

**2005 No. 497**

**FAMILY PROCEEDINGS**

**SUPREME COURT**

**COUNTY COURTS**

**The Family Proceedings (Amendment No. 2) Rules  
(Northern Ireland) 2005**

*Made - - - - - 7th November 2005*

*Coming into operation 5th December 2005*

*To be laid before Parliament*

We, the Family Proceedings Rules Committee, in exercise of the powers conferred on us by Article 12 of the Family Law (Northern Ireland) Order 1993<sup>(a)</sup> hereby with the concurrence of the Lord Chancellor, make the following Rules:

**Citation, commencement and interpretation**

**1.**—(1) These Rules may be cited as the Family Proceedings (Amendment No. 2) Rules (Northern Ireland) 2005 and shall come into operation on 5th December 2005.

(2) In these Rules a reference to a rule or Appendix by number alone is a reference to the rule or Appendix so numbered in the Family Proceedings Rules (Northern Ireland) 1996<sup>(b)</sup> (“the 1996 Rules”) and a form referred to by letter and number means the form so designated in Appendix 1 to those Rules.

**Amendment to the 1996 Rules**

**2.** In the Arrangement of Rules—

(a) in the heading following Part II, after “Matrimonial Causes” insert “and Civil Partnership Causes”;

(b) after the entry relating to rule 2.6 insert—

“2.6A. Petition for nullity on ground of issue of interim gender recognition certificate.

“2.6B. Petition for nullity on ground that respondent’s gender had become acquired gender at time of marriage or civil partnership”;

(c) after the entry relating to rule 2.10 insert—

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(a) S.I. 1993/1576 (N.I. 6)

(b) S.R. 1996 No. 322 as amended by S.R. 1999 No. 88, S.R. 2000 No. 329, S.R. 2002 No. 137, S.R. 2003 No. 75 and S.R. 2005 No. 144

- “2.10A. Acknowledgement of service of petition for nullity brought on ground relating to gender recognition”;
- (d) for the entry relating to rule 2.12 substitute—  
“Consent to grant of decree or civil partnership order”;
- (e) after the entry relating to rule 2.14 insert—  
“2.14A. Answer praying for decree of nullity on ground of issue of interim gender recognition certificate.  
2.14B. Answer praying for decree of nullity on ground that petitioner’s gender had become acquired gender at time of marriage or civil partnership”;
- (f) after the entry relating to rule 2.15 insert—  
“2.15A. Reply to answer praying for decree of nullity on ground relating to gender recognition”;
- (g) for the entry relating to rule 2.23 substitute—  
“Re-transfer of cause to divorce county court or civil partnership proceedings county court”;
- (h) for the entry relating to rule 2.26 substitute—  
“Medical examination in proceedings for nullity of marriage”;
- (i) for the entry relating to rule 2.34 substitute—  
“Lists in the designated county courts”;
- (j) for the entry relating to rule 2.37 substitute—  
“Procedure for complying with Article 44 of the Order of 1978 or section 186 of the Act of 2004”;
- (k) for the entry relating to rule 2.42 substitute—  
“Evidence of marriage or overseas relationship outside Northern Ireland”;
- (l) for the entry relating to rule 2.47 substitute—  
“Application for rescission of decree or conditional order”;
- (m) for the entry relating to rule 2.48 substitute—  
“Application under Article 12(2) of the Order of 1978 or section 172(2) of the Act of 2004”;
- (n) for the entry relating to rule 2.51 substitute—  
“Rescission of decree nisi or conditional order by consent”;
- (o) for the entry relating to rule 2.52 substitute—  
“Decree absolute or final order on lodging notice”;
- (p) for the entry relating to rule 2.53 substitute—  
“Decree absolute or final order on application”;
- (q) after the entry relating to rule 2.54 insert—  
“2.54A. Indorsement and certificate of final order;  
2.54B. Application under section 6 of the Gender Recognition Act 2004(a)”;
- (r) for the entry relating to rule 2.70 substitute—  
“Request for periodical payments order at same rate as order for maintenance pending suit or maintenance pending outcome of proceedings”;
- (s) for the entry relating to rule 2.71 substitute—  
“Application for order under Article 39(2)(a) of the Order of 1978 or paragraph 67(2) of Schedule 15 to the Act of 2004”;
- (t) for the entry relating to rule 3.1 substitute—

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(a) 2004 c. 7

- “Application by spouse or civil partner for failure to maintain”;
- (u) for the entry relating to rule 3.7 substitute—
- “Application of other rules to proceedings under Article 37 or 38 of the Order of 1978 or under paragraphs 62 or 66 of Schedule 15 to the Act of 2004”;
- (v) for the entry relating to rule 3.9 substitute—
- “Transfer of certain tenancies on divorce etc., dissolution etc., of civil partnership or on separation of cohabitantes”;
- (w) after the entry relating to rule 3.10 insert—
- “3.10A. Application under section 181 of the Act of 2004 for declaration as to civil partnership status”;
- (x) for the entry relating to rule 3.11 substitute—
- “Procedure to be followed in relation to application under rules 3.10 and 3.10A”;
- (y) for the entry relating to rule 3.12 substitute—
- “Application for leave to apply for financial relief after overseas divorce or overseas dissolution etc., of a civil partnership”;
- (z) for the entry relating to rule 3.13 substitute—
- “Application for an order for financial relief or an avoidance of transaction order under Part IV of the Order of 1989 or under Schedule 17 to the Act of 2004”;
- (aa) for the entry relating to rule 3.14 substitute—
- “Application for an order under Article 28 of the Order of 1989 or under paragraph 17 of Schedule 17 to the Act of 2004 preventing transaction”;
- (bb) after the entry relating to rule 3.38 insert—
- “3.39. Reference under section 8(5) of the Gender Recognition Act 2004”;
- (cc) after the entry relating to rule 4.27 insert—
- “4.28. Stay under the Council Regulation”;
- (dd) after the entry relating to rule 5.3 insert—
- “5.4. Appeal under section 8(1) of the Gender Recognition Act 2004”;
- (ee) for the entry relating to rule 7.9 substitute—
- “Copies of decrees, civil partnership orders and other orders”;
- (ff) after the entry relating to rule 7.13 insert—
- “7.13A. Documents in family proceedings concerning gender recognition”;
- (gg) for the entry relating to rule 8.31 substitute—
- “Special provisions as to judgment summonses in designated county court”;
- (hh) for the entry relating to rule 8.32 substitute—
- “Removal of designated county court order into High Court”;
- (ii) in the entry relating to rule 8.41 (Application for recognition), after “recognition” insert “or non-recognition”;
- (jj) in the entry relating to rule 8.42 (Enforcement of judgments in other Contracting States), for “Enforcement” substitute “Recognition or enforcement”; and
- (kk) after the entry relating to rule 8.43 insert—
- “8.44. Service of a certificate under Article 41 of the Council Regulation;
- 8.45. Registration of a certificate issued under Article 41 of the Council Regulation;
- 8.46. Application by a party for transfer of proceedings to a court of another Member State;
- 8.47. Application by a court of another Member State for transfer of proceedings;
- 8.48. Rectification of a certificate issued under Article 41 of the Council Regulation”.

3. In rule 1.3 (Interpretation)—
- (a) in paragraph (1)—
- (i) after the definition of “the Order of 1999” insert—
    - ““the Act of 2004” means the Civil Partnership Act 2004(a);”;
  - (ii) in the definition of “ancillary relief”, after paragraph (c) insert—
    - “(ca) an order for maintenance pending outcome of proceedings;”;
  - (iii) for the definition of “avoidance of disposition order” substitute—
    - ““avoidance of disposition order” means—
      - (a) in matrimonial proceedings, an order under Article 39(2)(b) or (c) of the Order of 1978, and
      - (b) in civil partnership proceedings, an order under paragraph 67(3) or (4) of Schedule 15 to the Act of 2004;”;
  - (iv) for the definition of “cause” substitute—
    - ““cause” means—
      - (a) a matrimonial cause under the Order of 1978, or
      - (b) a civil partnership cause under the Act of 2004;”;
    - (v) for the definition of “child” and “child of the family” substitute—
      - ““child”, except in Part IV or Part IVB, in relation to one or both of the parties to a marriage or civil partnership, includes an illegitimate child of that party or, as the case may be, of both parties;
      - “child of the family” has, except in Part IV or Part IVB, the meaning assigned to it by Article 2(2) of the Order of 1995;”;
    - (vi) after the definition of “child of the family” insert—
      - ““civil partnership cause” has the meaning assigned to it by section 190(3) of the Act of 2004;
      - “civil partnership order” means one of the orders mentioned in section 161 of the Act of 2004;
      - “civil partnership proceedings” means any proceedings under the Act of 2004;
      - “civil partnership proceedings county court” means a county court so designated by the Lord Chancellor under section 188(4) of the Act of 2004;”;
    - (vii) for the definition of “consent order” substitute—
      - ““consent order” means—
        - (a) in matrimonial proceedings, an order under Article 35A of the Order of 1978, and
        - (b) in civil partnership proceedings, an order under paragraph 59 of Schedule 15 to the Act of 2004;”;
      - (viii) in the definition of “Contracting State”, for sub-paragraph (a) substitute—
        - “(a) one of the parties to the Council Regulation, that is to say, Belgium, Cyprus, Czech Republic, Germany, Greece, Spain, Estonia, France, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Austria, Poland, Portugal, Slovakia, Slovenia, Finland, Sweden and the United Kingdom, and”;
      - (ix) for the definition of “the Council Regulation” substitute—
        - ““the Council Regulation” means the Council Regulation (EC) No. 2201/2003 of 27th November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility;”;
      - (x) after the definition of “Department” insert—
        - ““designated county court” means a court designated as—
          - (a) a divorce county court, or

- (b) a civil partnership proceedings county court, or
- (c) both a divorce county court and a civil partnership proceedings county court;”;
- (xi) for the definition of “financial provision order” substitute—
  - ““financial provision order” means—
    - (a) in matrimonial proceedings, any of the orders mentioned in Article 23(1) of the Order of 1978 except an order under Article 29(6) of that Order, and
    - (b) in civil partnership proceedings, any of the orders mentioned in paragraph 2(1) of Schedule 15 to the Act of 2004, made under Part I of Schedule 15 to that Act;”;
- (xii) for the definition of “financial relief” substitute—
  - ““financial relief” has—
    - (a) in matrimonial proceedings, the meaning assigned to it by Article 39 of the Order of 1978, and
    - (b) in civil partnership proceedings, the meaning assigned to it by paragraph 67 of Schedule 15 to the Act of 2004;”;
- (xiii) after the definition of “Master” insert—
  - ““matrimonial cause” has the meaning assigned to it by Article 48(11) of the Order of 1978;”;
- (xiv) after the definition of “Office of Care and Protection” insert—
  - ““order for maintenance pending outcome of proceedings” means an order under paragraph 33 of Schedule 15 to the Act of 2004;”;
- (xv) after the definition of “person named” insert—
  - ““the President of Gender Recognition Panels” means the office in paragraph 2(1) of Schedule 1 to the Gender Recognition Act 2004;
- (xvi) for the definition of “property adjustment order” substitute—
  - ““property adjustment order” means—
    - (a) in matrimonial proceedings, any of the orders mentioned in Article 26(1) of the Order of 1978, and
    - (b) in civil partnership proceedings, any of the orders mentioned in paragraph 7(1) of Schedule 15 to the Act of 2004;”;
- (xvii) in the definition of “undefended cause”, in paragraph (b)(iv)—
  - (aa) after “decree”, the first time it appears, insert “or civil partnership order, as the case may be,”; and
  - (bb) after “decree”, the second time it appears, insert “or civil partnership order”;
- (xviii) for the definition of “variation order” substitute—
  - ““variation order” means—
    - (a) in matrimonial proceedings, an order under Article 33 of the Order of 1978, and
    - (b) in civil partnership proceedings, an order under Part 10 of Schedule 15 to the Act of 2004;”;
- (b) in paragraph (2), for “decree or order has been pronounced or made on the petition” substitute—
  - “decree, civil partnership order or other order has been pronounced or made on the petition, or it has been otherwise finally disposed of.”;
- (c) for paragraph (6) substitute—
  - “(6) In these Rules any references to a “county court” shall—
    - (a) in matrimonial proceedings, be construed as references to a divorce county court, and
    - (b) in civil partnership proceedings, be construed as references to a civil partnership proceedings county court.”; and
- (d) after paragraph (6) insert—

“(7) In these Rules—

- (a) a reference to a conditional order is a reference to an order made under Chapter 2 of Part 4 of the Act of 2004 of a kind mentioned in section 161(1)(a), (b) or (c) of that Act which has not been made final; and
- (b) a reference to a final order is a reference to such an order which has been made final.”.

4. In the heading for Part II, after “Matrimonial Causes” insert “and Civil Partnership Causes”.

5. In rule 2.1 (Application for leave to present a petition for nullity)—

- (a) in paragraph (1)—
  - (i) after “the Order of 1978” insert “or under section 175(3) of the Act of 2004”;
  - (ii) after “nullity” insert “of marriage or civil partnership”; and
  - (iii) after “date of the marriage” insert “or formation of the civil partnership”; and
- (b) in paragraph (2)—
  - (i) after “marriage” insert “or civil partnership”; and
  - (ii) in sub-paragraph (b), after “the Order of 1978” insert “or section 175(3) of the Act of 2004”.

6. In rule 2.3 (Cause to be begun by petition)—

- (a) in paragraph (1), after “the Order of 1978” insert “or under section 175(3) of the Act of 2004”; and
- (b) in paragraph (2)—
  - (i) after “nullity” insert “of marriage”; and
  - (ii) after “judicial separation” insert “, or for dissolution, nullity of civil partnership or separation,”.

7. In rule 2.6 (Presentation of petition)—

- (a) for paragraph (1) substitute—

“(1) A petition may be presented—

  - (a) in a matrimonial cause, to the High Court or, other than a petition under Article 21 of the Order of 1978, to any divorce county court, and
  - (b) in a civil partnership cause, to the High Court or, other than a petition under section 178 of the Act of 2004, to any civil partnership proceedings county court.”;
- (b) in paragraph (2), after “marriage” insert “or civil partnership”;
- (c) in paragraph (3)—
  - (i) for “Where” substitute “In a matrimonial cause, where”; and
  - (ii) for “disposed of by a final order” substitute “finally disposed of”;
- (d) after paragraph (3) insert—

“(3A) In a civil partnership cause, where there is before the court a petition which has not been dismissed or otherwise finally disposed of, another petition by the same petitioner in respect of the same civil partnership shall not be presented without leave granted on an application made in the pending proceedings:

Provided that no such leave shall be required where it is proposed, after the expiration of the period of 2 years from the date of the civil partnership, to present a petition for dissolution alleging such of the facts mentioned in section 168(5) of the Act of 2004 as were alleged in a petition for separation presented before the expiration of that period.”;

- (e) in paragraph (4), for “in Form M5 with Form M6 attached” substitute—
  - “(i) in a matrimonial cause, in Form M5 with Form M6 attached, and
  - (ii) in a civil partnership cause, in Form M5A with Form M6A attached,”; and
- (f) for paragraph (6) substitute—

“(6) C.C.R. Order 6, rule 10 (which deals with the service of petitions) shall not apply but on the filing of the petition the Master shall—

- (a) affix thereto the seal of the Matrimonial Office,
- (b) enter the cause in the appropriate records, and
- (c) annex to every copy of the petition for service a notice in Form M5 with Form M6 attached or in Form M5A with Form M6A attached, as the case may be,

and shall also annex to the copy petition for service on a respondent the copy of any statement and report filed pursuant to paragraph (4) of this rule.”.

**8. After rule 2.6 insert—**

**“Petition for nullity on ground of issue of interim gender recognition certificate**

**2.6A.**—(1) This rule applies to a petition—

- (a) for nullity of marriage under Article 14(g) of, or paragraph 18(1)(e) of Schedule 3 to, the Order of 1978, and
- (b) for nullity of civil partnership under section 174(1)(d) of the Act of 2004.

(2) The petitioner shall file with his petition a copy of an interim gender recognition certificate issued to him or to the respondent, as the case may be, unless otherwise directed on an application made ex parte.

(3) The proper officer or chief clerk, as the case may be, shall give notice in writing to the Secretary of State of a petition to which this rule applies when it is presented under rule 2.6.

(4) A notice in writing under paragraph (3) shall state the names of the parties to the petition, its case number and the court in which it is pending.

(5) Where a copy of an interim gender recognition certificate has been filed under paragraph (2), the notice given under paragraph (3) shall be accompanied by a copy of that certificate.

