy) as follows.
- (2) In sub-paragraph (i)—
- (a) after “marries under that age” insert “ or forms a civil partnership under that age ”, and
- (b) for “or until his marriage” substitute “ , or until his marriage or his formation of a civil partnership, ”.
- (3) In sub-paragraph (ii), after “marriage” insert “ , or on formation of a civil partnership, ”.
- (4) In the words after that sub-paragraph, after “marriage” insert “ or formation of a civil partnership ”.

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- 3 (1) Amend section 34(1)(b) (trust to maintain principal beneficiary and his spouse and issue on failure of protective trust under paragraph (a)(ii)) as follows.
- (2) In sub-paragraphs (i) and (ii), for “wife or husband” substitute “ spouse or civil partner ”.
- (3) In sub-paragraph (ii), after “married” insert “ or formed a civil partnership ”.

Perpetuities Act (Northern Ireland) 1966 (c. 2 (N.I.))

- 4 (1) Amend section 3 (uncertainty as to remoteness) as follows.
- (2) In subsection (4)(a), after “spouse” insert “ or civil partner ”.
- (3) In subsection (5)(f), after “spouse” insert “ or civil partner ”.
- 5 (1) Amend section 5 (condition relating to death of surviving spouse) as follows.
- (2) After “spouse” insert “ or civil partner ”.
- (3) In the heading to section 5, after “spouse” insert “ or civil partner ”.

Office and Shop Premises Act (Northern Ireland) 1966 (c. 26 (N.I.))

- 6 In section 2 (exception for premises in which only employer’s relatives or outworkers work), in subsection (1), after “wife” insert “ , civil partner ”.

Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (c. 35 (N.I.))

- 7 In section 10 (orders to which Part 2 of the Act applies), in subsection (2), after paragraph (h) insert—
- “(i) paragraph 2(1)(a) or (d), 33, 34(3) or 36(1)(a) or (d) of Schedule 15, Schedule 16, or paragraph 9 of Schedule 17 so far as that paragraph applies Part 1 of Schedule 15, to the Civil Partnership Act 2004;”.

- 8 (1) Amend section 13 (variation of orders registered in courts of summary jurisdiction) as follows.
- (2) In subsection (5A), after “1980” insert “ or paragraph 42 of Schedule 16 to the Civil Partnership Act 2004 ”.
- (3) In subsection (7B), after “1989” insert “ or paragraph 9 of Schedule 17 so far as that paragraph applies Part 1 of Schedule 15 ”.

Census Act (Northern Ireland) 1969 (c. 8 (N.I.))

- 9 In the Schedule (matters of which particulars may be required), in paragraph 5, after “marriage” insert “ or civil partnership ”.

Theft Act (Northern Ireland) 1969 (c. 16 (N.I.))

- 10 (1) Amend section 29(1) (effect on civil proceedings and rights) as follows.
- (2) For “wife or husband” substitute “ spouse or civil partner ”.

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- (3) For “married after the making of the statement or admission) against the wife or husband” substitute “ married or became civil partners after the making of the statement or admission) against the spouse or civil partner ”.

Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.))

- 11 (1) Amend section 22 (nomination to property in society) as follows.
- (2) In subsection (2), for “husband, wife,” substitute “ spouse, civil partner, ”.
- (3) In subsection (6)—
- (a) for “marriage of” substitute “ formation of a marriage or civil partnership by ”;
- (b) after “before the marriage” insert “ or civil partnership was formed ”;
- (c) for “a marriage contracted” substitute “ the formation of a marriage or civil partnership ”.
- 12 In the definition of “member of the family” in section 101(1) (interpretation), for “husband, wife,” substitute “ spouse, civil partner, ”.

Land Registration Act (Northern Ireland) 1970 (c. 18 (N.I.))

- 13 In Schedule 11 (matters required to be registered in the Statutory Charges Register), after paragraph 45 insert—
- “46 An order under paragraph 67(2) of Schedule 15 to the Civil Partnership Act 2004 to the extent that by virtue of paragraph 69(1)(b) of that Schedule it renders liable to be set aside at the instance of an applicant for financial relief a disposition of any land in Northern Ireland which is specified in the order.”

Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 (c. 7 (N.I.))

- 14 In section 1 (general right to acquire fee simple or to obtain extension of lease), in subsection (3)(f)(i) to (iv), after “spouse” insert “ or civil partner ”.
- 15 In section 19 (restrictions on right to extension of lease or to acquire fee simple), in subsection (1)(a)(i), after “spouse” insert “ or civil partner ”.

Civil Evidence Act (Northern Ireland) 1971 (c. 36 (N.I.))

- 16 (1) Amend section 10 (privilege against incrimination of self or spouse).
- (2) In subsection (1), for “husband or wife” substitute “ spouse or civil partner ”.
- (3) In the heading to section 10, after “spouse” insert “ or civil partner ”.

Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))

- 17 In section 30 (relatives of councillors), in subsection (6) (relevant family relationship)—
- (a) after “husband and wife” insert “ or civil partners ”;
- (b) after “husband or wife” insert (in both places) “ or civil partner ”.

