

*These notes refer to the Civil Partnership Act 2004 (c.33)
which received Royal Assent on 18th November 2004*

CIVIL PARTNERSHIP ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Civil Partnership: England and Wales

Introduction

Chapter 3 – Property and financial arrangements

Section 65: Contribution by civil partner to property improvement

124. This section provides that where a civil partner has made a substantial contribution in money or money's worth to the improvement of property in which either or both the civil partners have an interest he or she is to be treated as having acquired a share or an enlarged share in that property. The extent of the share will be determined by any agreement made between the parties. Alternatively if there is no agreement, it will be determined by what may seem in all the circumstances just to any court before which the question of the existence or extent of the beneficial interest of either of the civil partners arises. The contributing civil partner will not be treated as acquiring a share or an enlarged share where there is an express or implied agreement between the parties to the contrary.

Section 66: Disputes between civil partners about property

125. This section enables civil partners to refer disputes over property to court. It provides that civil partners may apply to the High Court or to a county court in respect of any question relating to the title to or the possession of property. The court may make such order with respect to the property as it thinks fit, including an order for the sale of the property.

Section 67: Applications under section 66 where property not in possession etc.

126. This section allows one civil partner (A) to make an application under section 66 where the other civil partner (B) no longer has the money or property concerned or A does not know whether B still has the money or property. The power of the court to make orders under section 66 includes the power to order B to pay to A such sum of money as seems appropriate or to make any other order which it could have made under section 64.

Section 68: Applications under section 66 by former civil partners

127. This section allows a former civil partner to make an application to the court under section 66 in respect of a dispute over property despite the fact that the civil partnership has been dissolved or annulled. The application must be made within 3 years of the date of dissolution or annulment of the civil partnership.

Section 69: Actions in tort between civil partners

128. This section enables the court to stay proceedings in tort brought by one civil partner against the other during their civil partnership if it appears that neither party would substantially benefit from continuation of the proceedings, or where the issue could better be resolved by an application under section 66. It also enables the court to exercise any of the powers it could exercise under section 66 or give any directions as it thinks fit for the disposal, under that section, of any question arising in the proceedings.

Section 70: Assurance policy by civil partner for benefit of other civil partner etc.

129. This section extends the application of section 11 of the [Married Women's Property Act 1882 \(c.75\)](#) to civil partners, so that if a civil partner takes out a life insurance policy to provide for his or her civil partner or children the money payable under the policy is not to form part of the estate of the insured.

Section 71: Wills, administration of estates and family provision

130. This section introduces Schedule 4 which amends legislative provisions relating to wills, the administration of estates and family provision so that civil partners will receive the same treatment as married people.

Section 72: Financial relief for civil partners and children of the family

131. *Subsection (1)* introduces Schedule 5, which makes provision for financial relief for civil partners which corresponds to the relief available to married couples in the High Court or a county court under Part 2 of the Matrimonial Causes Act 1973 when they go through divorce, nullity or judicial separation proceedings.
132. *Subsection (2)* provides that if the effect of rules of law is that provisions for financial relief under Part 2 of the Matrimonial Causes Act 1973 are interpreted as being available in the case of the dissolution of a marriage on the ground of presumed death, then those rules of law will also apply to the corresponding financial provisions in Schedule 5 to the Act for civil partners, with any necessary modifications. This is to allow case law to be available to civil partners which allows for financial relief to be available if the person who was presumed dead is subsequently proved to be alive.
133. *Subsection (3)* introduces Schedule 6, which provides civil partners with the right to apply for financial relief in magistrates' courts in a way that corresponds to the rights that exist for married people under the [Domestic Proceedings and Magistrates Courts Act 1978 \(c.22\)](#).
134. *Subsection (4)* introduces Schedule 7, which contains provisions for financial relief in England and Wales after a civil partnership has been dissolved or annulled or the civil partners have been legally separated in a country outside the British Islands. "British Islands" is defined in the [Interpretation Act 1978 \(c. 30\)](#) as comprising the United Kingdom, the Channel Islands and the Isle of Man.