(6) Where a copy of the certificate has not been filed under paragraph (2), the notice given under paragraph (3) shall also state—

- (a) in a matrimonial cause—
  - (i) the names of the parties to the marriage and the date and place of the marriage, and
  - (ii) the last address at which the parties to the marriage lived together as husband and wife;
- (b) in a civil partnership cause—
  - (i) the names of the parties to the civil partnership and the date on and place at which the civil partnership was formed, and
  - (ii) the last address at which the parties to the civil partnership lived together as civil partners of each other; and
- (c) in any case, such further particulars as the proper officer or chief clerk, as the case may be, considers appropriate.

**Petition for nullity on ground that respondent’s gender had become acquired gender at time of marriage or civil partnership**

**2.6B.** Where a petition for nullity of marriage is brought under Article 14(h) of the Order of 1978 or a petition for nullity of civil partnership is brought under section 174(1)(e) of the Act of 2004 and a full gender recognition certificate has been issued to the respondent, the petitioner shall file a copy of that full certificate with his petition, unless otherwise directed on an application made ex parte.”.

**9. In rule 2.7 (Conciliation), in paragraph (1)—**

- (a) in sub-paragraph (a), after “judicial separation” insert “, or for dissolution, nullity of civil partnership or separation,”;

- (b) in sub-paragraph (b), after “the Order of 1978” insert “or section 186 of the Act of 2004”; and
- (c) after “to the marriage” insert “or civil partnership”.

**10.** In rule 2.9 (Service of petition), in paragraph (1), after “Form M5 with Form M6 attached” insert “or in Form M5A with Form M6A attached, as the case may be.”.

**11.** After rule 2.10 insert—

**“Acknowledgement of service of petition for nullity brought on ground relating to gender recognition**

**2.10A.**—(1) This rule applies where a petition for nullity of marriage is brought under—

- (a) Article 14(g) of, or paragraph 18(1)(e) of Schedule 3 to, the Order of 1978 and an interim gender recognition certificate has been issued to the respondent; or
- (b) Article 14(h) of the Order of 1978 and a full gender recognition certificate has been issued to the respondent.

(2) This rule also applies where a petition for nullity of civil partnership is brought under—

- (a) section 174(1)(d) of the Act of 2004 and an interim gender recognition certificate has been issued to the respondent; or
- (b) section 174(1)(e) of the Act of 2004 and a full gender recognition certificate has been issued to the respondent.

(3) Where the respondent returns an acknowledgement of service in Form M6 or Form M6A, as the case may be, to the court office, he shall file with it a copy of that interim certificate or that full certificate, as the case may be, unless otherwise directed on an application made ex parte.”.

**12.** In rule 2.10 (Proof of service), in paragraph (1)(a), after “Form M6” insert “or Form M6A”.

**13.** In rule 2.11 (Notice of intention to defend), in paragraph (1), after “Form M6” insert “or in Form M6A”.

**14.** In rule 2.12 (Consent to the grant of a decree)—

- (a) in the heading, after “decree” insert “or civil partnership order”;
- (b) in paragraph (1), after “decree”, in each place it appears, insert “or civil partnership order”;
- (c) in paragraph (2)—
  - (i) after “decree” insert “or civil partnership order”; and
  - (ii) for “none of the other facts mentioned in Article 3(2) of the Order of 1978” substitute “no other relevant fact”; and
- (d) after paragraph (2) insert—

“(3) In this rule a “relevant fact” is—

- (a) in a matrimonial cause, one of the facts mentioned in Article 3(2) of the Order of 1978, and
- (b) in a civil partnership cause, one of the facts mentioned in section 168(5) of the Act of 2004.”.

**15.** In rule 2.14 (Filing of answer to petition)—

- (a) in paragraph 1(c)—
  - (i) after “the Order of 1978” insert “or section 171(1) of the Act of 2004, as the case may be.”; and
  - (ii) after “decree” insert “or civil partnership order”;



- (b) in paragraph (3), after “the Order of 1978” insert “or under section 174(1)(b) of the Act of 2004”; and
- (c) in paragraph (4), for “divorce county court” substitute “designated county court”.

16. After rule 2.14 insert—

**“Answer praying for decree or order of nullity on ground of issue of interim gender recognition certificate**

**2.14A.**—(1) This rule applies to an answer under rule 2.14(1) which prays for—

- (a) a decree of nullity of marriage under Article 14(g) of, or paragraph 18(1)(e) of Schedule 3 to, the Order of 1978, and
- (b) an order for nullity of civil partnership under section 174(1)(d) of the Act of 2004.

(2) The respondent shall file with his answer a copy of an interim gender recognition certificate issued to him or to the petitioner, as the case may be, unless otherwise directed on an application made ex parte.

(3) The proper officer or chief clerk, as the case may be, shall give notice in writing to the Secretary of State of an answer to which this rule applies when it is filed.

(4) A notice in writing under paragraph (3) shall state the names of the parties to the petition, its case number and the court in which it is pending.

(5) Where a copy of an interim gender recognition certificate has been filed under paragraph (2), the notice under paragraph (3) shall be accompanied by a copy of that certificate.

(6) Where a copy of the certificate has not been filed under paragraph (2), the notice given under paragraph (3) shall also state—

- (a) in a matrimonial cause—
  - (i) the names of the parties to the marriage and the date and place of the marriage; and
  - (ii) the last address at which the parties to the marriage lived together as husband and wife; and
- (b) in a civil partnership cause—
  - (i) the names of the parties to the civil partnership and the date on and place at which the civil partnership was formed, and
  - (ii) the last address at which the parties to the civil partnership lived together as civil partners of each other; and
- (c) in any case, such further particulars as the proper officer or chief clerk, as the case may be, considers appropriate.

**Answer praying for decree or order of nullity on ground that petitioner’s gender had become acquired gender at time of marriage or civil partnership**

**2.14B.** Where an answer under rule 2.14(1) prays for a decree of nullity under Article 14(h) of the Order of 1978 or an order for nullity of civil partnership under section 174(1)(e) of the Act of 2004 and a full gender recognition certificate has been issued to the petitioner, the respondent shall file a copy of that full certificate with his answer, unless otherwise directed on an application made ex parte.”.

17. In rule 2.15 (Filing of reply and subsequent pleadings), in paragraph (2), after “decree” insert “or civil partnership order”.

18. After rule 2.15 insert—

**“Reply to answer praying for decree or order of nullity on ground relating to gender recognition**

**2.15A.**—(1) This rule applies where an answer is filed under rule 2.14(1) which prays for a decree of nullity of marriage under—

- (a) Article 14(g) of, or paragraph 18(1)(e) of Schedule 3 to, the Order of 1978 and an interim gender recognition certificate has been issued to the petitioner; or
- (b) Article 14(h) of the Order of 1978 and a full gender recognition certificate has been issued to the petitioner.

(2) This rule also applies where an answer is filed under rule 2.14(1) which prays for an order of nullity of civil partnership under—

- (a) section 174(1)(d) of the Act of 2004 and an interim gender recognition certificate has been issued to the petitioner; or
- (b) section 174(1)(e) of the Act of 2004 and a full gender recognition certificate has been issued to the petitioner.

(3) Where the petitioner files a reply under rule 2.15(1) to the answer, he shall file with it a copy of that interim certificate or that full certificate, as the case may be, unless otherwise directed on an application made ex parte.”.

**19.** In rule 2.17 (Contents of answer and subsequent pleadings)—

- (a) in paragraph (1), after “husband or wife” insert “or a civil partner, as the case may be”; and
- (b) in paragraph (2)—
  - (i) after “husband or wife” insert “or a civil partner”; and
  - (ii) after “(g)” insert “, (ga)”.

**20.** In rule 2.21 (Service and amendment of pleadings), after “matrimonial proceedings” insert “or civil partnership proceedings”.

**21.** In rule 2.23 (Re-transfer of cause to divorce county court)—

- (a) in the heading, for “divorce county court” substitute “designated county court”; and
- (b) in paragraph (1), for “divorce county court” substitute “designated county court”.

**22.** In rule 2.26 (Medical examination in proceedings for nullity), in the heading, after “nullity” insert “of marriage”.

**23.** In rule 2.28 (Entry for hearing and certificate of readiness)—

- (a) in paragraph (1)(c), after “nullity” insert “of marriage”; and
- (b) in paragraph (2), for “divorce county court” substitute “designated county court”.

**24.** After rule 2.29 insert—

**“Stay under the Family Proceedings (Civil Partnership: Staying of Proceedings) Rules (Northern Ireland) 2005**

**2.29AA.**—(1) An application to the court by the petitioner or respondent in proceedings for a dissolution order for an order under rule 3 of the Staying of Proceedings Rules shall be made to the Master who may determine the application or refer the application, or any question arising thereon, to the judge for his decision as if the application were an application for ancillary relief.

(2) An application for an order under rule 4 of the Staying of Proceedings Rules shall be made to the judge.

(3) Where on the lodgement of the certificate of readiness, it appears to the Master from any information given pursuant to paragraph 1(l) of Appendix 2 or rule 2.17(4) or paragraph (4) of this rule that any proceedings which are in respect of the civil partnership in question or which are capable of affecting its validity or subsistence are continuing in any country

outside Northern Ireland and he considers that the question whether the proceedings on the petition should be stayed under rule 4 of the Staying of Proceedings Rules ought to be determined by the court, he shall before proceeding under rule 2.32 fix a date and time for the consideration of that question by the judge and give notice thereof to all parties.

(4) Any party who lodges a certificate of readiness in civil partnership proceedings within the meaning of rule 1(2) of the Staying of Proceedings Rules shall, if there has been a change in the information given pursuant to paragraph 1(l) of Appendix 2 and rule 2.15(4), file a statement giving particulars of the change.

(5) An application by a party to the proceedings for an order under rule 5 of the Staying of Proceedings Rules may be made to the Master, and he may determine the application or may refer the application, or any question arising thereon, to the judge as if the application were an application for ancillary relief.

(6) In this rule—

- (a) the Staying of Proceedings Rules means the Family Proceedings (Civil Partnership: Staying of Proceedings) Rules (Northern Ireland) 2005(a); and
- (b) in paragraph (3), the reference to “proceedings continuing in any country outside Northern Ireland” has the same meaning as in paragraph 1(l) of Appendix 2.”.

**25.** In rule 2.29A (Stay under Council Regulation)—

- (a) in paragraph (1), for “Article 11” substitute “Article 19”;
- (b) in paragraph (2), for “Articles 9, 10 or 11” substitute “Articles 16 to 19”;
- (c) in paragraph (3), for “Articles 9, 10 or 11” substitute “Articles 16 to 19”; and
- (d) in paragraph (4)—
  - (i) for “An order under Article 9” substitute “A declaration under Article 17”; and
  - (ii) for “Article 11” substitute “Article 19”.

**26.** In rule 2.30 (Mode and place of trial), in paragraph (2), for “divorce county court” substitute “designated county court”.

**27.** In rule 2.31 (Setting down for trial), in paragraph (3), for “divorce county court” substitute “designated county court”.

**28.** In rule 2.32 (Order for transfer of cause), in paragraph (1), for “divorce county court” substitute “designated county court”.

**29.** In rule 2.34 (Lists in the divorce county court), in the heading, for “divorce county court” substitute “designated county court”.

**30.** In rule 2.35 (Right to be heard on ancillary questions), in paragraph (4)—

- (a) after “judicial separation” insert “or after a conditional order of dissolution or an order of separation,”; and
- (b) after “the decree” insert “or civil partnership order, as the case may be,”.

**31.** In rule 2.36 (Respondent’s statement as to arrangements for children), in paragraph (2), after “the Order of 1978” insert “or section 186(1) of the Act of 2004, as the case may be”.

**32.** In rule 2.37 (Procedure for complying with Article 44 of the Order of 1978)—

- (a) in the heading, after “the Order of 1978” insert “or section 186 of the Act of 2004”;
- (b) in paragraph (1), after “the Order of 1978” insert “or section 186(1) of the Act of 2004, as the case may be,”;
- (c) in paragraph (2)—
  - (i) for sub-paragraph (a) substitute—

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- “(a) there are no children of the family to whom—
    - (i) in a matrimonial cause, Article 44 of the Order of 1978 applies; or
    - (ii) in a civil partnership cause, section 186 of the Act of 2004 applies, or”; and
  - (ii) in sub-paragraph (b), for “any directions under Article 44 of the Order of 1978” substitute “a relevant direction”;
  - (d) in paragraph (3), for “Article 44 of the Order of 1978” substitute “his power to give a relevant direction”;
  - (e) in paragraph (4), for “direction under Article 44(2) of the Order of 1978” substitute “relevant direction”; and
  - (f) for paragraph (5) substitute—
    - “(5) In this rule—
      - (a) parties means the petitioner, the respondent and any person who appears to the court to have the care of the child; and
      - (b) “relevant direction” means a direction—
        - (i) in a matrimonial cause, under Article 44(2) of the Order of 1978, and
        - (ii) in a civil partnership cause, under section 186(2) of the Act of 2004.”.
- 33.** In rule 2.39 (Restoration of matters adjourned, etc., at the hearing), in paragraph (2)—
- (a) after “judicial separation” insert “, or for dissolution, nullity of civil partnership or separation,”; and
  - (b) after “the Order of 1978” insert “or under section 186(2) of the Act of 2004”.
- 34.** In rule 2.42 (Evidence of marriage outside Northern Ireland)—
- (a) in the heading, after “marriage” insert “or overseas relationship”;
  - (b) after paragraph (1) insert—
    - “(1A) The formation of an overseas relationship other than a marriage, outside Northern Ireland and its validity under the law of the country where it was formed may, in any family proceedings in which the existence and validity of that relationship is not disputed, be proved by the evidence of one of the parties to it and the production of a document purporting to be—
      - (a) a certificate or similar document issued under the law in force in that country evidencing its formation; or
      - (b) a certified copy of an entry in a register of such relationships kept under the law in force in that country.”;
  - (c) in paragraph (2), after “(1)” insert “or (1A)”;
  - (d) in paragraph (3), after “marriage” insert “or the existence of an overseas relationship which is not a marriage”.
  - (e) After paragraph (3) insert—
    - “(4) In this rule, an “overseas relationship” has the same meaning as in section 212 of the Act of 2004.”.
- 35.** In rule 2.44 (Issue of writ of subpoena or witness summons), in paragraph (2), for “divorce county court” substitute “designated county court”.
- 36.** In rule 2.45 (Hearsay and expert evidence), in paragraph (3), for “divorce county court” substitute “designated county court”.
- 37.** In rule 2.46 (Decrees and orders)—
- (a) in paragraph (1)—
    - (i) for “every order made in open court” substitute “every civil partnership order, every other order made in open court”; and
    - (ii) in sub-paragraph (b), for “divorce county court” substitute “designated county court”; and

- (b) in paragraph (2)—
    - (i) after “decree” insert “or civil partnership order”; and
    - (ii) for “divorce county court” substitute “designated county court”.
- 38.** In rule 2.47 (Application for rescission of decree)—
- (a) in the heading, after “decree” insert “or conditional order”; and
  - (b) for paragraph (1), substitute—
    - “(1) An application by a respondent—
    - (a) under Article 12(1) of the Order of 1978 for the rescission of a decree of divorce, or
    - (b) under section 172(1) of the Act of 2004 for the rescission of a conditional order of dissolution,

shall be made to a judge and shall be heard in open court.”.
- 39.** In rule 2.48 (Application under Article 12(2) of the Order of 1978)—
- (a) in the heading, after “the Order of 1978” insert “or section 172(2) of the Act of 2004”;
  - (b) in paragraph (1)—
    - (i) after “for divorce” insert “or dissolution”; and
    - (ii) for “the divorce” substitute “that divorce or dissolution”;
  - (c) in paragraph (5), after “the Order of 1978” insert “or section 172(2) of the Act of 2004”;
  - (d) in paragraph (7), for “A statement of any of the matters” substitute “In a matrimonial cause, a statement of any of the matters”; and
  - (e) after paragraph (7) insert—
    - “(7A) In a civil partnership cause, a statement of any of the matters mentioned in section 172(4) of the Act of 2004 with respect to which the court is satisfied and a statement that the conditions for which that sub-section and section 172(5) provide have been fulfilled shall be entered in the court records.”.
- 40.** In rule 2.49 (Intervention to show cause by the Crown Solicitor)—
- (a) for paragraph (1) substitute—
    - “(1) If the Crown Solicitor wishes to show cause why—
    - (i) a decree nisi should not be made absolute, or
    - (ii) a conditional order should not be made final,

he shall give notice to that effect to the proper officer or chief clerk, as the case may be, and to the party in whose favour it was pronounced, and, if the cause is pending in a designated county court, the Master shall thereupon order it to be transferred to the High Court.”;
  - (b) in paragraph (2)—
    - (i) after “the decree”, the first time it appears, insert “or civil partnership order, as the case may be,”; and
    - (ii) for “the decree”, the second time it appears, substitute “that decree or order”;
  - (c) in paragraph (5), after “decree nisi” insert “or conditional order”;
  - (d) in paragraph (6)—
    - (i) after “decree nisi” insert “or the conditional order”; and
    - (ii) after “decree absolute” insert “or the conditional order final”;
  - (e) in paragraph (7)—
    - (i) after “decree nisi” insert “or the conditional order”; and
    - (ii) after “decree” insert “or conditional order, as the case may be,”; and
  - (f) in paragraph (8)—
    - (i) after “the decree” insert “or order”; and
    - (ii) in sub-paragraph (a), after “decree nisi” insert “or the conditional order, as the case may be”.