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- 18 In section 146 (interpretation: pecuniary interests), in subsection (2) (interests of spouses living together)—
- (a) after “spouses” insert (in both places) “ or civil partners ”;
 - (b) after “spouse” insert (in both places) “ or civil partner ”.

Employer’s Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 (S.I. 1972/963 (N.I. 6))

- 19 In Article 6(a) (persons whom employer is not required to insure) after “husband, wife,” insert “ civil partner, ”.

Births and Deaths Registration (Northern Ireland) Order 1976 (S.I. 1976/1041 (N.I. 14))

- 20 In Article 2(2) (interpretation), in the definition of “relative”, after “by marriage” insert “ or civil partnership ”.

Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15))

- 21 In Article 2(6) (meaning of “near relative”)—
- (a) after “wife or husband” (in both places) insert “ or civil partner ”, and
 - (b) for “by affinity)” substitute “ by marriage or civil partnership)”.

Pharmacy (Northern Ireland) Order 1976 (S.I. 1976/1213 (N.I. 22))

- 22 In Article 3(3)(e)(iii) (objects of Pharmaceutical Society include providing relief for distressed relatives), for “widows,” substitute “ surviving spouses, surviving civil partners, ”.

Criminal Damage (Northern Ireland) Order 1977 (S.I. 1977/426 (N.I. 4))

- 23 (1) Amend Article 11 (evidence in connection with offences under the Order) as follows.
- (2) For “wife or husband” substitute “ spouse or civil partner ”.
 - (3) For “married after the making of the statement or admission) against the wife or husband” substitute “ married or became civil partners after the making of the statement or admission) against the spouse or civil partner ”.

Judicature (Northern Ireland) Act 1978 (c. 23)

- 24 In section 31 (remittal and removal of proceedings), in subsection (7)(b), after “1882” insert “ or section 191 of the Civil Partnership Act 2004 ”.
- 25 (1) Amend section 35(2) (restrictions on appeals to Court of Appeal from High Court) as follows.
- (2) After paragraph (e) insert—
 - “(ea) from a dissolution order, nullity order or presumption of death order under Chapter 2 of Part 4 of the Civil Partnership Act 2004 that has been made final, by a party who, having had time and the opportunity to appeal from the conditional order on which the final order was founded, has not appealed from that conditional order;”.

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- (3) In paragraph (g)(iv), after “matrimonial cause” insert “, a conditional order in a civil partnership cause”.
- 26 (1) Amend section 94A (withdrawal of privilege against incrimination of self or spouse in certain proceedings) as follows.
- (2) In subsection (1), after “spouse” insert “ or civil partner ”.
- (3) In subsection (3), for “married after the making of the statement or admission) against the spouse” substitute “ married or became civil partners after the making of the statement or admission) against the spouse or civil partner ”.

Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9))

- 27 In Article 22 (powers of inspectors), in paragraph (7), for “husband or wife” substitute “ spouse or civil partner ”.

Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15))

- 28 (1) Insert after Article 2(4)—
- “(4A) References in this Order to the formation of a civil partnership by a person include references to a civil partnership which is by law void or voidable.”
- 29 In Article 13 (grounds on which marriage is void), at the end of paragraph (1)(d) insert “ or a civil partner ”.
- 30 (1) Amend Article 17 (marriages governed by foreign law or celebrated abroad under certain enactments or common law) as follows.
- (2) In paragraph (1), at the beginning insert “ Subject to paragraph (3) ”.
- (3) After paragraph (2) insert—
- “(3) No marriage is to be treated as valid by virtue of paragraph (1) if, at the time when it purports to have been celebrated, either party was already a civil partner.”
- 31 (1) Amend Article 30 (duration of continuing financial provision orders in favour of party to marriage, and effect of remarriage) as follows.
- (2) In paragraph (1)(a) and (b) after “remarriage of” insert “, or formation of a civil partnership by,”.
- (3) In paragraph (2)—
- (a) after “remarriage of” insert “, or formation of a civil partnership by,” and
- (b) after “the remarriage” insert “ or formation of the civil partnership ”.
- (4) In paragraph (3), after “remarries whether at any time before or after the commencement of this Article”, insert “ or forms a civil partnership ”.
- (5) In the heading to Article 30, after “remarriage” insert “ or formation of civil partnership ”.
- 32 In Article 37 (alteration of agreements by court during lives of parties), in paragraph (4)(a) and (b), after “remarriage of” insert “, or formation of a civil partnership by,”.

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- 33 (1) Amend Article 40 (orders for repayment in certain cases of sums paid after cessation of order by reason of remarriage) as follows.
- (2) In paragraph (1)—
- (a) in sub-paragraph (a), after “remarriage of” insert “, or formation of a civil partnership by, ”, and
- (b) in sub-paragraph (b), after “remarriage” insert “ or formation of the civil partnership ”.
- (3) In paragraph (6)—
- (a) in sub-paragraph (a), after “remarriage of” insert “, or formation of a civil partnership by, ”, and
- (b) in the words following sub-paragraph (b), after “had remarried” insert “ or formed a civil partnership ”.
- (4) In the heading to Article 40, after “remarriage” insert “ or formation of civil partnership ”.

Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27))

- 34 In Article 8 (limitations on rehabilitation), in paragraph (2)(c), after “marriage,” insert “ civil partnership, ”.

Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

- 35 In section 47A (appeals in cases of death), in subsection (3)(a), after “widower” insert “ or surviving civil partner ”.

County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3))

- 36 In Article 10 (general civil jurisdiction), after paragraph (3) insert—
- “(3A) Except as provided by the Civil Partnership Act 2004, a county court which is not a civil partnership proceedings county court shall not have jurisdiction to hear any cause or matter to which that Act applies.”
- 37 In Article 14 (jurisdiction in equity matters), in paragraph (j), after “1882” insert “ or section 191 of the Civil Partnership Act 2004 ”.
- 38 In Article 39 (capacity of parties), in paragraph (2)(d), after “marriage, death or bankruptcy of” insert “, or the formation of a civil partnership by, ”.

Domestic Proceedings (Northern Ireland) Order 1980 (S.I. 1980/563 (N.I. 5))

- 39 In Article 6 (duration of orders for financial provision for a party to a marriage), in paragraph (2)—
- (a) after “remarriage of” insert “, or formation of a civil partnership by, ”, and
- (b) after “the remarriage” insert “ or formation of the civil partnership ”.
- 40 (1) Amend Article 40 (orders for repayment in certain cases of sums paid after cessation of order by reason of remarriage) as follows.
- (2) In paragraph (1)—
- (a) in sub-paragraph (a), after “remarriage of” insert “, or formation of a civil partnership by, ”, and

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- (b) in sub-paragraph (b), after “that remarriage” insert “ or the formation of that civil partnership ”.
- (3) In paragraph (8)—
 - (a) in sub-paragraph (a), after “remarriage of” insert “ , or formation of a civil partnership by, ”, and
 - (b) in the words following sub-paragraph (b)—
 - (i) after “the remarriage” insert “ or the formation of that civil partnership ”, and
 - (ii) after “had remarried” insert “ or formed a civil partnership ”.
- (4) In the heading to Article 40, after “remarriage” add “ or formation of civil partnership ”.

Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (N.I. 6))

- 41 In Article 4 (judgments to which Order applies), in paragraph (e), after “1980” insert “ or Part 1, 2 or 6 of Schedule 16 to the Civil Partnership Act 2004 ”.
- 42 In Article 6 (judgments to which Order does not apply), in paragraph (c), after “matrimonial jurisdiction” insert “ or by the High Court or a civil partnership proceedings county court in the exercise of its civil partnership jurisdiction ”.
- 43 In Article 7 (The Enforcement of Judgments Office), in paragraph (3), after “domestic” insert “ or civil partnership ”.
- 44 In Article 25 (taking custody of goods under a money judgment), in paragraph (2) (b), after “spouse” insert “ or civil partner ”.
- 45 In Article 32 (property which may be seized), in paragraph (d), after “spouse” (in each place) insert “ or civil partner ”.
- 46 In Article 33 (property exempt from seizure), in paragraph (a), after “spouse” (in each place) insert “ or civil partner ”.
- 47 In Article 36 (where seizure may be effected), in paragraph (a)(i), after “spouse” insert “ or civil partner ”.
- 48 In Article 38 (power of entry under order of seizure), after “spouse” insert “ or civil partner ”.
- 49 In Article 44 (interpleader), in paragraph (1), after “spouse” insert “ or civil partner ”.
- 50 (1) Amend Article 96A (maintenance orders in the High Court and divorce county courts) as follows.
 - (2) In paragraphs (1), (3)(a), (7) and (9) after “divorce county court” insert (in each place) “ or civil partnership proceedings county court ”.
 - (3) In the heading to Article 96A, for “divorce” substitute “ certain ”.
- 51 (1) Amend Article 98 (power of courts to make attachment of earnings orders) as follows.
 - (2) In paragraph (a)(i), after “matrimonial” insert “ or civil partnership ”.
 - (3) In paragraph (a)(ii), after “matrimonial jurisdiction” insert “ or a civil partnership proceedings county court in the exercise of its civil partnership jurisdiction ”.

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- 52 (1) Amend Article 107 (committal for default) as follows.
- (2) In paragraph (1)(c), after “matrimonial jurisdiction” insert “ or by the High Court or a civil partnership proceedings county court in the exercise of its civil partnership jurisdiction ”.
- (3) In paragraph (2)(a)(ii), after “matrimonial” insert “ or civil partnership ”.

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8))

- 53 In Article 14(4) (resources of person’s wife or husband treated as resources of that person), for “wife or husband” substitute “ spouse or civil partner ”.
- 54 In Part 1 of Schedule 1 (proceedings for which legal aid may be given), in paragraph 3(b), after “1998” insert “ or Schedule 16 to the Civil Partnership Act 2004 ”.

Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))

- 55 In Article 85 (orders for periodical payment: means of payment), in paragraph (8) (a)(ii), after “1980” insert “ , the Civil Partnership Act 2004 ”.
- 56 In Article 86 (revocation, variation, etc., of orders for periodical payment), in paragraph (1), after “1980” insert “ and paragraph 42 of Schedule 16 to the Civil Partnership Act 2004 ”.
- 57 In Article 88 (nature of domestic proceedings), after paragraph (dh), insert—
“(di) under paragraph 54 of Schedule 15 to the Civil Partnership Act 2004 or under Schedule 16 to that Act;”.
- 58 In Article 98 (enforcement of orders for periodical payment of money), in paragraph (11)(i), after “1980” insert “ or Schedule 16 to the Civil Partnership Act 2004 ”.
- 59 In Article 99 (enforcement of orders for payment of money other than periodical payments), in paragraph (11), after “1980” insert “ or Part 1, 2 or 6 of Schedule 16 to the Civil Partnership Act 2004 ”.
- 60 In Article 143 (appeals in other cases), after paragraph (3) insert—
“(4) Paragraph (1) is also subject to paragraph 8(2) of Schedule 16 to the Civil Partnership Act 2004 and Article 31(1) of the Domestic Proceedings (Northern Ireland) Order 1980 as applied by paragraph 46 of that Schedule.”
- 61 In Article 164 (appearance by counsel or solicitor), in paragraph (3), for “husband, wife” substitute “ spouse, civil partner ”.

Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983/1120 (N.I. 13))

- 62 In Article 10 (exemptions from liability for conspiracy), in paragraph (2)(a), after “spouse” insert “ or civil partner ”.

Forfeiture (Northern Ireland) Order 1982 (S.I. 1982/1082 (N.I. 14))

- 63 In Article 5 (application for financial provision not affected by the forfeiture rule), at the end of paragraph (2)(b) insert “and

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- (c) paragraphs 53 (variation of secured periodical payments order) and 66 (alteration of maintenance agreements by court) of Schedule 15 to the Civil Partnership Act 2004”.

Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 (S.I. 1984/1984 (N.I. 14))

- 64 (1) Amend Article 18 (prohibited degrees of relationship) as follows.
- (2) In paragraph (1), for the words from “between a man” to “that Table” substitute “between a person and any person mentioned in the list in Part 1 of the following Table”.
- (3) For the Table in paragraph (1) substitute—

“PART 1

PROHIBITED DEGREES OF RELATIONSHIP

Adoptive child
Adoptive parent
Child
Former adoptive child
Former adoptive parent
Grandparent
Grandchild
Parent
Parent’s sibling
Sibling
Sibling’s child

PART 2

DEGREES OF AFFINITY REFERRED TO IN PARAGRAPHS (2A) AND (2B)

Child of former civil partner
Child of former spouse
Former civil partner of grandparent
Former civil partner of parent
Former spouse of grandparent
Former spouse of parent

Status: Point in time view as at 02/03/2015.

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Grandchild of former civil partner

Grandchild of former spouse

PART 3

DEGREES OF AFFINITY REFERRED TO IN PARAGRAPHS (2C) AND (2D)

Parent of former spouse

Parent of former civil partner

Former spouse of child

Former civil partner of child”.

(4) In paragraph (2)—

(a) in sub-paragraph (b), for the words “brother or sister” substitute “ sibling ”;

(b) in sub-paragraph (c), after the word “marriage” insert “ or civil partnership ”.

(5) In paragraph (2A), for the words from “between a man” to “that Part II” substitute “ between a person and any person mentioned in the list in Part 2 of that Table ”.

(6) ^{F325}

(7) ^{F325}

Textual Amendments

F325 Sch. 29 para. 64(6)(7) repealed (20.9.2006) by [The Law Reform \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2006 \(S.I. 2006/1945 \(N.I. 14\)\)](#), [art. 3\(3\)](#)

Commencement Information

I51 Sch. 29 para. 64 partly in force at 5.12.2005; Sch. 29 para. 64 not in force at Royal Assent see s. 263; Sch. 29 para. 64(1)(2)(4)(5) in force at 5.12.2005 and Sch. 29 para. 64(3) in force for certain purposes at 5.12.2005 by [S.I. 2005/3255](#), [art. 2\(1\)\(3\)\(4\)](#), [Sch.](#)

Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12))

65 (1) Amend Article 2(2) (interpretation) as follows.

(2) After the definition of “board of directors” insert—

““civil partner” includes former civil partner;”.

(3) In the definition of “member of the family”—

(a) in paragraphs (a), (b) and (c), after “spouse” insert “ or civil partner ”, and

(b) in paragraph (ii), for “a child born in wedlock” substitute “ the legitimate child of the relationship in question ”.

66 (1) Amend Article 17 (nomination to property in credit union) as follows.

(2) In paragraph (2), after “wife,” insert “ civil partner, ”.

Status: Point in time view as at 02/03/2015.

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(3) In paragraph (6)—

- (a) for “marriage of” substitute “ formation of a marriage or civil partnership by ”;
- (b) after “before the marriage” insert “ or civil partnership was formed ”;
- (c) for “a marriage contracted” substitute “ the formation of a marriage or civil partnership ”.

Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4))

67 (1) Amend Schedule 1 (persons by whom a medical recommendation or medical report under Article 12 may not be given) as follows.

(2) In paragraph 3, after “spouse,” insert “ civil partner, ”.

(3) In paragraph 4, after “spouse” insert “ or civil partner ”.

Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6))

68 F326

Textual Amendments

F326 Sch. 29 para. 68 repealed (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), arts. 1(2), 2(2), **Sch. 2** (with art. 10)

69 F327

Textual Amendments

F327 Sch. 29 para. 69 repealed (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), arts. 1(2), 2(2), **Sch. 2** (with art. 10)

70 F328

Textual Amendments

F328 Sch. 29 para. 70 repealed (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), arts. 1(2), 2(2), **Sch. 2** (with art. 10)

71 F329

Textual Amendments

F329 Sch. 29 para. 71 repealed (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), arts. 1(2), 2(2), **Sch. 2** (with art. 10)

72 F330

Status: Point in time view as at 02/03/2015.

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Textual Amendments

F330 Sch. 29 para. 72 repealed (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), arts. 1(2), 2(2), **Sch. 2** (with art. 10)

73 **F331**

Textual Amendments

F331 Sch. 29 para. 73 repealed (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 10(3), **Sch. 5** (with art. 12)

74 **F332**

Textual Amendments

F332 Sch. 29 para. 74 repealed (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), arts. 1(2), 2(2), **Sch. 2** (with art. 10)

75 **F333**

Textual Amendments

F333 Sch. 29 para. 75 repealed (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), arts. 1(2), 2(2), **Sch. 2** (with art. 10)

Enduring Powers of Attorney (Northern Ireland) Order 1987 (S.I. 1987/1627 (N.I. 16))

76 In Article 5 (scope of authority etc. of attorney under enduring power), in paragraph (5)(a), for “or marriage” substitute “marriage or the formation of a civil partnership”.

77 (1) Amend paragraph 2(1) of Schedule 1 (persons entitled to receive notice) as follows.

(2) In head (a), after “wife” insert “or civil partner”.

(3) In head (e), after “widower” insert “or surviving civil partner”.

78 Paragraphs 76 and 77 apply in relation to the exercise of powers under enduring powers of attorney created before the passing of this Act as well as to those created on or after its passing.

Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (S.I. 1989/677 (N.I. 4))

79 (1) Amend Article 16 (applications for financial relief after overseas divorce etc.) as follows.

(2) In paragraph (2) (no application may be made after remarriage), for “remarries” substitute “forms a subsequent marriage or civil partnership”.

(3) For paragraph (3) substitute—

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“(3) The reference in paragraph (2) to the forming of a subsequent marriage or civil partnership includes a reference to the forming of a marriage or civil partnership which is by law void or voidable.”

Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19))

- 80 (1) Amend Article 4 (meaning of “associate”) as follows.
- (2) For paragraph (2) substitute—
- “(2) A person is an associate of an individual if that person is—
- (a) the individual’s husband or wife or civil partner,
 - (b) a relative of—
 - (i) the individual, or
 - (ii) the individual’s husband or wife or civil partner, or
 - (c) the husband or wife or civil partner of a relative of—
 - (i) the individual, or
 - (ii) the individual’s husband or wife or civil partner.”
- (3) In paragraph (3), after “husband or wife” insert “ or civil partner ”.
- (4) In paragraph (8), at the end insert “ and references to a civil partner include a former civil partner ”.
- 81 In Article 179 (proceedings under Article 177 and 178), in paragraph (3)(b), after “marriage” insert “ or the formation of a civil partnership ”.
- 82 In Article 286 (charge on bankrupt’s home), in paragraph (1), after “former spouse” insert “ or by his civil partner or former civil partner ”.
- 83 (1) Amend Article 302 (debts to spouse) as follows.
- (2) In paragraph (1), after “spouse” (in each place) insert “ or civil partner ”.
- (3) In the heading to Article 302, after “spouse” insert “ or civil partner ”.
- 84 In Article 305 (saving for bankrupt’s home), in paragraph (1), after “former spouse” insert “ or by his civil partner or former civil partner ”.
- 85 In Article 312 (transactions at an undervalue), in paragraph (3)(b), after “marriage” insert “ or the formation of a civil partnership ”.
- 86 In Article 337 (inquiry into bankrupt’s dealings and property), in paragraph (1)(a), after “former spouse” insert “ or civil partner or former civil partner ”.
- 87 In Article 367 (transactions defrauding creditors), in paragraph (1)(b), after “marriage” insert “ or the formation of a civil partnership ”.

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))

- 88 (1) Amend Article 79 (compellability of accused’s spouse) as follows.
- (2) In paragraphs (2), (2A) and (3), for “wife or husband” (in each place) substitute “ spouse or civil partner ”.
- (3) After paragraph (5) insert—

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“(5A) In any criminal proceedings a person who has been but is no longer the civil partner of the accused shall be compellable to give evidence as if that person and the accused had never been civil partners.”

(4) In the heading to Article 79, after “accused’s spouse” insert “ or civil partner ”.

- 89 In Article 79A (rule where accused’s spouse not compellable)—
- (a) for “wife or husband” substitute “ spouse or civil partner ”, and
 - (b) in the heading, after “spouse” insert “ or civil partner ”.

Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5))

- 90 In Article 54 (meaning of “associate”), in paragraph (2)(a) after “spouse” insert “ or civil partner ”.

Food Safety (Northern Ireland) Order 1991 (S.I. 1991/762 (N.I. 7))

- 91 In Article 42 (continuance of registration or licence on death), in paragraph (2), for the words from “the deceased’s personal representative” to “his death” substitute “the deceased’s personal representative, or widow or widower or surviving civil partner or any other member of the deceased’s family, until the expiration of—
- (a) the period of 3 months from the date of the deceased’s death”.

Industrial Relations (Northern Ireland) Order 1992 (S.I.1992/807 (N.I.5))

- 92 In Article 23 (recovery of sums awarded in proceedings involving trade unions and employers' associations), in the definition of “provident benefits” in paragraph (3), for “wife” substitute “ spouse or civil partner ”.

PROSPECTIVE

Pension Schemes (Northern Ireland) Act 1993 (c. 49)

- 93 In section 97E (discharge of liability where pension credit or alternative benefits secured by insurance policies or annuity contracts), in subsection (1)(b), after “or widower” insert “ or civil partner ”.

Family Law (Northern Ireland) Order 1993 (S.I. 1993/1576 (N.I. 6))

- 94 (1) In Article 12 (family proceedings rules), amend paragraph (3)(g) as follows.
- (2) After “1978” insert “ or a civil partnership cause within the meaning of section 190(3) of the Civil Partnership Act 2004 ”.
 - (3) After “that Article 48” insert (in both places) “ that section 190(3) ”.
 - (4) After “divorce county court” insert “ or civil partnership proceedings county court ”.

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Commencement Information

I52 Sch. 29 para. 94 wholly in force at 5.12.2005; Sch. 29 para. 94 not in force at Royal Assent see s. 263; Sch. 29 para. 94 in force for certain purposes at 5.9.2005 by S.I. 2005/2399, art. 2, Sch. and Sch. 29 para. 94 in force otherwise at 5.12.2005 by S.I. 2005/3255, art. 2(1), Sch. (subject to art. 2(2))

Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))

- 95 In Article 8 (residence, contact and other orders with respect to children), after paragraph (4)(h) insert—
“(i) Chapter 2 of Part 4 of, or Schedule 15, 16 or 17 to, the Civil Partnership Act 2004”.
- 96 In Article 50 (care orders and supervision orders), in paragraph (4), for “married” substitute “ married or a civil partner ”.
- 97 In Article 67 (powers to assist in discovery of children who may be in need of emergency protection), in paragraph (2), after “spouse” insert “ or civil partner ”.
- 98 In Article 69 (recovery of abducted children, etc.), in paragraph (11), after “spouse” insert “ or civil partner ”.
- 99 In Article 166 (appeals), at the end of paragraph (2)(b) insert “or
(c) where the county court is a civil partnership proceedings county court exercising jurisdiction under the Civil Partnership Act 2004 in the same proceedings”.
- 100 In Article 171 (self-incrimination), in paragraph (2), after “spouse” insert “ or civil partner ”.

Trade Union and Labour Relations (Northern Ireland) Order 1995(S.I.1995/1980 (N.I.12))

- 101 In Article 125 (intimidation or annoyance by violence or otherwise), in paragraph (1)(a), for “wife” substitute “ spouse or civil partner ”.

Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16))

- 102 In Article 85A (time off for dependants), in paragraph (3)(a), after “spouse” insert “ or civil partner ”.
- 103 In Article 248 (institution or continuance of tribunal proceedings), in paragraph (5) (b), for “widow or widower” substitute “ surviving spouse, surviving civil partner ”.

Registration of Clubs (Northern Ireland) Order 1996 (S.I. 1996/3159 (N.I. 23))

- 104 In Schedule 1 (provisions to be included in rules of club), in paragraph 11, for “husband, wife” substitute “ spouse, civil partner ”.

Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6))

- 105 In Article 23(7) (exceptions: meaning of “near relative”)—
(a) after “spouse” (in both places) insert “ or civil partner ”, and
(b) for “by affinity” substitute “ by marriage or civil partnership ”.

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Fair Employment and Treatment (Northern Ireland) Order 1998 (S.I. 1998/3162 (N.I. 21))

- 106 In Article 30(7) (exceptions: meaning of “near relative”)—
 (a) after “spouse” insert “ or civil partner ”, and
 (b) for “by affinity” substitute “ by marriage or civil partnership ”.
- 107 In Article 69(3)(c) (interpretation: connected person), after “wife or husband” (in each place) substitute “ or civil partner ”.

Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

- 108 (1) Amend Article 21 (supply of pension information in connection with divorce etc.) as follows.
 (2) After paragraph (1)(a)(i) insert—
 “(ia) financial relief under Schedule 15 or 17 to the Civil Partnership Act 2004 (powers in relation to domestic and overseas dissolution of civil partnerships etc.);”.
- (3) In paragraph (1)(a)(ii), after “1984” insert “ or Schedule 5 or 7 to the 2004 Act ”.
- (4) In paragraph (1)(a)(iii), after “1984” insert “ or Schedule 11 to the 2004 Act ”.
- (5) In paragraph (1)(b), after “(a)(i)” insert “ , (ia) ”.
- 109 (1) Amend Article 22 (charges by pension arrangements in relation to earmarking orders) as follows.
 (2) After paragraph (a) insert—
 “(aa) an order under Part 1 of Schedule 15 to the Civil Partnership Act 2004 (financial provision orders in connection with dissolution of civil partnerships etc.) so far as it includes provision made by virtue of Part 5 of that Schedule (powers to include provision about pensions);”.
- (3) At the end of paragraph (b) omit “or” and after that paragraph insert—
 “(bb) an order under Part 1 of Schedule 5 to the 2004 Act so far as it includes provision made by virtue of Part 6 of that Schedule (England and Wales powers corresponding to those mentioned in paragraph (aa)), or”.
- 110 (1) Amend Article 25 (activation of pension sharing) as follows.
 (2) After paragraph (1)(a) insert—
 “(aa) a pension sharing order under Schedule 15 to the Civil Partnership Act 2004;”.
- (3) After paragraph (1)(b) insert—
 “(ba) an order under Schedule 17 to the 2004 Act (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (aa);”.
- 111 (1) Amend Article 31 (“implementation period”) as follows.
 (2) In paragraph (1)(b)(i), omit “matrimonial”.

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- (3) In paragraph (2)—
- (a) omit “matrimonial”, and
 - (b) in sub-paragraph (b), after “divorce” insert “, dissolution”.
- 112 (1) Amend Article 45 (activation of benefit sharing) as follows.
- (2) After paragraph (1)(a) insert—
- “(aa) a pension sharing order under Schedule 15 to the Civil Partnership Act 2004,”.
- (3) After paragraph (1)(b) insert—
- “(ba) an order under Schedule 17 to the 2004 Act (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (aa),”.
- Housing (Northern Ireland) Order 2003 (S.I. 2003/412 (N.I. 2))*
- 113 In Article 85 (meaning of exempt disposal), after paragraph (3)(d) insert—
- “(e) Part 2 of Schedule 15 or 17 to the Civil Partnership Act 2004;”.
- Marriage (Northern Ireland) Order 2003 (S.I. 2003/413 (N.I. 3))*
- 114 (1) Amend Article 5 (power to require evidence) as follows.
- (2) In paragraph (3)(c), after “marital” insert “ and civil partnership”.
- (3) After paragraph (3) insert—
- “(4) In paragraph (3)(c), “marital and civil partnership status”, in relation to a person, means whether that person has previously formed a marriage or a civil partnership, and if so, whether that marriage or civil partnership has ended.”
- 115 In Article 6 (objections), in paragraph (6)(b), after “married” insert “ or a civil partner”.
- Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10))*
- 116 In Article 39 (conditional fee agreements: supplementary), in paragraph (2) (definition of “family proceedings”), after sub-paragraph (f) insert—
- “(g) Chapter 2 of Part 4 of, or Schedules 15, 16 or 17 to the Civil Partnership Act 2004,”. In Schedule 2 (civil legal services: excluded services), in paragraph 2(d)(i), after “1998” insert “ or Schedule 16 to the Civil Partnership Act 2004”.
- Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3))*
- 117 In Article 2(2) (interpretation), in the definition of “relative”—
- (a) in paragraphs (a) and (b), for “spouse or former spouse” substitute “ spouse, former spouse, civil partner or former civil partner”;
 - (b) after “as husband and wife” insert “ or as if they were civil partners”;
 - (c) after “married to each other” insert “ or were civil partners of each other”.

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SCHEDULE 30

Section 261(4)

REPEALS AND REVOCATIONS

Commencement Information

I53 Sch. 30 partly in force; Sch. 30 not in force at Royal Assent see s. 263; Sch. 30 in force at 5.12.2005 for certain purposes by [S.I. 2005/3175, art. 2\(6\)\(7\)](#); Sch. 30 in force at 5.12.2005 for certain purposes by [S.I. 2005/3255, art. 2\(1\), Sch.](#); Sch. 30 in force at 5.12.2005 for certain purposes by [S.S.I. 2005/604, art. 2\(d\)](#)

FAMILY PROVISION

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Inheritance (Provision for Family and Dependants) Act 1975 (c. 63)	In section 3(2), “and,” immediately following paragraph (b).

HOUSING AND TENANCIES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Housing Act 1980 (c. 51)	In section 54(2)(b), “or” at the end.
Housing Act 1985 (c. 68)	In each of sections 39(3)(c), 89(3)(a)(ii), 90(3)(a)(ii), 91(3)(b)(ii), 99B(2)(e)(ii), 101(3)(c)(ii) and 160(3)(c), and paragraph 1(2)(c)(iii) of Schedule 6A, “or” at the end.
Landlord and Tenant Act 1987 (c. 31)	In section 4(2)(c)(v), “or” at the end.
Housing Act 1988 (c. 50)	In paragraph 4(4)(c) of Schedule 11, “or” at the end.
Housing Act 1996 (c. 52)	In sections 15(6)(c), 133(3)(a)(ii), 134(2)(a)(ii) and 160(2)(e)(ii) and (3)(d)(ii), “or” at the end.

FAMILY HOMES AND DOMESTIC VIOLENCE

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Family Law Act 1996 (c. 27)	In section 63(1), the definition of “matrimonial home rights”. In Schedule 7, “or” at the end of paragraph 4(a) and paragraph 7(6). In Schedule 8, paragraphs 48(3), 53(2)(b) and 59(2)(b), and “and” immediately preceding paragraphs 53(2)(b) and 59(2)(b).