- 41.** In rule 2.50 (Intervention to show cause by person other than Crown Solicitor)—
- (a) for paragraph (1) substitute—
    - “(1) If any person other than the Crown Solicitor wishes to show cause—
    - (a) under Article 11 of the Order of 1978 why a decree nisi should not be made absolute, or
    - (b) under section 164 of the Act of 2004 why a conditional order should not be made final,

he shall file an affidavit stating the facts on which he relies and a copy shall be served on the party in whose favour the decree or conditional order, as the case may be, was pronounced.”;

  - (b) in paragraph (7), after “decree” insert “or conditional order, as the case may be,”; and
  - (c) in paragraph (9), for “divorce county court” substitute “designated county court”.
- 42.** In rule 2.51 (Rescission of decree nisi by consent)—
- (a) in the heading, after “decree nisi” insert “or conditional order”;
  - (b) for paragraph (1) substitute—
    - “(1) Where a reconciliation has been effected between the petitioner and the respondent—
    - (a) in a matrimonial cause—
      - (i) after a decree nisi has been pronounced but before it has been made absolute, or
      - (ii) after a decree of judicial separation has been pronounced; and
    - (b) in a civil partnership cause—
      - (i) after a conditional order has been made but before it has been made final, or
      - (ii) after a separation order has been made,

either party may apply for an order rescinding that decree or order by consent.”; and
  - (c) in paragraph (2)—
    - (i) for “divorce county court” substitute “designated county court”;
    - (ii) after “spouse” insert “or civil partner, as the case may be,”; and
    - (iii) after “decree” insert “or civil partnership order”.
- 43.** In rule 2.52 (Decree absolute on lodging notice)—
- (a) in the heading, after “Decree absolute” insert “or final order”;
  - (b) for paragraph (1) substitute—
    - “(1) Subject to rule 2.53(1), an application by—
    - (a) a spouse to make absolute a decree nisi pronounced in his favour, or
    - (b) a civil partner to make final a conditional order made in his favour,

may be made by lodging with the proper officer or chief clerk, as the case may be, notice in Form M10.”;
  - (c) in paragraph (2)—
    - (i) in sub-paragraph (a), after “decree”, in each place it appears, insert “or the conditional order”;
    - (ii) in sub-paragraph (b), after “decree” insert “or the conditional order”;
    - (iii) in sub-paragraph (e), at the beginning of the sub-paragraph insert “if the cause is a matrimonial cause,”;
    - (iv) after sub-paragraph (e) insert—
      - “(ea) if the cause is a civil partnership cause, that the court has complied with section 186(1) of the Act of 2004 and has not given any direction under section 186(2) of that Act;”;
    - (v) in sub-paragraph (f)—

- (aa) after “decree” insert “or the conditional order, as the case may be”; and
- (bb) in head (iii) omit “and”;
- (vi) in sub-paragraph (g)—
  - (aa) at the beginning insert “if the cause is a matrimonial cause,”; and
  - (bb) for “with,” substitute “with”;
- (vii) after sub-paragraph (g) insert—
  - “(h) if the cause is a civil partnership cause, that the provisions of section 172(2) to (5) of the Act of 2004 do not apply or have been complied with;
  - (i) where the decree nisi was pronounced on the ground in Article 14(g) of, or paragraph 18(1)(e) of Schedule 3 to, the Order of 1978—
    - (i) that there is not pending a reference under section 8(5) of the Gender Recognition Act 2004 in respect of the application on which the interim gender recognition certificate to which the petition relates was granted;
    - (ii) that that interim certificate has not been revoked under section 8(6)(b) of that Act; and
    - (iii) that no appeal is pending against an order under section 8(6)(a) of that Act.”.
- (viii) after “decree absolute”, the first time it appears, insert “or the conditional order final”; and
- (ix) in the part of paragraph (2) which begins “Provided that”—
  - (aa) after “decree nisi” insert “or the conditional order”; and
  - (bb) after “decree absolute” insert “or the conditional order final”.

**44.** In rule 2.53 (Decree absolute on application)—

- (a) in the heading, after “Decree absolute” insert “or final order”;
- (b) in paragraph (1)—
  - (i) after “decree nisi to be made absolute” insert “or a conditional order to be made final”;
  - (ii) in sub-paragraph (a)—
    - (aa) at the beginning of the sub-paragraph insert “in a matrimonial cause”; and
    - (bb) omit the word “or”;
  - (iii) after sub-paragraph (a) insert—
    - “(aa) in a civil partnership cause where, within 6 weeks after a conditional order has been pronounced, the Crown Solicitor gives to the proper officer or chief clerk, as the case may be, and to the party in whose favour the conditional order was made a notice that he requires more time to decide whether to show cause against the conditional order being made final and the notice has not been withdrawn, or”;
  - (iv) in sub-paragraph (b), after “made absolute” insert “or the conditional order is made final”;
  - (v) after “sub-paragraph (a)” insert “or (aa)”;
- (c) for paragraph (2) substitute—
  - “(2) An application—
    - (a) by a spouse for a decree nisi pronounced against him to be made absolute may be made to the judge or the Master by summons to be served on the other spouse not less than 7 clear days before the day on which the application is to be heard, or
    - (b) by a civil partner for a conditional order pronounced against him to be made final may be made to the judge or the Master by summons to be served on the other civil partner not less than 7 clear days before the day on which the application is heard.”.

**45.** After rule 2.54 insert—

**“Indorsement and certificate of final order**

**2.54A.**—(1) Where a conditional order is made final, the Master shall make an indorsement to that effect on the order, stating the precise time at which it was made final.

(2) On a conditional order being made final, the proper officer or chief clerk, as the case may be, shall—

- (a) send to the petitioner and respondent a certificate in Form M11A or M12A, authenticated by the appropriate seal, and
- (b) if the case is pending in a civil partnership proceedings county court, notify the Matrimonial Office.

(3) A certificate in Form M11A or M12A that a conditional order has been made final shall be issued to any person requiring it on payment of the prescribed fee.

(4) A central index of final orders shall be kept in the Matrimonial Office and any person shall be entitled to require a search to be made therein, and to be furnished with a certificate of the result of the search, on payment of the prescribed fee.

**Application under section 6 of the Gender Recognition Act 2004**

**2.54B.**—(1) This rule applies to an application made under section 6(1) of the Gender Recognition Act 2004 in respect of a full gender recognition certificate issued by a court under section 5(1) of that Act.

(2) The application shall be made to the court which issued the certificate, unless otherwise directed.

(3) Where the applicant is—

- (a) the person to whom the certificate was issued, the Secretary of State shall be a respondent;
- (b) the Secretary of State, the person to whom the certificate was issued shall be a respondent.

(4) Where the court issues a corrected gender recognition certificate under section 6(4) of the Gender Recognition Act 2004, the proper officer or chief clerk, as the case may be, shall send a copy of the corrected certificate to the Secretary of State.”.

**46.** In rule 2.55 (Application by petitioner or respondent for ancillary relief), after paragraph (1)(a) insert—

“(aa) an order for maintenance pending outcome of proceedings.”.

**47.** In rule 2.57 (Application in Form M13 or M14), in paragraph (a), for “divorce county court” substitute “designated county court”.

**48.** In rule 2.58 (Application for ancillary relief after order of court of summary jurisdiction), after “spouse” insert “, civil partner”.

**49.** In rule 2.59 (Children to be separately represented on certain applications), in paragraph (1), for “divorce county court” substitute “designated county court”.

**50.** In rule 2.60 (General provisions as to evidence, etc, on application for ancillary relief) in paragraph (1), after “spouse” insert “or civil partner”.

**51.** In rule 2.61 (Evidence on application for property adjustment or avoidance of disposition order), in paragraph (2), for sub-paragraph (b) substitute—

“(b) in the case of an application for a variation of settlement order—

(i) of all settlements—

- (a) in a matrimonial cause, whether ante-nuptial or post-nuptial, made on the spouses, or



- (b) in a civil partnership cause, whether prior to or after the formation of the civil partnership, and
  - (ii) of the funds brought into settlement by each spouse or civil partner, as the case may be;”
- 52.** In rule 2.67 (Transfer of application for ancillary relief: general provisions)—
  - (a) for “county court”, in each place it appears, substitute “designated county court”; and
  - (b) in paragraph (6), after “decree nisi” insert “or conditional order”.
- 53.** In rule 2.68 (Transfer for purpose of expedition), for “divorce county court” in each place it appears, substitute “designated county court”.
- 54.** In rule 2.69 (Arrangements for hearing of application etc by judge)—
  - (a) in paragraph (3) for “Where” substitute “In a matrimonial cause, where”; and
  - (b) after paragraph (3) insert—
    - “(4) In a civil partnership cause, where an application is proceeding in a civil partnership proceedings county court, the hearing or consideration may be transferred to such county court as, in the opinion of the Master, is the most convenient.”.
- 55.** In rule 2.70 (Request for periodical payments order at same rate as order for maintenance pending suit)—
  - (a) in the heading, after “maintenance pending suit” insert “or outcome of proceedings”; and
  - (b) in paragraph (1)—
    - (i) after “nullity of marriage” insert “or a conditional order of dissolution or nullity of civil partnership”; and
    - (ii) after “maintenance pending suit”, the first time it appears, insert “or maintenance pending outcome of proceedings, as the case may be,”; and
    - (iii) after “maintenance pending suit”, the second time it appears, insert “or outcome of proceedings”;
  - (c) in paragraph (2), after “spouse” insert “or civil partner, as the case may be,”; and
  - (d) in paragraph (3), after “spouse”, in each place it appears, insert “or civil partner”.
- 56.** In rule 2.71 (Application for order under Article 39(2)(a) of the Order of 1978)—
  - (a) in the heading, after “the Order of 1978” insert “or paragraph 67(2) of Schedule 15 to the Act of 2004”; and
  - (b) in paragraph (1), after “the Order of 1978” insert “or paragraph 67(2) of Schedule 15 to the Act of 2004”.
- 57.** In rule 2.72 (Consent orders), in paragraph (1)—
  - (a) after “the Order of 1978” insert “or Parts 1, 2, 3 and 8 of Schedule 15 to the Act of 2004”;
  - (b) in sub-paragraph (a), after “marriage” insert “or civil partnership”;
  - (c) for sub-paragraph (d) substitute—
    - “(d) whether either party has subsequently married or formed a civil partnership or has any present intention to do so or to cohabit with another person;”;
  - (d) in sub-paragraph (dd), after “the Order of 1978” insert “or under paragraphs 10, 20 and 21 of Schedule 15 to the Act of 2004”.
- 58.** In rule 2.73 (Pensions)—
  - (a) for paragraph (2) substitute—
    - “(2) Within seven days of the notice in Form M13 or M15, as the case may be, having been filed—
      - (a) in a matrimonial cause, the party with pension rights, and
      - (b) in a civil partnership cause, the civil partner with pension rights,

shall request the person responsible for each pension arrangement under which he has or is likely to have benefits to furnish the information referred to in regulation 2(2) and (3)(b) to (f) of the Pensions on Divorce etc (Provision of Information) Regulations (Northern Ireland) 2000<sup>(a)</sup>”;

- (b) in paragraph (3)—
  - (i) after “the party with pension rights” insert “or the civil partner with pension rights, as the case may be,”; and
  - (ii) after “other party” insert “or other civil partner”;
- (c) in paragraph (4), after “the party with pension rights” insert “or the civil partner with pension rights”;
- (d) in paragraph (6), for “including provision to be made under Article 26A (pension sharing) of the Order of 1978, or upon adding a request for such provision” substitute “which includes a request for a pension sharing order or upon adding such a request”;
- (e) in paragraph (7)—
  - (i) for “including the provision to be made under Article 27B or 27C (pension attachment) of the Order of 1978, or upon adding a request for such provision” substitute “which includes a request for a pension attachment order, or upon adding such a request”; and
  - (ii) in sub-paragraph (b), after “the Divorce etc. (Pensions) Regulations (Northern Ireland) 2000” insert “or the Dissolution etc. (Pensions) Regulations (Northern Ireland) 2005<sup>(b)</sup>, as the case may be,”;
- (f) in paragraph (8)—
  - (i) for “the applicant”, the first time it appears, substitute “the party with pension rights or the civil partner with pension rights, as the case may be,”; and
  - (ii) for “the applicant”, the second time it appears, substitute “that party or civil partner”;
- (g) in paragraph (9), for “the applicant” substitute “the party with pension rights or the civil partner with pension rights, as the case may be,”;
- (h) in paragraph (10), for “the applicant” substitute “the party with pension rights or the civil partner with pension rights, as the case may be,”;
- (i) in paragraph (11)—
  - (i) omit the words “to the marriage”;
  - (ii) for “including provision under Article 26A (pension sharing) of the Order of 1978” substitute “which includes a pension sharing order”;
- (j) in paragraph (12), for “including provision under Article 27B or 27C (pension attachment) of the Order of 1978” substitute “which includes a pension attachment order”;
- (k) in paragraph (14), for “including provision under Article 26A (pension sharing), 27B or 27C (pension attachment) of the Order of 1978” substitute “which includes a pension sharing order or a pension attachment order”;
- (l) in paragraph (15)—
  - (i) for “Where provision is made under Article 26A (pension sharing) of the Order of 1978” substitute “Where an order for ancillary relief includes provision by way of pension sharing”;
  - (ii) in sub-paragraph (b), after “the Order of 1978” insert “or Part 3 of Schedule 15 to the Act of 2004”;
  - (iii) in sub-paragraph (h), for “under Article 26A of the Order of 1978” substitute “by way of pension sharing”; and
  - (iv) in sub-paragraph (j), for head (ii) substitute—
    - “(ii) in a matrimonial cause, the decree of divorce or nullity of marriage or, in a civil partnership cause, the conditional order of dissolution or nullity of the civil partnership.”;
- (m) in paragraph (16)—

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- (i) for “Where provision is made under Article 27B or 27C (pension attachment) of the Order of 1978” substitute “Where an order for ancillary relief includes provision by way of pension attachment”;
- (ii) in sub-paragraph (b), after “the Order of 1978” insert “or paragraph 20 or 21 of Schedule 15 to the Act of 2004”;
- (iii) in sub-paragraph (c)—
  - (aa) after “the party with pension rights” insert “or the civil partner with pension rights”; and
  - (bb) after “the other party” insert “or other civil partner”;
- (iv) in sub-paragraph (d), after “the party with pension rights” insert “or the civil partner with pension rights”;
- (v) in sub-paragraph (e), after “the party with pension rights” insert “or the civil partner with pension rights”;
- (vi) in sub-paragraph (f)—
  - (aa) after “the Order of 1978” insert “or paragraph 20(2) of Schedule 15 to the Act of 2004”; and
  - (bb) after “the party with pension rights” insert “or the civil partner with pension rights”; and
  - (cc) after “the other party” insert “or other civil partner”;
- (vii) in sub-paragraph (g), after “the Order of 1978” insert “or paragraph 20 or 21 of Schedule 15 to the Act of 2004”;
- (viii) in sub-paragraph (h), after “Divorce etc. (Pensions) Regulations 2000” insert “or the other civil partner under The Dissolution etc. (Pensions) Regulations (Northern Ireland) 2005”;
- (ix) in sub-paragraph (i)—
  - (aa) after “the other party” insert “or the other civil partner”; and
  - (bb) omit “and”; and
- (x) in sub-paragraph (j), after “the other party” insert “or the other civil partner”.
- (n) in paragraph (17)—
  - (i) for “an order including provision under Article 26A, 27B or 27C of the Order of 1978” substitute “a pension sharing order or a pension attachment order”;
  - (ii) after “send” insert “, or direct one of the parties to send”;
  - (iii) for sub-paragraph (a) substitute—
    - “(a) a copy of—
      - (i) the making of the relevant pension sharing or pension attachment order; or
      - (ii) in a civil partnership cause, the conditional order of dissolution, nullity of civil partnership or the order of separation;”; and
  - (iv) for sub-paragraph (b) substitute—
    - “(b) in the case of—
      - (i) divorce or nullity of marriage, a copy of the certificate under rule 2.54 that the decree has been made absolute; or
      - (ii) dissolution or nullity of civil partnership, a copy of the certificate under rule 2.54 that the conditional order has been made final; and”;
- (o) for paragraph (18) substitute—
  - “(18) The documents referred to in paragraph (17) shall be sent—
    - (a) in a matrimonial cause, within 7 days after—
      - (i) the making of the relevant order; or
      - (ii) the decree absolute of divorce or nullity or decree of judicial separation, whichever is the later; and
    - (b) in a civil partnership cause, within 7 days after—
      - (i) the making of the relevant order; or
      - (ii) the final order of dissolution or nullity or order of separation, whichever is the later.”;

- (p) in paragraph (19)—
  - (i) in sub-paragraph (a)—
    - (aa) at the beginning insert “in a matrimonial cause,”; and
    - (bb) omit “and”;
  - (ii) after sub-paragraph (a) insert—
    - “(aa) in a civil partnership cause, all the words and phrases defined in paragraphs 11(4) and (5) and 24 of Schedule 15 to the Act of 2004 have the meanings assigned by those paragraphs;”;
  - (iii) after sub-paragraph (b) insert—
    - “(c) pension sharing order means—
      - (i) in a matrimonial cause, an order making provision under Article 26A of the Order of 1978; and
      - (ii) in a civil partnership cause, an order making provision under paragraph 10 of Schedule 15 to the Act of 2004; and
    - (d) pension attachment order means—
      - (i) in a matrimonial cause, an order making provision under Article 27B or 27C of the Order of 1978; and
      - (ii) in a civil partnership cause, an order making provision under paragraphs 20 and 21 of Schedule 15 to the Act of 2004.”.

**59.** In rule 3.1 (Application by spouse for failure to maintain)—

- (a) in the heading, after “spouse” insert “or civil partner”;
- (b) in paragraph (1), for the words from “An application” to “the marriage” substitute—
  - “An application under Article 29 of the Order of 1978 by a party to a marriage or under Part 8 of Schedule 15 to the Act of 2004 by a party to a civil partnership who alleges that the other party to the marriage or the civil partnership, as the case may be”;
- (c) in paragraph (2)—
  - (i) in sub-paragraph (a), after “date of the marriage” insert “, or the names of the parties to the civil partnership and the place at and date on which they formed their civil partnership, as the case may be;”;
  - (ii) in sub-paragraph (c)—
    - (aa) after “marriage”, the first time it appears, insert “or civil partnership”;
    - (bb) for “marriage”, the second time it appears, substitute “family”;
    - (cc) for “decree or order”, in each place it appears, substitute “decree, civil partnership order or other order”;
    - (dd) after “marriage”, the third time it appears, insert “or civil partnership”;
- (d) in paragraph (5), for “Where” substitute “In matrimonial proceedings, where”.

**60.** In rule 3.2 (Transfer to High Court of applications under rule 3.1), for “divorce county court” substitute “designated county court”.

**61.** In rule 3.3 (Hearing of applications under rule 3.1)—

- (a) in paragraph (1), after “the Order of 1978” insert “or Part 8 of Schedule 15 to the Act of 2004”; and
- (b) in paragraph (2), for “divorce county court” substitute “designated county court”;
- (c) in paragraph (3)—
  - (i) after “the Order of 1978” insert “or paragraph 34(3) of Schedule 15 to the Act of 2004, as the case may be;” and
  - (ii) after “marriage” insert “or civil partnership”;
- (d) in paragraph (6), after “the Order of 1978” insert “or Part 8 of Schedule 15 to the Act of 2004, as the case may be.”.

**62.** In rule 3.4 (Application for alteration of maintenance agreement during lifetime of parties)—

- (a) in paragraph (1), after “the Order of 1978” insert “or under paragraph 62 of Schedule 15 to the Act of 2004”;
- (b) in paragraph (3)—
  - (i) for sub-paragraph (b) substitute—
    - “(b) the date and place of the marriage between the parties to the agreement, or the place at and date on which they formed their civil partnership, as the case may be;”; and
  - (ii) in sub-paragraph (d), after “to the marriage” insert “or civil partnership, as the case may be,”.

**63.** In rule 3.5 (Application for alteration of maintenance agreement after death of one party)—

- (a) in paragraph (1), after “the Order of 1978” insert “or under paragraph 66 of Schedule 15 to the Act of 2004”; and
- (b) in paragraph (4)—
  - (i) for sub-paragraph (b) substitute—
    - “(b) the place and date of the marriage between the parties to the agreement, or the place at and date on which they formed their civil partnership, as the case may be;”; and
  - (ii) in sub-paragraph (d)—
    - (aa) after “to the marriage” insert “or civil partnership, as the case may be,”; and
    - (bb) for “order or decree” substitute “order, decree or civil partnership order”.

**64.** In rule 3.7 (Application of other rules to proceedings under Article 37 or 38 of the Order of 1978)—

- (a) in the heading, after “the Order of 1978”, insert “or paragraph 62 or 66 of Schedule 15 to the Act of 2004”; and
- (b) in paragraph (1), after “the Order of 1978” insert “or paragraph 62 or 66 of Schedule 15 of the Act of 2004, as the case may be,”; and
- (c) in paragraph (2), after “the Order of 1978” insert “or paragraph 62 or 66 of Schedule 15 to the Act of 2004, as the case may be,”.

**65.** In rule 3.9 (Transfer of certain tenancies on divorce etc or on separation of cohabitantes)—

- (a) in the heading, after “etc” insert “, dissolution etc of civil partnership”; and
- (b) in paragraph (2), for “other cohabitant or spouse” substitute “other spouse, cohabitee or civil partner, as the case may be,”.

**66.** In rule 3.10 (Application for declaration as to marital status), in paragraph (1)(d), after “matrimonial” insert “or civil partnership”.

**67.** After rule 3.10, insert—

**“Application under section 181 of the Act of 2004 for declaration as to civil partnership status**

**3.10A.**—(1) Unless otherwise directed, a petition by which proceedings are begun under section 181 of the Act of 2004 for a declaration as to civil partnership status shall state—

- (a) the names of the parties to the civil partnership to which the application relates and the residential address of each of them at the date of the presentation of the petition;
- (b) the place at and date on which the civil partnership was formed;
- (c) the grounds on which the application is made and all other material facts alleged by the petitioner to justify the making of the declaration;
- (d) whether there have been or are continuing any proceedings in any court, tribunal or authority in Northern Ireland or elsewhere between the parties which relate to, or are capable of affecting the validity or subsistence of the civil partnership,

dissolution, annulment or legal separation to which the application relates, or which relate to the civil partnership or matrimonial status of either of the parties, and if so—

- (i) the nature, and either the outcome or present state of those proceedings,
- (ii) the court, tribunal or authority before which they were begun,
- (iii) the date when they were begun,
- (iv) the names of the parties to them,
- (v) the date or expected date of the trial,
- (vi) any other facts relevant to the question whether the petition should be stayed under the Family Proceedings (Civil Partnership: Staying of Proceedings) Rules (Northern Ireland) 2005(a),

and such proceedings shall include any which are constituted otherwise than in a court of law in any country outside Northern Ireland, if they are instituted before a tribunal or other authority having power under the law having effect there to determine questions of status, and shall be treated as continuing if they have begun and have not been finally disposed of;

- (e) where it is alleged that the court has jurisdiction based on domicile, which of the parties to the civil partnership to which the application relates is domiciled in Northern Ireland on the date of the presentation of the petition, or died before that date and was at death domiciled in Northern Ireland;
- (f) where it is alleged that the court has jurisdiction based on habitual residence, which of the parties to the civil partnership to which the application relates has been habitually resident in Northern Ireland, on the date of the presentation of the petition, or died before that date and had been habitually resident in Northern Ireland throughout the period of one year ending with the date of death;
- (g) where the petitioner was not a party to the civil partnership to which the application relates, particulars of his interest in the determination of the application.

(2) Where the proceedings are for a declaration that the validity of a dissolution annulment or separation obtained in any country outside Northern Ireland in respect of the civil partnership either is or is not entitled to recognition in Northern Ireland, the petition shall in addition state the date and place of the dissolution, annulment or legal separation.

(3) There shall be annexed to the petition a copy of the certificate of any civil partnership to which the application relates, or, as the case may be, a certified copy of any order for dissolution, annulment or legal separation to which the application relates.

(4) Where a document produced by virtue of paragraph (3) is not in English it shall, unless the court otherwise directs, be accompanied by a translation certified by a notary public or authenticated by affidavit.

(5) The parties to the civil partnership in respect of which a declaration is sought shall be the petitioner and respondent respectively to the application, unless a third party is applying for a declaration, in which case he shall be the petitioner and the parties shall be respondents to the application.”.

**68.** In rule 3.11 (Procedure to be followed in relation to application under rule 3.10)—

- (a) in the heading, for “rule 3.10” substitute “rules 3.10 or 3.10A”;
- (b) in paragraph (1), for “rule 3.10” substitute “rules 3.10 and 3.10A”;
- (c) in paragraph (10), after “matrimonial” insert “or civil partnership”; and
- (d) in paragraph (11), after “Form M26” insert “and a declaration made under section 181 of the Act of 2004 shall be in Form M26A”.

**69.** In rule 3.12 (Application for leave to apply for financial relief after overseas divorce)—

- (a) in the heading, after “overseas divorce” insert “or overseas dissolution etc of a civil partnership”;
- (b) in paragraph (1)—

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- (i) for “under Part IV of the Order of 1989” substitute “to which this rule applies”; and
- (ii) omit the words from “stating the facts” to the end of the paragraph;
- (c) after paragraph (1) insert—
  - “(1A) The affidavit in support shall state the facts relied on in support of the application with particular reference—
    - (a) in the case of an application under the Order of 1989, to the matters set out in Article 20(2) of that Order, and
    - (b) in the case of an application under the Act of 2004, to the matters set out in paragraph 8(3) of Schedule 17 to that Act.”;
- (d) in paragraph (2)—
  - (i) after “by means of which the marriage” insert “or civil partnership, as the case may be,”;
  - (ii) after “marriage”, the second time it appears, insert “or civil partnership”;
  - (iii) for sub-paragraph (a), substitute—
    - “(a) in the case of an application under Part IV of the Order of 1989, the names of the parties to the marriage and the date and place of the marriage;
      - (aa) in the case of an application under the Act of 2004, the names of the parties to the civil partnership and the date and place of the formation of the civil partnership.”;
  - (iv) in sub-paragraph (b), after “to the marriage” insert “or civil partnership, as the case may be”;
  - (v) for sub-paragraph (d) substitute—
    - “(d) whether either party to the marriage or civil partnership has subsequently married or formed a civil partnership.”;
  - (vi) in sub-paragraph (f), for “under Part IV of the Order of 1989.” substitute “,”; and
  - (vii) after that sub-paragraph insert—
    - “(g) this rule and rule 3.13 apply to an application for financial relief under—
      - (i) Part IV of the Order of 1989; and
      - (ii) Schedule 17 to the Act of 2004.”.

**70.** In rule 3.13 (Application for an order for financial relief or an avoidance of transaction order under Part IV of the Order of 1989)—

- (a) in the heading, after “the Order of 1989” insert “or under Schedule 17 to the Act of 2004”;
- (b) in paragraph (1), after “under Part IV of the Order of 1989” insert “or Schedule 17 to the Act of 2004”;
- (c) in paragraph (2), after “Form M6” insert “and M6A”;
- (d) in paragraph (4)—
  - (i) omit “under Article 18 of the Order of 1989”;
  - (ii) omit “under Article 27 of that Order”; and
  - (iii) for “an order under the said Article 27” substitute “an avoidance of transaction order”;
- (e) in paragraph (7), after “the Order of 1989” insert “or under paragraph 13 of Schedule 17 to the Act of 2004”;
- (f) in paragraph (8)—
  - (i) after “the Order of 1989” insert “or paragraph 13 of Schedule 17 to the Act of 2004”; and
  - (ii) after “to that Order” insert “or Part 2 of Schedule 2 to the Family Homes and Domestic Violence (Northern Ireland) Order 1998(a), as the case may be,”;
- (g) in paragraph (9) omit “under Part IV of the Order of 1989”; and
- (h) after paragraph (9) insert—

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(a) S.I. 1998/1071 (N.I. 6)

- “(10) In this Rule—
- (a) “avoidance of transaction order” means—
    - (i) in relation to an application under the Order of 1989, an application under Article 27 of that Order, and
    - (ii) in relation to an application under the Act of 2004, an application under paragraph 15 of Schedule 17 to that Act; and
  - (b) “interim order for maintenance” means—
    - (i) in relation to an application under the Order of 1989, an order under Article 18 of that Order, and
    - (ii) in relation to an application under the Act of 2004, an order under paragraph 5 of Schedule 17 to that Act.”.

**71.** In rule 3.14 (Application for an order under Article 28 of the Order of 1989 preventing a transaction)—

- (a) in the heading, after “the Order of 1989” insert “or under paragraph 17 of Schedule 17 to the Act of 2004”;
- (b) in paragraph (1), after “the Order of 1989” insert “or under paragraph 17 of Schedule 17 to the Act of 2004”; and
- (c) in paragraph (2), after “M6” insert “and M6A”.

**72.** In rule 3.24 (Application under Article 31B of the Order of 1989 for a declaration of parentage)—

- (a) in paragraph (1)(c)(iii), for “father or mother” substitute “parent”; and
- (b) in paragraph (3)(ii), for “mother or father” substitute “parent”.

**73.** After rule 3.38 insert—

**“Reference under section 8(5) of the Gender Recognition Act 2004**

**3.39.**—(1) A reference to the High Court under section 8(5) of the Gender Recognition Act 2004 shall be brought by originating motion issued out of the Matrimonial Office.

(2) The Secretary of State is to be referred to as the applicant and the respondent is the person whose application under section 1(1), 5(2) or 6(1) of the Gender Recognition Act 2004 was granted.

(3) The originating motion shall be served on the President of the Gender Recognition Panels and such other persons as the Court may direct.

(4) Where the applicant knows that—

- (a) the respondent is a party to a cause in which the petition or answer prays for a decree of nullity of marriage under Article 14(g) of, or paragraph 18(1)(e) of Schedule 3 to, the Order of 1978 or for an order for nullity of civil partnership under section 174(1)(d) of the Act of 2004, he shall—
  - (i) give particulars of those proceedings in the originating motion, and
  - (ii) serve the originating motion on the court in which that petition is pending (where he has sufficient information to do so);
- (b) a full gender recognition certificate has been issued to the respondent under section 5(1) of the Gender Recognition Act 2004, he shall give particulars of this in the originating motion.

(5) A copy of any order of the court made on the reference shall be served on—

- (a) the parties,
- (b) the President of Gender Recognition Panels,
- (c) where sufficient particulars have been provided under paragraph (4)(a)(i), on the court in which any such cause is pending,

and may be served on such other persons as the court thinks fit”.



**74.** In rule 4.5 (Application)—

(a) in paragraph (1)(b), after “Forms” insert “C1A,”;

(b) in paragraph (2)(a), for head (ii) substitute—

“(ii) such of the supplemental Forms C10 or C11 to C17 as may be appropriate; and

(iii) in the case of an application for an Article 8 order where question 6A on Form C1, or question 3A on Form C2, is answered in the affirmative, supplemental Form C1A; or”; and

(c) in paragraph (3)(c), after “as are appropriate” insert “, and, in the case of an application for an Article 8 order, Form C1A”.

**75.** In rule 4.10 (Answer to application), in paragraph (1), after “Form C4” insert “and, if both parts of question 6 or question 7 (or both) on Form C4 are answered in the affirmative, Form C1A”.

**76.** After rule 4.27 insert—

**“Stay under the Council Regulation**

**4.28.**—(1) An application for an order under Article 19 of the Council Regulation shall be made to the Master who may determine the application or refer the application, or any question arising thereon, to the judge for his decision.

(2) Where at any time after an application under rule 4.5 is made, it appears to the court that, under Articles 16 to 19 of the Council Regulation, the court is required or may be required to stay the proceedings, the court shall stay the proceedings and fix a date for a hearing to determine the questions of jurisdiction or admissibility and whether there should be a stay or other order and shall serve notice of the hearing on the parties to the proceedings.

(3) The court shall give reasons for its decision under Articles 16 to 19 of the Council Regulation and, where it makes a finding of fact, state such finding of fact.

(4) A declaration under Article 17 of the Council Regulation that the court has no jurisdiction over the proceedings or an order under Article 19 of the Council Regulation declining jurisdiction shall be recorded in writing.

(5) The court may, if all parties agree, deal with any question about the jurisdiction of the court without a hearing.”.