FAMILY PROVISION: NORTHERN IRELAND

<i>Title and number</i>	<i>Extent of revocation</i>
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Status: Point in time view as at 02/03/2015.

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Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979 (S.I. 1979/924 (N.I. 8))	In Article 5(2), “and” immediately following sub-paragraph (b).
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FAMILY HOMES AND DOMESTIC VIOLENCE: NORTHERN IRELAND

<i>Title and number</i>	<i>Extent of revocation</i>
Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6))	In Article 2(2), the definition of “matrimonial home rights”. In Schedule 2, “or” at the end of paragraph 4(1)(a).

DISCRIMINATION

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Sex Discrimination Act 1975 (c. 27)	Section 1(4).
Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15))	Article 3(4).

SOCIAL SECURITY, CHILD SUPPORT AND TAX CREDITS

<i>Short title and chapter</i>	<i>Extent of repeal or revocation</i>
Child Support Act 1991 (c. 48)	In section 8(11), “or” at the end of paragraph (e).
Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23))	In Article 10(11), “or” at the end of sub-paragraph (dd).
Social Security Contributions and Benefits Act 1992 (c. 4)	In section 37(4) “or” at the end of paragraph (a). In section 38(3), “or” at the end of paragraph (b). In section 39A(2) and (5), “or” at the end of paragraph (a). In section 39B(5), “or” at the end of paragraph (a). Section 85(1). In section 137(1), the definitions of “married couple” and “unmarried couple”.
Social Security Administration Act 1992 (c. 5)	In section 74A(5), the definitions of “married couple” and “unmarried couple”.
Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)	In section 37(4), “or” at the end of paragraph (a). In section 38(3), “or” at the end of paragraph (b). In section 39A(2) and (5), “or” at the end of paragraph (a). In section 39B(5), “or” at the end of paragraph (a).

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	Section 85(1). In section 133(1), the definitions of “married couple” and “unmarried couple”.
Social Security Administration (Northern Ireland) Act 1992 (c. 8)	In section 72A(5), the definitions of “married couple” and “unmarried couple”.
Jobseekers Act 1995 (c. 18)	In section 35(1), the definitions of “married couple” and “unmarried couple”.
Child Support Act 1995 (c. 34)	In section 10(7), the definitions of “married couple” and “unmarried couple”.
Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13))	In Article 4(7), the definitions of “married couple” and “unmarried couple”.
Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))	In Article 2(2), the definitions of “married couple” and “unmarried couple”.
State Pension Credit Act 2002 (c. 16)	In section 17(1), the definitions of “married couple” and “unmarried couple”.
Tax Credits Act 2002 (c. 21)	In section 48(1), the definitions of “married couple” and “unmarried couple”, and “and” at the end of the definition of “tax year”.
State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.))	In section 17(1), the definitions of “married couple” and “unmarried couple”.

MINOR AND CONSEQUENTIAL AMENDMENTS: GENERAL

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Judicial Proceedings (Regulation of Reports) Act 1926 (c. 61)	Section 1(5).
Marriage Act 1949 (c. 76)	Section 1(6) to (8).
Theft Act 1968 (c. 60)	In section 30(4), “or” at the end of paragraph (a)(i) to the proviso.
Consumer Credit Act 1974 (c. 39)	In section 184(5), “and” immediately before “references”.
Estate Agents Act 1979 (c. 38)	In section 32(3), “and” immediately before “references”.
Courts and Legal Services Act 1990 (c. 41)	In section 58A, “and” at the end of subsection (2)(f).
Family Law Act 1996 (c. 27)	In section 64, “or” at the end of subsection (1)(c).
Welfare Reform and Pensions Act 1999 (c. 30)	At the end of section 23(1)(a)(ii), “or”. At the end of section 24(b), “or”. In sections 28(7)(a) and (9), 34(1)(b)(i) and (2) and 48(6)(a) and (8) “matrimonial”.
Gender Recognition Act 2004 (c. 7)	In Schedule 4, paragraph 2.

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CONSEQUENTIAL AMENDMENTS: SCOTLAND

<i>Short title and chapter</i>	<i>Extent of repeal</i>
F334	F334
.....
Family Law (Scotland) Act 1985 (c. 37)	In section 10(2), first “matrimonial”.
Adults with Incapacity (Scotland) Act 2000 (asp 4)	In section 87, in subsection (1), in the definition of “nearest relative”, “; subject to subsection (2),” and subsections (2) and (3).

Textual Amendments

F334 Sch. 30: entry repealed (7.7.2011) by [Damages \(Scotland\) Act 2011 \(asp 7\)](#), ss. 16, 19(3), [sch. 2](#) (with ss. 17, 19(2)); S.S.I. 2011/268, [art. 3](#) (with art. 4)

MINOR AND CONSEQUENTIAL AMENDMENTS: NORTHERN IRELAND

<i>Title and number</i>	<i>Extent of revocation</i>
Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))	At the end of Article 22(b), “or”. In Article 31(1)(b)(i) and (2), “matrimonial”.

Status:

Point in time view as at 02/03/2015.

Changes to legislation:

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