**77.** In rule 5.1 (Appeal from a divorce county court to the Court of Appeal)—

(a) in the heading, for “divorce county court” substitute “designated county court”;

(b) after “the Order of 1998” insert “or section 189(1) of the Act of 2004”;

(c) for “decree or order” substitute “decree, civil partnership order or other order”;

(d) for “in divorce county court proceedings” substitute “in proceedings in a designated county court”; and

(e) for “a divorce county court” substitute “a designated county court”.

**78.** After rule 5.3, insert—

**“Appeal under section 8(1) of the Gender Recognition Act 2004**

**5.4.**—(1) R.S.C. Order 55(a) applies to an appeal to the High Court under section 8(1) of the Gender Recognition Act 2004 subject to the modifications made by this rule.

(2) The notice of the originating motion shall be—

(a) issued out of the Matrimonial Office;

(b) served on the Secretary of State in addition to the person to be served under R.S.C. Order 55 rule 15(1).

(3) The Secretary of State may appear and be heard in the proceedings on the appeal.

(4) Where the High Court issues a gender recognition certificate under section 8(3)(a) of the Gender Recognition Act 2004, the proper officer shall send a copy of that certificate to the Secretary of State.”.

**79.** In rule 6.5 (Petition for nullity on ground of insanity, etc)—

(a) in paragraph (1), after “nullity” insert “of marriage”; and

(b) after paragraph (1) insert—

“(1A) Where a petition for nullity of civil partnership has been presented on the ground that at the time of the formation of the civil partnership the respondent was suffering from mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986(a) of such a kind or to such an extent as to be unfitted for civil partnership, then, whether or not the respondent gives notice of intention to defend, the petitioner shall not proceed with the cause without the leave of the Master.”.

**80.** In rule 7.7 (Filing of documents at place of hearing, etc), after “matrimonial proceedings” insert “or civil partnership proceedings”.

**81.** In rule 7.9 (Copies of Decrees and Order)—

(a) in the heading, for “and Order” substitute “, civil partnership orders and other orders”;

(b) in paragraph (1), for “or order” substitute “, civil partnership order or other order”; and

(c) in paragraph (2), for “or order” substitute “, civil partnership order or other order”.

**82.** In rule 7.12 (Inspection of documents retained in court), in paragraph (2), for “decree or order” substitute “decree, civil partnership order or other order”.

**83.** After rule 7.13 insert—

**“Documents in family proceedings concerning gender recognition**

**7.13A.**—(1) This rule applies to all documents in family proceedings brought under—

(a) Article 14(g) or (h) of, or paragraph 18(1)(e) of Schedule 3 to, the Order of 1978;

(b) section 174(1)(d) or (e) of the Act of 2004; and

(c) the Gender Recognition Act 2004.

(2) Documents to which this rule applies shall, while they are in the custody of the court, be kept in a place of special security.”.

**84.** In rule 7.17 (Practice to be observed in the Matrimonial Office and divorce county courts)—

(a) in the heading, for “divorce county courts” substitute “designated county courts”;

(b) after “matrimonial proceedings” insert “and civil partnership proceedings”; and

(c) for “divorce county courts” substitute “designated county courts”.

**85.** In rule 8.1 (Application), after the definition of “matrimonial order” insert—

““civil partnership order” means an order made in civil partnership proceedings for the periodical payment of money;”.

**86.** In rule 8.2 (Attachment of debt due to judgment debtor), in paragraph (1), after “a matrimonial order” insert “or a civil partnership order”.

**87.** In rule 8.11 (Order imposing a charge on securities), in paragraph (1), after “a matrimonial order” insert “or a civil partnership order”.

**88.** In rule 8.17 (Money in court: charging order), in paragraph (1), after “a matrimonial order” insert “or a civil partnership order”.

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(a) S.I. 1986 No. 595 (N.I. 4)



- (c) in paragraph (2)—
  - (i) omit “such”;
  - (ii) after “application” insert “for a certified copy of a judgment”; and
- (d) after paragraph (2), insert—

“(2A) A witness statement or affidavit by which an application for a certificate is made shall give—

- (a) particulars of the proceedings in which the judgment was obtained;
- (b) the full name, country and place of birth and date of birth of the parties;
- (c) details of the type of certificate applied for and the reasons for making the application; and
- (d) where the application is for a certificate under Annex II to the Council Regulation—
  - (i) the full name, and if known, the address and the date and place of birth of any other person with parental responsibility; and
  - (ii) information as to whether or not the judgment entails the return of a child wrongfully removed or retained in another Member State and if so, the full name and address of the person to whom the child should be returned.”.

**102.** In rule 8.43 (Authentic instruments and court settlements), for “Article 13(3)” substitute “Article 46”.

**103.** After rule 8.43 insert the following new rules—

**“Service of a certificate under Article 41 of the Council Regulation**

**8.44.**—(1) The court shall serve a certificate issued under Article 41 of the Council Regulation, or a certificate rectified under rule 8.48, on all the parties and the Central Authority of Northern Ireland.

(2) The Central Authority of Northern Ireland shall serve such a certificate as mentioned in paragraph (1) on the Central Authority of the relevant Member State.

**Registration of a certificate issued under Article 41 of the Council Regulation**

**8.45.** The Central Authority of Northern Ireland shall keep a register of certificates issued under Article 41.

**Application of a party for transfer of proceedings to a court of another Member State**

**8.46.**—(1) A party may make an application that proceedings, or a specific part of those proceedings, be heard in another Member State pursuant to Article 15 of the Council Regulation.

(2) An application under paragraph (1) shall be made—

- (a) to the court in which the relevant parental responsibility proceedings are pending; and
- (b) the application shall be made by notice to attend before the judge on a day specified in the notice and such notice shall be filed and served on the respondents not less than 5 days before the hearing of the application.

(3) An application made under paragraph (1) shall be supported by an affidavit, which shall contain evidence of the child’s particular connection to the other Member State in accordance with Article 15(3) of the Council Regulation.

(4) The respondents referred to in paragraph (2)(b) are any other parties, the child and the Central Authority of the relevant Member State.

(5) In this rule references to “the child” are references to the child who is the subject of the parental responsibility proceedings.

### **Application by a court of another Member State for transfer of proceedings**

**8.47.**—(1) A court of another Member State may make an application that proceedings, or a specific part of those proceedings, be heard in that Member State pursuant to Article 15 of the Council Regulation.

(2) An application under paragraph (1) shall be made in the first instance to the Central Authority of Northern Ireland.

(3) The Central Authority of Northern Ireland shall forward an application made under paragraph (1) to the court in which the parental responsibility proceedings are pending, or where there are no pending proceedings, to the Matrimonial Office.

(4) Upon receipt of such an application the proper officer or chief clerk, as the case may be, shall serve a copy of the application on all other parties in Northern Ireland not less than 5 days before the hearing of the application.

(5) A decision to accept or refuse jurisdiction under Article 15 of the Council Regulation shall be served on all parties, the Central Authority of the relevant Member State and the Central Authority of Northern Ireland. Service on a Central Authority of another Member State shall be made by the Central Authority of Northern Ireland.

### **Rectification of a certificate issued under Article 41 of the Council Regulation**

**8.48.**—(1) Where there is an error in a certificate issued under Article 41 the court which issued the certificate may rectify that error.

(2) A rectification under paragraph (1) may be made—

- (a) by the court of its own motion; or
- (b) pursuant to an application by—
  - (i) any party to the proceedings;
  - (ii) the Central Authority of Northern Ireland; or
  - (iii) the Central Authority of another Member State.

(3) Any application under sub-paragraph (2)(b) may be made without notice being served on any other party.”.

### **104.** In Appendix 1 (Forms)—

(a) in the list of forms—

- (i) after the entry relating to Form M5, in the first column insert “Form M5A” and in the second column insert “Notice of Proceedings: Civil Partnership Act 2004”;
- (ii) after the entry relating to Form M6, in the first column insert “Form M6A” and in the second column insert “Acknowledgement of Service: Civil Partnership Act 2004”;
- (iii) for the entry relating to Form M10, in the second column insert “Notice of Application for Decree Nisi to be Made Absolute or Conditional Order to be Made Final”;
- (iv) after the entry relating to Form M11, in the first column insert “Form M11A” and in the second column insert “Certificate of Making Conditional Order for Dissolution Final”;
- (v) after the entry relating to Form M12, in the first column insert “Form M12A” and in the second column insert “Certificate of Making Conditional Nullity Order Final”;
- (vi) after the entry relating to Form M26, in the first column insert “Form M26A” and in the second column insert “Declaration as to Civil Partnership Status under section 181 of the Civil Partnership Act 2004”;
- (vii) after the entry relating to Form C1, in the first column, insert “Form C1A” and in the second column insert “Supplemental Information Form”;

(b) in Form M1 (Originating Summons)—

- (i) for “Marriage” substitute “[Marriage] [Civil Partnership]”;

- (ii) for “marriage”, in each place it appears, substitute “[marriage] [civil partnership]”; and
- (iii) for “solemnized” substitute “[solemnized] [formed]”;
- (c) in Form M4 (Statement of Arrangements for Children)—
  - (i) after “petition for divorce” insert “or dissolution”;
  - (ii) for “husband/wife”, in each place it appears, substitute “[spouse] [civil partner]”; and
  - (iii) for “divorce petition”, in each place it appears, substitute “petition for divorce or dissolution”;
- (d) in Form M5 (Notice of Proceedings)—
  - (i) in paragraph 2A(b)—
    - (aa) for “Articles 9 and 11” substitute “Articles 16, 17 and 19”;
    - (bb) for “1347/2000 of 29th May 2000 on” substitute “2201/2003 of 27th November 2003 concerning”;
    - (cc) for “in”, the second time it appears, substitute “the”; and
    - (dd) omit “for children of both spouses”.
  - (ii) after paragraph 13 insert—
 

“14. If the petition is brought on the ground that an interim gender recognition certificate has been issued to a party to the marriage (under Article 14(g) of, or paragraph 18(1)(e) of the Matrimonial Causes (Northern Ireland) Order 1978) and such a certificate has been issued to you, you shall, when returning the acknowledgement of service, attach to it a copy of your interim certificate.

15. If the petition is brought on the ground that your gender was the acquired gender at the time of the marriage under the Gender Recognition Act 2004 (under Article 14(h) of the Matrimonial Causes (Northern Ireland) Order 1978) and a full gender recognition certificate has been issued to you, you shall, when returning the acknowledgement of service, attach to it a copy of your full certificate”.
- (e) after Form M5 insert the new Form M5A (Notice of Proceedings: Civil Partnership Act 2004) set out in Schedule 1 to these Rules;
- (f) in Form M6 (Acknowledgement of Service), in paragraph 1A(e), for “Article 11” substitute “Article 19”.
- (g) after Form M6 insert the new Form M6A (Acknowledgement of Service: Civil Partnership Act 2004) set out in Schedule 2 to these Rules;
- (h) in Form M8 (Certificate of Readiness), in the note, for “divorce county court” substitute “designated county court”;
- (i) for Form M10 substitute the new Form M10 (Notice of Application for Decree Nisi to be Made Absolute or Conditional Order to be Made Final) set out in Schedule 3 to these Rules;
- (j) after Form M11 insert the new Form M11A (Certificate of Making Conditional Order for Dissolution Final) set out in Schedule 4 to these Rules;
- (k) after Form M12 insert the new Form 12A (Certificate of Making Conditional Nullity Order Final) set out in Schedule 5 to these Rules;
- (l) in Form M13, after “maintenance pending suit” insert “, maintenance pending outcome of proceedings”;
- (m) in Form M14 (Notice of Application under Rule 2.48)—
  - (i) for “Article 12(2) of the Matrimonial Causes (Northern Ireland) Order 1978” substitute “[Article 12(2) of the Matrimonial Causes (Northern Ireland) 1978] [section 172(2) of the Civil Partnership Act 2004]”; and
  - (ii) for “divorce” substitute “[divorce] [dissolution]”; and
  - (iii) after “decree nisi” insert “or conditional order”.
- (n) in Form M17 (Notice of Request for Periodical Payments Order at Same Rate as Order for Maintenance Pending Suit)—

- (i) in the title, for “Maintenance Pending Suit” substitute “[Maintenance Pending Suit] [Maintenance Pending Outcome of Proceedings]”; and
  - (ii) for “maintenance pending suit” substitute “[maintenance pending suit] [maintenance pending outcome of proceedings]”;
- (o) in Form M18—
- (i) in the title, for “In the matter of an application by AB under Article 29 of the Matrimonial Causes (Northern Ireland) Order 1978.” substitute—
    - “[In the matter of an application under Article 29 of the Matrimonial Causes (Northern Ireland) Order 1978.]
    - [In the matter of an application under Part 8 of Schedule 15 to the Civil Partnership Act 2004.]”; and
  - (ii) for “lawful husband” substitute “the [spouse] [civil partner]”;
- (p) in Form M20, in the heading, for “IN THE MATTER of an application under Article 37 of the Matrimonial Causes (Northern Ireland) Order 1978” substitute—
- “[IN THE MATTER of an application under Article 37 of the Matrimonial Causes (Northern Ireland) Order 1978]
- [IN THE MATTER of an application under paragraph 62 of Schedule 15 to the Civil Partnership Act 2004]”;
- (q) in Form M21, in the title, for “IN THE MATTER of an application under Article 38 of the Matrimonial Causes (Northern Ireland) Order 1978” substitute—
- “[IN THE MATTER of an application under Article 38 of the Matrimonial Causes (Northern Ireland) Order 1978]
- [IN THE MATTER of an application under paragraph 66 of Schedule 15 to the Civil Partnership Act 2004]”;
- (r) after Form M26 insert the new Form M26A (Declaration as to Civil Partnership Status under section 181 of the Civil Partnership Act 2004) set out in Schedule 6 to these Rules;
- (s) in Form M27—
- (i) in the title for “Ex Parte Originating Summons under Article 17 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989” substitute—
    - “[Ex Parte Originating Summons under Article 17 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989]
    - [Paragraph 4 of Schedule 17 to the Civil Partnership Act 2004]”;
  - (ii) for “In the matter of an application under Article 17 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989” substitute—
    - “[In the matter of an application under Article 17 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989]
    - [In the matter of an application under paragraph 4 of Schedule 17 to the Civil Partnership Act 2004]”; and
  - (iii) for “Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989” substitute “[Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989] [Schedule 17 to the Civil Partnership Act 2004]”;
- (t) in Form M28 in the heading—
- (i) in the title, for “Originating Summons under Article 16 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989” substitute—
    - “[Originating Summons under Article 16 of the Matrimonial and Family Proceedings (Northern Ireland) 1989]
    - [Originating Summons under paragraph 2 of Schedule 17 to the Civil Partnership Act 2004]”; and
  - (ii) for “In the matter of an application under Article 16 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989” substitute—

“[In the matter of an application under Article 16 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989]

[In the matter of an application under paragraph 2 of Schedule 17 to the Civil Partnership Act 2004]”;

(u) in Form M29—

(i) in the title for “Originating Summons under Article 28 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989” substitute—

“[Originating Summons under Article 28 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989]

[Originating Summons under Part 2 of Schedule 17 to the Civil Partnership Act 2004]”;

(ii) for “In the matter of an application under Article 28 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989” substitute—

“[In the matter of an application under Article 28 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989]

[In the matter of an application under Part 2 of Schedule 17 to the Civil Partnership Act 2004]”; and

(iii) for “Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989” substitute “[Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989] [Part 2 of Schedule 17 to the Civil Partnership Act 2004]”;

(v) in Form C1 (Application for an Order)—

(i) in the heading, for “Divorce County Court” substitute “Designated County Court”;

(ii) before paragraph 1 insert the following note—

“**Important Note: you should only answer question 6A** if you are asking the court to make an Article 8 Order”;

(iii) after paragraph 6 insert—

“**6A. Domestic abuse, violence or harm**

Do you believe that the child(ren) named above have suffered or are at risk of suffering any harm from any of the following or through seeing or hearing any of the following:

- any form of domestic abuse
- violence within the household
- other conduct or behaviour
- ill treatment of another person

by any person who is or who has been involved in caring for the child(ren) or lives with, or has contact with, the child(ren)?

Please tick the box which applies  Yes  No

**If you tick the Yes box, you must also fill in Supplemental Information Form (Form C1A).** You can obtain a copy of this from a court office if one has not been enclosed with the papers served on you.”; and

(iv) in paragraph 9—

(aa) for “mother and father” substitute “parents”; and

(bb) after “married to each other” insert “or civil partners of each other”;

(w) after Form C1 insert the new Form C1A (Supplemental Information Form) set out in Schedule 7 to these Rules;

(x) in Form C2 (Application)—

in the heading, for “Divorce County Court” substitute “Designated County Court”;

(i) before paragraph 1 insert—



**“Important Note: you should only answer question 3A if you are asking the court to make an Article 8 Order”;** and

(ii) after paragraph 3 insert—

**“3A. Domestic abuse, violence or harm**

Do you believe that the child(ren) named above have suffered or are at risk of suffering any harm from any of the following or through seeing or hearing any of the following:

- any form of domestic abuse
- violence within the household
- other conduct or behaviour
- ill treatment of another person

by any person who is or who has been involved in caring for the child(ren) or lives with, or has contact with, the child(ren)?

Please tick the box which applies  Yes  No

**If you tick the Yes box, you must also fill in Supplemental Information Form (Form C1A).** You can obtain a copy of this from a court office if one has not been enclosed with the papers served on you.”;

- (y) in Forms C3, C6, C7, C8 to C17, C20 to C43, F1, F4, F5, F7 and F8, in the heading, for “Divorce County Court” substitute “Designated County Court”;
- (z) for Form C4 substitute the new Form C4 (Acknowledgement) set out in Schedule 8 to these Rules;
- (aa) in Form C7A (Statement of Means)—
  - (i) in the heading, for “Divorce County Court” substitute “Designated County Court”;
  - (ii) in paragraph 1, after “married,” insert “in a civil partnership,”; and
  - (iii) in paragraph 2, after “spouse,” insert “civil partner,”;
- (bb) for Form F2 substitute the new Form F2 (Application for a Non-Molestation Order/an Occupation Order) set out in Schedule 9 to these Rules;
- (cc) in Form F3 (Notice of Proceedings)—
  - (i) in the heading, for “Divorce County Court” substitute “Designated County Court”;
  - and
  - (ii) in Note 4—
    - (aa) after “marriage” insert “or civil partnership”;
    - (bb) after “divorce proceedings etc” insert, on a new line—  
“or  
under Part 2 of Schedule 15 to the Civil Partnership Act 2004 (property adjustment on or after dissolution, nullity or separation); and
  - (cc) for “the length of time during which you have lived together as husband and wife” substitute “the length of time during which you have lived together as husband and wife or civil partners”;
- (dd) in Form F9, for “Divorce County Court”, in each place it appears, substitute “Designated County Court”; and
- (ee) in Form A2 (Application for an Order Freeing a Child for Adoption (without Parental Consent), in paragraph 2 under **Particulars of the Child**, after “married” insert “ or a civil partner”.

**105. In Appendix 2 (Contents of Petition)—**

- (a) in paragraph 1—
  - (i) in sub-paragraph (a)—
    - (aa) after “marriage”, the first time it appears, insert “or civil partnership, as the case may be;”; and

- (bb) after “marriage”, the second time it appears, insert “or the date on and place at which the civil partnership was formed, as the case may be”;
  - (ii) for sub-paragraph (b) substitute—
    - “(b) the last address at which—
      - (i) in a matrimonial cause, the parties to the marriage have lived together as husband and wife, and
      - (ii) in a civil partnership cause, the parties to the civil partnership have lived together as civil partners of one another;”;
  - (iii) for sub-paragraph (bb) substitute—
    - “(bb) where it is alleged that the court has jurisdiction—
      - (i) under the Council Regulation, the grounds of jurisdiction under Article 3(1) of the Council Regulation.”;
  - (iv) after sub-paragraph (d) insert—
    - “(da) where it is alleged that the court should assume jurisdiction under section 229(1)(c) or (2)(c) of the Act of 2004, the facts and matters relied on in support of that assertion;”;
  - (v) in sub-paragraph (g), at the beginning, insert “in a matrimonial cause;”;
  - (vi) after sub-paragraph (g) insert—
    - “(ga) in a civil partnership cause, whether (to the knowledge of the petitioner) any other child now living has been born to either of the civil partners during the civil partnership and, if so, the full names (including surname) of the child and his date of birth or, if it be the case, that he is over 18;”;
  - (vii) in sub-paragraph (k)—
    - (aa) after “marriage”, in each place it appears, insert “or civil partnership”; and
    - (bb) in head (ii), for “decree or order” substitute “decree, civil partnership order or other order”;
  - (viii) in sub-paragraph (1)—
    - (aa) after “marriage” insert “or civil partnership”;
    - (bb) in head (v), at the beginning, insert “in a matrimonial cause;” and
    - (cc) after head (v) insert—
      - “(vi) in a civil partnership cause, such other facts as may be relevant to the question whether the proceedings on the petition should be stayed under the Family Proceedings (Civil Partnership: Staying of Proceedings) Rules (Northern Ireland) 2005”;
  - (ix) for sub-paragraph (o) substitute—
    - “(o) In the case of—
      - (i) a petition for divorce, that the marriage has broken down irretrievably, or
      - (ii) a petition for dissolution, that the civil partnership has broken down irretrievably;”;
  - (x) in sub-paragraph (p), at the beginning, insert “in a matrimonial cause;” and
  - (xi) after sub-paragraph (p) insert—
    - “(pa) in a civil partnership cause, the fact alleged by the petitioner for the purposes of section 168(5) of the Act of 2004 or, where the petition is not for a dissolution or separation order, the ground on which relief is sought, together in any case with brief particulars of the individual facts relied on but not the evidence by which they are to be proved;”;
- (b) for paragraph 2 substitute—
- “2.—(1) In a matrimonial cause, a petition for a decree of nullity under Article 14(e), (f) or (h) of the Order of 1978 shall state whether the petitioner was at the time of the marriage ignorant of the facts alleged.
  - (2) In a civil partnership cause, a petition for a nullity order under section 174 (1)(c) or (e) of the Act of 2004 shall state whether the petitioner was at the time of the civil partnership ignorant of the facts alleged.”; and

(c) for paragraph (3) substitute—

“(3) A petition for—

(a) a decree of presumption of death and dissolution of marriage, or

(b) an order for presumption of death and dissolution of civil partnership shall state—

(i) the last place at which the parties to the marriage or civil partnership, as the case may be, cohabited;

(ii) the circumstances in which the parties ceased to cohabit;

(iii) the date and place where the respondent was last seen or heard of; and

(iv) the steps which have been taken to trace the respondent.”.

### **Consequential and transitional provision**

**106.**—(1) Where proceedings have been commenced before the date on which these Rules come into force, the 1996 Rules shall apply to those proceedings as if these Rules had not been made.

(2) Notwithstanding paragraph (1), in proceedings commenced before these Rules come into force—

(a) where the 1996 Rules require the use of any form, that form may be used in those proceedings as amended or substituted by these Rules; and

(b) any requirement in the 1996 Rules (including in any of the forms)—

(i) to state if either party to a marriage has remarried shall be read as also requiring him to indicate if either party has entered into a civil partnership; and

(ii) to state if either party has any intention to marry or remarry shall be read as also requiring him to indicate if either party has any intention to enter into a civil partnership.

Dated 7th November 2005

*Brian Kerr*

*David Smyth*

*John Gillen*

*Charles Redpath*

*Hilary Keegan*

*Kathleen Finlay*

*Anne Marie Kelly*

*Catherine Dixon*

Signed by the authority of the Lord Chancellor

I concur

*Bridget Prentice*

Parliamentary Under-Secretary of State, Department for Constitutional Affairs

Dated 10th November 2005

FORM TO BE INSERTED IN THE FAMILY PROCEEDINGS RULES  
(NORTHERN IRELAND) 1996

“FORM M5A

Rule 2.6(4)

## NOTICE OF PROCEEDINGS: CIVIL PARTNERSHIP ACT 2004

*[Heading as in Form M3]*

TAKE NOTICE that a petition for dissolution (originating summons)<sup>(1)</sup> has been presented to the court. A sealed copy of it [and a copy of the petitioner’s statement of arrangements regarding the children] [is] [are] delivered with this notice.

1. You must complete and detach the acknowledgment of service in Form M6A and send it so as to reach the Matrimonial Office, Royal Courts of Justice, Chichester Street, Belfast, within 14 days after you receive this notice, inclusive of the day of receipt. Delay in returning the form may add to the costs.
2. If you intend to instruct a solicitor to act for you, you should at once give him all documents which have been served on you, so that he may send the acknowledgement to the Matrimonial Office on your behalf. If you do not intend to instruct a solicitor, you should nevertheless give an address for service in the acknowledgement so that any documents affecting your interests which are sent to you will in fact reach you. Any change of address should be notified to the Matrimonial Office.

## NOTES ON QUESTIONS IN FORM M6A

- 3.—
  - (a) If you answer “Yes” to Question 2 please attach a copy of any relevant order or court documents to the acknowledgement of service.
  - (b) Before answering “Yes” to Question 2 or “No” to Question 5 you should understand that the court will need to decide whether it has jurisdiction to entertain the proceedings. In these circumstances, the proceedings may be stayed whilst the court reaches its decision.
4. If you answer “Yes” to Question 8 or 10(1) you must within 35 days after you receive this notice, inclusive of the day of receipt, file in the Matrimonial Office, Royal Courts of Justice, Chichester Street, Belfast, an answer to the petition, and deliver a copy to every other party to the proceedings. The case will then be transferred to the High Court<sup>(2)</sup>.
- 5.<sup>(1)</sup> Before you answer “Yes” to Question 9 you should understand that—
  - (a) if the petitioner satisfies the court that the petitioner and you have lived apart for 2 years immediately before the presentation of the petition and that you consent to a Conditional Order, the court will grant one unless it considers that the civil partnership has not broken down irretrievably;
  - (b) a Dissolution Order, Presumption of Death Order or Nullity Order which has been made final will end your civil partnership so that—
    - (i) any right you may have to a pension which depends on the civil partnership continuing will be affected;
    - (ii) you will not be able to claim a State surviving civil partner’s pension when the petitioner dies;
  - (c) once the court makes a final dissolution order or a final nullity order or a final presumption of death order or a separation order, you will lose your right to inherit from the petitioner if he or she dies without having made a will;

- (d) a civil partnership order may have other consequences in your case depending on your particular circumstances and if you are in any doubt about these you would be well advised to consult a solicitor.
- 6.<sup>(1)</sup> If after consenting you wish to withdraw your consent you must immediately inform the Matrimonial Office and give notice to the petitioner.
- 7.<sup>(1)</sup> The petitioner relies in support of the petition on the fact that the parties to the civil partnership have lived apart for at least 5 years. Section 172 of the Civil Partnership Act 2004 provides that if in such a case the respondent applies to the court for it to consider the respondent's financial position after the dissolution of the civil partnership, a Conditional Order for Dissolution based on 5 years' separation only cannot be made final unless the court is satisfied that the petitioner has made or will make proper financial provision for the respondent, or else that the petitioner should not be required to make any financial provision for the respondent. The petition will tell you whether the petitioner proposes to make any financial provision for you. It is important that you should consider this information carefully before answering Question 10 in the acknowledgement.
- 8.<sup>(1)</sup> If you answer "Yes" to Question 11 you must, before the Conditional Order is made final, make application to the court by filing and serving on the petitioner a notice in Form M14.
- 9.<sup>(1)</sup>(a) If you do not wish to defend the case but object to the claim for costs, you should answer "Yes" to Question 12 in the acknowledgement. You must state the grounds on which you object. An objection cannot be entertained unless grounds are given which, if established, would form a valid reason for not paying the costs. If such grounds are given, you will be notified of a date on which you must attend before the judge if you wish to pursue your objection.
- (b) If you do not object to the claim for costs but simply wish to be heard on the amount to be allowed, you should answer "No" to Question 12.
- (c) If you are ordered to pay costs, the amount will, unless agreed between the petitioner and yourself, be fixed by the court, or will be taxed by the Taxing Master, after lodgment of the petitioner's bill of costs. In the latter event, you will be sent a copy of the bill and will have the right to be heard about the amount before it is finally settled.
10. Please answer Question 13. If your answer to Question 13(b) is "Yes" make sure you sign the form at the end.
11. If you wish to make an application for
- a residence order
  - a contact order
  - a specific issue order
  - a prohibited steps order
- in respect of a child, you will have to make a separate application in Form C1.
- Before you apply for any of these orders or any other order which may be available to you under the Children (Northern Ireland) Order 1995 you are advised to see a solicitor.
12. If you wish to contest the petitioner's financial or property claim you will have an opportunity of doing so when you receive a notice stating that the petitioner intends to proceed with the claim. You will then be required to file an affidavit giving particulars of your property and income and be notified of the date when the claim is to be heard.
13. If you wish to make some financial or property claim on your own account, you will have to make a separate application. If you are in doubt as to the consequences of dissolution of civil partnership on your financial position, you should obtain legal advice from a solicitor.

14. If the petition is brought on the ground that an interim gender recognition certificate has been issued to either civil partner (under section 174(1)(d) of the Civil Partnership Act 2004) and such a certificate has been issued to you, you shall, when returning the acknowledgement of service, attach to it a copy of your interim certificate.
15. If the petition is brought on the ground that you are a person whose gender, at the time of the formation of the civil partnership, had become the acquired gender under the Gender Recognition Act 2004 (under section 174(1)(e) of the Civil Partnership Act 2004) and a full gender recognition certificate has been issued to you, you shall, when returning the acknowledgement of service, attach to it a copy of your full certificate.

Dated this        day of                    20        .

To

(<sup>1</sup>)    Delete if inapplicable

(<sup>2</sup>)    Delete if petition has been presented to the High Court or if the case has already been transferred to the High Court

Master”

FORM TO BE INSERTED IN THE FAMILY PROCEEDINGS RULES  
(NORTHERN IRELAND) 1996

“FORM M6A

Rule 2.10(1)

## ACKNOWLEDGEMENT OF SERVICE: CIVIL PARTNERSHIP ACT 2004

If you intend to instruct a solicitor to act for you, give him this form immediately

*[Heading as in Form 3]*

Read carefully the Notice of Proceedings before answering the following questions.

1. Have you received the originating summons [and copy of the supporting affidavit] [or the petition for [dissolution]] delivered with this form?
2. Are there any proceedings continuing in any country outside Northern Ireland which relate to the civil partnership or are capable of affecting its validity or subsistence? If so, please provide the following information:
  - (a) particulars of the proceedings, including the court in or tribunal or authority before which they were begun,
  - (b) the date when they were begun,
  - (c) the names of the parties,
  - (d) the date or expected date of any trial in the proceedings, and
  - (e) such other facts as may be relevant to the question whether the proceedings on the petition should be stayed.
3. In which country are you—
  - (a) habitually resident?
  - (b) domiciled?
4. Of which country are you a national?
5. Do you agree with the statement of the petitioner as to the grounds of jurisdiction set out in the petition? If not, please state the grounds on which you disagree.
6. On what date and at what address did you receive it?
7. Are you the person named as Respondent?
8. Do you intend to defend the case?
9. In the case of a petition alleging 2 years' separation coupled with the respondent's consent to a Conditional Order being granted. Do you consent to a Conditional Order being granted?
10. In the case of a petition asking for dissolution alleging 5 years' separation. Do you intend to oppose the grant of a Conditional Order on the ground that the dissolution will result in grave financial or other hardship to you and that in all the circumstances it would be wrong to dissolve the civil partnership?
11. In the event of a Conditional Order being granted on the basis of 2 years' separation, coupled with the respondent's consent, or 5 years' separation, do you intend to apply to the court for it to consider your financial position as it will be after the dissolution?
12. Even if you do not intend to defend the case, do you object to paying the costs of the proceedings? If so, on what grounds?





SCHEDULE 3

Rule 104(i)

FORM TO BE SUBSTITUTED IN THE FAMILY PROCEEDINGS RULES  
(NORTHERN IRELAND) 1996

“FORM M10

Rule 2.52(1)

NOTICE OF APPLICATION FOR DECREE NISI TO BE MADE ABSOLUTE OR  
CONDITIONAL ORDER TO BE MADE FINAL

*[Heading as in Form M3]*

TAKE NOTICE that the petitioner [or respondent] applies for

- [the decree nisi pronounced in his (her) favour on the      day of      20      ,  
to be made absolute.]
- [the conditional order made in his (her) favour on the      day of      20      ,  
to be made final.]\*

Dated this      day of      20      .

(Signed)

[Solicitor for the] Petitioner  
[or Respondent]

\* Delete if inapplicable”





FORM TO BE INSERTED IN THE FAMILY PROCEEDINGS RULES  
(NORTHERN IRELAND) 1996

"FORM M26A

Rule 3.11(11)

DECLARATION AS TO CIVIL PARTNERSHIP STATUS UNDER SECTION 181 OF  
THE CIVIL PARTNERSHIP ACT 2004

In the High Court of Justice in Northern Ireland

Family Division<sup>(1)</sup>In the County Court for the Division of<sup>(1)</sup>Upon the petition of AB (the petitioner) and upon hearing the  
petitioner and upon hearing CD (the respondent)It is declared\* that the civil partnership between and was a valid civil  
partnership at its inception, namely the day of 20 .

Dated

*\* or, where a declaration is made under section 181(1)(b) of the Civil Partnership Act  
2004, the following form shall be followed:—*. . . that the civil partnership between and subsisted on the day of  
20 .*\* or, where a declaration is made under section 181(1)(c) of the Civil Partnership Act  
2004, the following form shall be followed:—*. . . that the civil partnership between and did not subsist on the day  
of 20 .*\* or, where a declaration is made under section 181(1)(d) of the Civil Partnership Act  
2004, the following form shall be used:—*. . . that the dissolution [or annulment or legal separation] in respect of and  
(parties to the civil partnership) obtained on the day of 20 ,  
in (the country where the dissolution, annulment or legal separation was  
obtained) is entitled to recognition in Northern Ireland.*\* or, where a declaration is made under section 181(1)(e) of the Civil Partnership Act  
2004, the following form shall be used:—*. . . that the dissolution [or annulment or legal separation] in respect of and  
(parties to the civil partnership) obtained on the day of 20 ,  
in (the country where the dissolution, annulment or legal separation was  
obtained) is not entitled to recognition in Northern Ireland.<sup>(1)</sup> Delete if inapplicable."

FORM TO BE INSERTED IN THE FAMILY PROCEEDINGS RULES  
(NORTHERN IRELAND) 1996

“FORM C1A

SUPPLEMENTAL INFORMATION FORM

*Children (Northern Ireland) Order 1995*

*Family Proceedings Rules (Northern Ireland) 1996: Rule 4.5*

[In the High Court of Justice in Northern Ireland]

[In the Designated County Court for the Division of \_\_\_\_\_ ]

[In the Family Care Centre at \_\_\_\_\_ ]

The full name(s) of the child(ren)

**Important Note**

*Please read the accompanying Notes for Guidance before completing this form*

**Section 1 About you (the person completing this form)**

- State
- *your title, full name, address, telephone number, date of birth and relationship to each child above*
  - *your solicitors name, address, reference, telephone, FAX and DX numbers.*

**Section 2 Respondent’s comments on allegations made by the Applicant**

**About this section:**

- *Go straight to Section 3 below (Further Information) if:*
  - (a) *you are the **Applicant**; or*
  - (b) *you are the **Respondent** and the Applicant has not filed a Form C1A Supplemental Information Form with his or her application.*
- *This section of the form should only be completed **by the Respondent** where the Applicant has served a completed Form C1A with his or her application for an order.*
- ***You do not have to complete this section unless you wish to comment on any information given by the Applicant in his or her Form C1A. This section should not be used to comment on any other information given by the Applicant in his or her application.***
- ***Please comment in summary form only.** You will have an opportunity to make a detailed statement later in the proceedings.*

*Comments on allegations made by the Applicant:*

**Section 3 Further Information**

**1. Involvement with any outside authorities and organisations**

*If as a result of any incidence of domestic abuse, other harm or risk of harm to you or the child(ren) there is, has been or there is pending any known involvement with the police, social services, mental health services or other support services in respect of:*

- *any child(ren) whose name(s) is/are given at the top of this form;*

- *a full, half or step brother or sister of a child(ren) whose name(s) is/are given at the top of this form; or*
- *a person who is or has been involved in caring for the child(ren) or is having or has had contact with the child(ren) whose name(s) is/are given at the top of this form please provide details and identify:*
- *which agency or service has been involved;*
- *the name of the person who has been the main contact in that agency or service;*
- *the date or dates of any involvement;*
- *whether there is any current or continuing involvement;*
- *whether or not you have any documents, reports or correspondence relating to the agency or service's involvement.*

---

## **2. Incidents of abuse, violence or harm**

For each alleged incidence of violence, domestic abuse or harm, please provide in summary form the following information:

- *the date(s) on which the incident occurred*
- *the nature and seriousness of the alleged abuse, violence or harm*
- *by whom and against whom it was directed*
- *how frequently the alleged abuse, harm or violence occurred and the date(s) of the most recent occurrence(s)*
- *whether any hospital or medical treatment has been sought by the child(ren) whose name(s) is/are given at the top of this form, the applicant or other person in respect of any injuries sustained, and*
- *whether you consider there is a likelihood of further harm, abuse or violence occurring.*

---

## **3. Involvement of the child(ren)**

*If the child(ren) whose name(s) is/are given at the top of this form have seen or heard any alleged incidents of abuse within the household or been aware of any alleged abuse and its impact on the family, please give details and in particular state how you believe the child(ren) have been affected by this experience:*

**4. Witnesses**

*Has anyone else seen, heard or had reported to them any alleged incidence of violence, domestic abuse or harm? If Yes, would that person be able to provide supporting evidence?*

---

**5. Medical treatment or other assessment of the child(ren)**

*If any child(ren) whose name(s) is/are given at the top of this form have been referred for treatment or psychiatric or psychological assessment, by any medical or health service relating to his/her emotional, social or behavioural development (or where any such treatment or referral is pending) please state:*

- *when and to whom such a referral was made*
- *details of any treatment or assessment recommended*
- *whether there is any continuing involvement with the relevant service in relation to the referral and*
- *whether you are aware of or have in your possession any reports or other correspondence in relation to any treatment or assessment recommended.*

---

**6. Steps or orders required to protect you and the children**

*Please indicate what steps or orders you believe the court should take or make in order to protect the safety of the child(ren) whose name(s) is/are given at the top of this form and/or yourself:*

---

**7. Attending the Court**

*Please also indicate whether the court needs to make any special arrangements for you to attend court (e.g. providing you with a separate waiting room from the respondent or other security provision). Do you consider the court should give consideration to any special measures for you or any witnesses to give evidence at the hearing?*

*If Yes, please explain why.*

---

Signed  
(Applicant/Respondent)

Date

---

## Notes for Guidance

### **About these Notes:**

- \* They explain some of the terms used in form CIA that may be unfamiliar to you and will help you to complete the form.
- \* You should read all these notes before beginning to complete the form.
- \* Please do not enclose any original or copy documents unless you have been asked for something specifically.
- \* These notes are only a guide to help you complete form CIA. If you need further help you should speak to a solicitor, Citizen's Advice Bureau or law centre. Public funding of your legal costs may be available from the Northern Ireland Legal Services Commission — a solicitor will be able to tell you more about this.

**Please note that while court staff will help on procedural matters, they cannot offer any legal advice.**

### **Section 1**

#### **1. About you**

If you do not wish your address to be made known to the respondent, leave the space on the form blank and complete the Confidential Address Form (Form C5). The court can give you this form. It should be filed at the court at the same time as your application is submitted.

#### **2. Your solicitor's details**

You should complete this section if you have a solicitor acting for you. He or she may be able to help you complete this form and will give you the information necessary to complete these details.

If you do not have a solicitor simply insert the words "solicitor not instructed".

### **Section 2**

**Do not** complete this section if you are the applicant. Go straight to Section 3 (Further Information).

Complete this section only if:

- (a) you are the respondent
- (b) the applicant has completed Form CIA and,
- (c) you wish to comment on the allegations made by the applicant.

You must only comment on the allegations made by the applicant in his or her Form CIA and not on any other information elsewhere in the application.

Put your comments as briefly as you can. You may be asked to provide more detailed information later in the proceedings.

If you do not wish to comment at this stage, this section may be left blank or you may insert the words "No comments at this stage".

### **Section 3**

#### **1. Involvement with outside agencies and organisations**

"Harm" means ill-treatment or the impairment of health and development.

If following an incident of domestic abuse or harm, the police, social services, mental health services or other support services have been or are still involved with

- (a) any or all of the children listed at the top of the Form CIA
- (b) a full, half or step brother or sister of a child(ren) listed at the top of the form
- (c) or a person who is or has been involved with caring for the children or has had contact with the children you should provide:
  - the name and address of any agency or service that has been involved but do not give any further details. You can comment on these later in this form.
  - the name of the person you have as a contact within that agency or service.
  - the dates on which you had involvement. (If you cannot remember the precise dates, please provide the month or a date as near as possible).

If any of the agencies mentioned above continue to be involved you should say so in simple terms e.g. "the police are continuing their investigations" or "the social services are still involved". This list is not exhaustive so you should include all those that are still involved.

If you have any documents, reports or correspondence, appointment cards or other relevant paperwork please say so here.



**Do not** enclose any of this paperwork with this form. The court may ask you to produce this later in the proceedings if it considers that it may be relevant to the case.

## **2. Incidents of abuse, violence or harm**

For each alleged incident of violence, domestic abuse or harm, please give short answers to the following questions:

- What was the date of each incident? (If you cannot remember the precise date, please provide the month or a date as near as possible).
- Who was the victim of this behaviour? You should consider whether any child saw or heard anything and name him or her but do not give details here.
- Who was responsible for this behaviour?
- What was the nature of this behaviour e.g. was it physical mental or sexual (and what form did it take)?
- How often did this kind of behaviour happen and give the date (as far as you can remember) of the most recent incident?
- Did you go to your GP or to a hospital to get treatment in respect of any injuries sustained for any of the children named in this form or the applicant or other person involved in the incident(s)?
- Do you believe that the harm, violence or abuse is likely to happen again in the future?

You shall have an opportunity later in the proceedings to provide a more substantial statement.

## **3. Involvement of the children**

If you believe that any of the child(ren) named at the top of the form CIA have either seen, heard or were aware of any of the alleged incidents of abuse, you should say so here and say briefly how these alleged incidents affected the family and the children. You will have an opportunity to give full details later in the proceedings.

## **4. Witnesses**

If your answer to this question is “yes” you should ask whether he or she is willing, and able, to provide supporting evidence. This evidence could be any paperwork supplied by the police, hospital or any agency to which the incident was reported. You should

also say whether or not this person is prepared to give evidence in court.

**Do not** attach any of the evidence to this form. The court may ask you to provide it later in the proceedings.

## **5. Medical treatment or other assessment of the child(ren)**

If any of the children named at the top of Form CIA have been referred by a doctor, psychiatrist or psychologist for treatment or assessment relating to his or her emotional, social or behavioural development you should provide:

- the name and address of the psychiatrist or psychologist.
- the date when the referral was made (this may not be the date of the appointment). If you cannot remember the precise date, please provide the month or a date as near as possible.
- a summary of the treatment recommended or the result of the assessment.
- information about whether you know that there was an assessment and the whereabouts of any reports or correspondence relating to it.

If any of this information is in your possession please say so:

- information about whether or not this treatment continues.

You should not include any documents, copies of appointment cards etc at this stage. You may be asked to provide this information later in the proceedings.

## **6. Steps or orders required to protect you and the children**

You are completing this form because there are allegations that the child(ren) may have suffered or be at risk of suffering domestic abuse, violence or harm or seeing another person suffering such domestic abuse, violence or harm and you are asking the court to make an order for Residence, Contact, Prohibited Steps or Specific Issue.

These terms mean:

- (a) Residence: this decides who the child or children are going to live with in the future.

- (b) *Contact: this decides how often and for how long the person with whom the child(ren) are living must let the child(ren) visit, stay or otherwise have contact with the person asking for the order.*
- (c) *Prohibited Steps: this prevents a parent from taking a particular action as set out in the order without the permission of the court. This also applies to actions by any other person named in the order.*
- (d) *Specific Issue: this decides specific questions e.g. about education, medical treatment or a foreign holiday or visit where parents or those with parental responsibility cannot agree.*

- *Please say what steps or order you think the court should make to protect the interests of yourself and the child(ren) named in this form so that you and they may be protected.*

#### **7. Attending the Court**

*If you feel that you are vulnerable or likely to be intimidated when you attend court and would like the court to make special arrangements, please say so on this form. The court will try to supply you and your witnesses with a separate waiting area. For this or any other measures to be considered please will you explain why you feel you need them.”*

FORM TO BE SUBSTITUTED IN THE FAMILY PROCEEDINGS RULES  
(NORTHERN IRELAND) 1996

“FORM C4

ACKNOWLEDGEMENT

[In the High Court of Justice in Northern Ireland]

[In the Designated County Court for the Division of \_\_\_\_\_ ]

[In the Family Care Centre at \_\_\_\_\_ ]

Date of [Hearing] [Directions Appointment]

**What you (the person receiving this form) should do**

- Answer the questions overleaf. **If the applicant is asking only for financial relief in respect of the child(ren) named above, you do not need to answer questions 6 and 7.**
- If you need more space for an answer use a separate sheet of paper. Please put your full name, case number and the child(ren)'s number(s) at the top.
- If the applicant has asked the court to order you to make a payment for a child you must also fill in a Statement of Means (Form C7A). You can obtain this form from a court office if one has not been enclosed with the papers served on you.
- **If you answer “Yes” to both parts of question 6, and/or question 7, you must also fill in Supplemental Information Form (Form C1A).** You can obtain this form from a court office if one has not been enclosed with the papers served on you.
- When you have answered the questions make copies of both sides of this form. You will need a copy for the applicant, and each party named in Part 4 of Form C1.
- Post, or hand, a copy to the applicant and to each party. Then post, or take, this form, and the Statement of Means if you filled one in, to the court at the address below.

You must do this **within 14 days** of the date when you were given the Notice of Proceedings, **or** of the postmark on the envelope if the Notice of Proceedings was posted to you.

*To be completed by the court*

The court office is open

from \_\_\_\_\_ am to \_\_\_\_\_ pm

on Mondays to Fridays

1. About you

Full name

Date of birth

Address

*Please give a daytime  
telephone number if  
you can*

Telephone Number

2. About your solicitor

Name

*If you do not have a solicitor put **None**. (But see note 3 on the Notice of Proceedings which was served on you).*

Address

Telephone Number

FAX Number

DX Number

---

3. Address to which letters and other papers should be sent.

---

4. The application was received on:

---

5. Do you oppose the application?

---

6. Did you receive a completed Supplemental Information Form (Form C1A) from the applicant with the papers served on you?

Yes

No

If Yes, do you wish to comment on any of the statements made in that form by the applicant?

Yes

No

---

7. Do you believe that the child(ren) named above have suffered or are at risk of suffering any harm from any of the following or through seeing or hearing any of the following:

Yes

No

- any form of domestic abuse
  - violence within the household
  - other conduct or behaviour
  - ill treatment of another person by any person who —
    - (a) is or has been involved in caring for the child(ren); or
    - (b) lives with, or has contact, with the child(ren)?
- 

8. Do you intend to apply to the court for an order?

---

9. Will you use an interpreter at court?

*If Yes state the language into which the interpreter will translate.*

*Note: If you require an interpreter you must bring your own.*

Signed  
(Respondent)

Date

”.

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FORM TO BE SUBSTITUTED IN THE FAMILY PROCEEDINGS RULES  
(NORTHERN IRELAND) 1996

“FORM F2

APPLICATION FOR A NON-MOLESTATION ORDER/AN OCCUPATION ORDER

*Family Homes and Domestic Violence (Northern Ireland) Order 1998*

[In the High Court of Justice in Northern Ireland]

[In the Designated County Court for the Division of ]

[In the Family Care Centre at ]

*Please read the accompanying notes as you complete this form*

**1. About you (the Applicant)**

State your title (Mr, Mrs etc), full name, address, telephone number and date of birth (if under 18):

State your solicitor's name, address, reference, telephone, FAX and DX numbers:

**2. About the respondent**

State the respondent's name, address and date of birth (if known):

**3. The Order(s) for which you are applying**

This application is for:

- a non-molestation order
- an occupation order
- Tick this box if you wish the court to hear your application without notice being given to the respondent. The reasons relied on for an application being heard without notice must be stated in the statement in support.

**4. Your relationship to the respondent (the person to be served with this application)**

Your relationship to the respondent is:

*Please tick only one of the following.*

1.  Married
2.  Civil Partners
3.  Were Married
4.  Former Civil Partners
5.  Cohabiting
6.  Were cohabiting
7.  Both of you live or have lived in the same household
8.  Relative  
State how related
9.  Agreed to marry.

Give date the agreement was made.  
If the agreement has ended, state when.

10.  Agreed to form a civil partnership.  
Give the date the agreement was made. If the agreement had ended, state when.
11.  Both of you are parents of or have parental responsibility for a child.
12.  One of you is a parent of a child and the other has parental responsibility for that child.
13.  One of you is the natural parent or grandparent of a child adopted or freed for adoption, and the other is:
- (i) the adoptive parent
  - or (ii) a person who has applied for an adoption order for the child
  - or (iii) a person with whom the child has been placed for adoption
  - or (iv) the child who has been adopted or freed for adoption.
- State whether (i), (ii), (iii) or (iv):
14.  Both of you are parties to the same family proceedings (see also Section 11 below).

**5. Application for a non-molestation order**

If you wish to apply for a non-molestation order, state briefly in this section the order you want. Give full details in support of your application in your supporting evidence.

**6. Application for an occupation order**

*If you do not wish to apply for an occupation order, please go to Section 9 of this form.*

(A) State the address of the dwelling house to which your application relates:

(B) State whether it is occupied by you or the respondent now or in the past, or whether it was intended to be occupied by you or the respondent:

(C) State whether you are entitled to occupy the dwelling house:  Yes  No  
If yes, explain why:

(D) State whether the respondent is entitled to occupy the dwelling house:  Yes  No  
If yes, explain why:

**On the basis of your answer to (C) and (D) above, tick one of the boxes 1 to 5 below to show the category into which you fit.**

1.  a spouse or civil partner who has home rights in the dwelling house, or a person who is entitled to occupy it by virtue of a beneficial estate or interest or contract or by virtue of any enactment

giving him or her the right to remain in occupation.

If you tick box 1 state whether there is a dispute or pending proceedings between you and the respondent about your right to occupy the dwelling house.

2.  a former spouse or former civil partner with no existing right to occupy, where the respondent spouse or civil partner is entitled.
3.  a cohabitee or former cohabitee with no existing right to occupy, where the respondent cohabitee or former cohabitee is so entitled.
4.  a spouse or former spouse who is not entitled to occupy, where the respondent spouse or former spouse is also not entitled.
5.  a civil partner or former civil partner who is not entitled to occupy, where the respondent civil partner is also not entitled.
6.  a cohabitee or former cohabitee who is not entitled to occupy, where the respondent cohabitee or former cohabitee is also not entitled.

### **Home Rights**

If you do have home rights please:

State whether the title to the land is registered or unregistered (if known):

If registered, state the Land Registry Folio number (if known):

**If you wish to apply for an occupation order, state briefly here the order you want.** Give full details in support of your application in your supporting evidence.

### **7. Application for additional order(s) about the dwelling-house**

If you want to apply for any of the orders listed in the notes to this section, state what order you would like the court to make:

### **8. Mortgage and rent**

Is the dwelling house subject to a mortgage?

Yes  No

If yes, please provide the name and address of the mortgagee:

Is the dwelling house rented?

Yes  No

If yes, please provide the name and address of the landlord:

**9. At the court**

Will you need an interpreter at court?

Yes  No

If 'Yes', specify the language:

If you need an interpreter because you do not speak English, you are responsible for providing your own.

If you need an interpreter or other facilities because of a disability please contact the court to ask what help is available.

**10. Other information**

State the name and date of birth of any child living with or staying with or likely to live with or stay with you or the respondent.

State the name of any person living in the same household as you and the respondent, and say why they live there:

**11. Other Proceedings and Orders**

If there are any other current family proceedings or orders in force involving you and the respondent, state the type of proceedings or orders, the court and the case number. This includes any application for an occupation order or non-molestation order against you by the respondent.

**This application is to be served upon the respondent**

Signed	Date
--------	------

**Application for a non-molestation order or occupation order**

**Notes for Guidance**

**Section 1**

*If you do not wish your address to be made known to the respondent, leave the space on the form blank and complete the Confidential Address Form C5. The court can give you this form.*

*If you are under 18, someone over 18 must help you make this application. That person, who might be one of your parents, is called a "next friend".*

*If you are under 16 you need permission to make this application. You must apply to the High Court for permission, using this form. If the High Court gives you permission to make this application, it will then either hear*

*the application itself or transfer it to a county court.*

**Section 3**

*An urgent order made by the court before notice of the application is served on the respondent is called an ex-parte order. In deciding whether to make an ex-parte order the court will consider the circumstances of the case, including:*

- *any risk of significant harm to the applicant or a relevant child, attributable to conduct of the respondent, if the order is not made immediately*
- *whether it is likely that the applicant will be deterred or prevented from pursuing*



*the application if an order is not made immediately*

- *whether there is reason to believe that the respondent is aware of the proceedings but is deliberately evading service and that the applicant or a relevant child will be seriously prejudiced by the delay involved.*

*If the court makes an ex-parte order, it must specify a date for a full hearing.*

*“Harm” in relation to a person who has reached the age of 18 means ill-treatment or the impairment of health, and in relation to a child means ill-treatment or the impairment of health and development. “Ill-treatment” includes sexual abuse and forms of ill-treatment which are not physical. The court will require evidence of any harm which you allege in support of your application. This evidence should be included in the statement accompanying this application.*

#### **Section 4**

*For you to be able to apply for an order you must be related to the respondent in one of the ways listed in this section of the form. If you are not related in one of these ways you should seek legal advice.*

*Cohabitees are two persons who, although not married to each other nor civil partners of each other, are living together or have lived together as husband and wife or civil partners. People who have cohabited, but have then married or formed a civil partnership will not fall within this category, but will fall within the category of married people or people who are civil partners of each other.*

*Those who live or have lived in the same household do not include people who share the same household because one of them is the other’s employee, tenant, lodger or boarder.*

*You will only be able to apply as a relative of the respondent if you are:*

*(A) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of the respondent or of the respondent’s spouse or former spouse, civil partner or former civil partner.”.*

*(B) the brother, sister, uncle, aunt, niece, nephew or first cousin (whether of the full*

*blood or of the half blood, or by affinity or by civil partnership) of the respondent or of the respondent’s spouse, former spouse, civil partner or former civil partner.*

*This includes, in relation to a person who is cohabiting or has cohabited with another person, any person who would fall within paragraph (A) or (B) if the parties were married to, or civil partners of, each other (for example, your cohabitee’s father or brother).*

**Agreements to marry:** *You will fall within this category only if you make this application within three years of the termination of the agreement. The court will require the following evidence of the agreement:*

*evidence in writing*

*or the gift of an engagement ring in contemplation of marriage*

*or evidence that a ceremony has been entered into in the presence of one or more other persons assembled for the purpose of witnessing it.*

**Agreements to form a civil partnership:** *You will fall within this category only if you make this application within three years of the termination of the agreement. The court will require the following evidence of the agreement:*

*evidence in writing*

*or a gift from one party to the agreement to the other as a token of the agreement*

*or evidence that a ceremony has been entered into in the presence of one or more other persons assembled for the purpose of witnessing it.*

#### **Parents and parental responsibility:**

*You will fall within this category if*

*both you and the respondent are either the parents of a child or have parental responsibility for that child*

*or if one of you is the parent and the other has parental responsibility.*

*Under the Children (Northern Ireland) Order 1995, parental responsibility is held automatically by a child’s mother, and by the child’s father if he and the mother were married to each other at the time of the child’s birth or have married subsequently. Where this is not the case, parental responsibility can be acquired by the father*

in accordance with the provisions of the Children (Northern Ireland) Order 1995.

### Section 5

A non-molestation order can forbid the respondent to molest you or a relevant child. Molestation can include, for example, violence, threats, pestering and other forms of harassment. The court can forbid particular acts of the respondent, molestation in general, or both.

### Section 6

**If you wish to apply for an occupation order but you are uncertain about your answer to any of the questions in this part of the application form, you should seek legal advice.**

(A) A dwelling house includes any building or part of a building which is occupied as a dwelling; any caravan, houseboat or structure which is occupied as a dwelling; and any yard, garden, garage or outhouse belonging to it and occupied with it.

(C) & (D) The following questions give examples to help you to decide if you or the respondent, or both of you, are entitled to occupy the dwelling house:

- (a) Are you the sole legal owner of the dwelling house?
- (b) Are you and the respondent joint legal owners of the dwelling house?
- (c) Is the respondent the sole legal owner of the dwelling house?
- (d) Do you rent the dwelling house as sole tenant?
- (e) Do you and the respondent rent the dwelling house as joint tenants?
- (f) Does the respondent rent the dwelling house as sole tenant?

If you answer:

- **Yes** to (a), (b), (d) or (e) you are likely to be entitled to occupy the dwelling house.
- **Yes** to (c) or (f) you may not be entitled (unless, for example you are a spouse or civil partner and have home rights — see the notes under 'Home Rights' below).
- **Yes** to (b), (c), (e) or (f) the respondent is likely to be entitled to occupy the dwelling house.
- **Yes** to (a) or (d) the respondent may not be entitled (unless for example he is a spouse or civil partner and has home rights).

**Box 1** For example, if you are sole owner, joint owner or if you rent the property. If you are not a spouse, former spouse, civil partner or former civil partner, cohabitee or former cohabitee of the respondent you will only be able to apply for an occupation order if you fall within this category.

If you answer **Yes** to this question, it will not be possible for a magistrates' court to deal with the application, unless the court decides that it is unnecessary for it to decide this question or make an order. If the court decides that it cannot deal with the application it will transfer the application to a county court.

**Box 2** For example, if the respondent was married to you or if you and the respondent are or were civil partners and he or she is sole owner or rents the property.

**Box 3** For example, if the respondent is or was cohabiting with you and is sole owner or rents the property.

### Home Rights

Where one spouse or civil partner "A" is entitled to occupy the dwelling house by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation and the other spouse or civil partner "B" is not so entitled, then B (who is not so entitled) has home rights. These are a right, if B is in occupation, not to be evicted or excluded from the dwelling house except with the leave of the court and, if B is not in occupation, the right with the leave of the court to enter into and occupy the dwelling house.

Home rights do not exist if the dwelling house has never been and was never intended to be, the matrimonial or civil partnership home of two spouses or civil partners. If the marriage or civil partnership has come to an end, home rights will also have ceased unless a court order has been made during the marriage or civil partnership for the rights to continue after the end of that relationship.

**Occupation Orders** The possible orders are:

**If you have ticked box 1 above, an order under Article 11 of the Order of 1998 may:**

- enforce the applicant's entitlement to remain in occupation as against the respondent

- *require the respondent to permit the applicant to enter and remain in the dwelling house or part of it*
- *require the respondent to permit the applicant to have peaceful use and enjoyment of the dwelling house or part of it*
- *regulate the occupation of the dwelling house by either or both parties*
- *if the respondent is also entitled to occupy, prohibit, suspend or restrict the exercise by him of that right*
- *restrict or terminate any home rights of the respondent*
- *require the respondent to leave the dwelling house or part of it*
- *provide for the respondent to remove from the dwelling house or part of it personal effects or furniture or other contents which are specified in the order*
- *exclude the respondent from a defined area around the dwelling house or any other defined area or premises*
- *declare that the applicant is entitled to occupy the dwelling house or has matrimonial rights in it*
- *provide that the home rights of the applicant are not brought to an end by the death of the other spouse or civil partner or termination of the marriage or civil partnership*
- *restrain the respondent from disposing of any estate he has in the dwelling house.*

***If you have ticked box 2 or box 3 above —***

*(a) an order under Article 13 or 14 of the Order of 1998 must:*

*(i) if the applicant is in occupation—*

- *give the applicant the right not to be evicted or excluded from the dwelling house or any part of it by the respondent for a specified period; and*
- *prohibit the respondent from evicting or excluding the applicant during that period*

*(ii) if the applicant is not in occupation—*

- *give the applicant the right to enter and occupy the dwelling house for a specified period; and*
- *require the respondent to permit the exercise of that right*

*(b) an order under Article 13 or 14 of the Order of 1998 may—*

- *require the respondent to permit the applicant to have peaceful use and*

*enjoyment of the dwelling house or part of it*

- *regulate the occupation of the dwelling house by either or both of the parties*
- *prohibit, suspend or restrict the exercise by the respondent of his right to occupy the dwelling house*
- *require the respondent to leave the dwelling house or part of it*
- *provide for the respondent to remove from the dwelling house or part of it personal effects or any furniture or other contents which are specified in the order*
- *exclude the respondent from a defined area around the dwelling house or any other defined area or premises specified in the order*
- *restrain the respondent from disposing of any estate he has in the dwelling house.*

*If you have ticked box 4 or box 5 above, an order under Article 15 or 16 of the Order of 1998 may:*

- *require the respondent to permit the applicant to enter and remain in the dwelling house or part of it*
- *require the respondent to permit the applicant to have peaceful use and enjoyment of the dwelling house or part of it*
- *regulate the occupation of the dwelling house by either or both of the parties*
- *require the respondent to leave the dwelling house or part of it*
- *provide for the respondent to remove from the dwelling house or part of it personal effects or any furniture or other contents which are specified in the order.*
- *exclude the respondent from a defined area around the dwelling house, or any other defined area or premises.*

*You should provide any evidence which you have on the following matters in your evidence in support of this application. If necessary, further statements may be submitted after the application has been issued.*

***If you have ticked box 1, 4 or 5 above, the court will need any available evidence of the following:***

- *the housing needs and resources of you, the respondent and any relevant child*
- *the financial resources of you and the respondent*
- *the likely effect of any order, or of any decision not to make an order, on the*

*health, safety and well-being of you, the respondent and any relevant child*

- *the conduct of you and the respondent in relation to each other and otherwise.*

**If you have ticked box 2 above**, the court will need any available evidence of:

- *the housing needs and resources of you, the respondent and any relevant child*
  - *the financial resources of you and the respondent*
  - *the likely effect of any order, or of any decision not to make an order, on the health, safety and well-being of you, the respondent and any relevant child*
  - *the conduct of you and the respondent in relation to each other and otherwise*
  - *the length of time that has elapsed since you and the respondent ceased to live together*
  - *where you and the respondent were married, the length of time that has elapsed since the marriage was dissolved or annulled*
  - *where you and the respondent were civil partners, the length of time that has elapsed since the dissolution or annulment of the civil partnership*
  - *the existence of any pending proceedings between you and the respondent:*  
*under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 (property adjustment orders in connection with divorce proceedings etc.)*
- or under Part 2 of Schedule 15 to the Civil Partnership Act 2004 (property adjustment on or after dissolution, nullity or separation)*
- or under para 2(2)(d) or (e) of Schedule 1 to the Children (Northern Ireland) Order 1995 (orders for financial relief against parents)*
- or relating to the legal or beneficial ownership of the dwelling house.*

**If you have ticked box 3 above**, the court will need any available evidence of:

- *the housing needs and resources of you, the respondent and any relevant child*
- *the financial resources of you and the respondent*
- *the likely effect of any order, or of any decision not to make an order, on the health, safety and well-being of you, the respondent and any relevant child*

- *the conduct of you and the respondent in relation to each other and otherwise*
- *the nature of you and the respondent's relationship*
- *the length of time during which you have lived together as husband and wife or civil partners*
- *whether you and the respondent have had any children, or have parental responsibility for any children*
- *the length of time which has elapsed since you and the respondent ceased to live together*
- *the existence of any pending proceedings between you and the respondent under para 2(2)(d) or (e) of Schedule 1 to the Children (Northern Ireland) Order 1995 or relating to the legal or beneficial ownership of the dwelling house.*

### **Section 7**

Under Article 18 of the Order of 1998, the court may make the following additional orders when making an occupation order:

- *impose on either party obligations as to the repair and maintenance of the dwelling house*
- *impose on either party obligations as to the payment of rent, mortgage or other outgoings affecting it*
- *order a party occupying the dwelling house or any part of it to make periodical payments to the other party in respect of the accommodation, if the other party would (but for the order) be entitled to occupy it*
- *grant either party possession or use of furniture or other contents*
- *order either party to take reasonable care of any furniture or other contents*
- *order either party to take reasonable steps to keep the dwelling house and any furniture or other contents secure.*
- *prohibit either party from damaging or interfering with services in the dwelling house or any premises specified in the order*
- *order either party to repair damage or restore services to the dwelling house*
- *order either party to pay the other party or another person a sum specified in the order where that party has damaged premises, specified in the order or contents of those premises or damaged or interfered with services in those premises.*

**Section 8**

*If the dwelling house is rented or subject to a mortgage, the landlord or mortgagee must be served with notice of the proceedings in Form F3. He or she will then be able to make representations to the court regarding the rent or mortgage.*

**Section 10**

*A person living in the same household may, for example, be a member of the family or a tenant or employee of you or the respondent”.*

## EXPLANATORY NOTE

*(This note is not part of the Order)*

These rules amend the Family Proceedings Rules (Northern Ireland) 1996 (S.R. 1996 No. 322), which apply to proceedings in the High Court and county court, in consequence of the Civil Partnership Act 2004 (c.33), the Gender Recognition Act 2004 (c.7), Council Regulation (EC) No. 2201/2003 of 27th November 2003 (Brussels IIa Regulation) and the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005. They also make a number of minor amendments to forms prescribed by the Family Proceedings Rules to ensure that allegations of domestic violence are raised at the commencement of proceedings under Article 8 of the Children (Northern Ireland) Order 1995.

The Civil Partnership Act 2004 introduces a statutory civil registration procedure to allow same-sex couples to make a formal, legal commitment to each other by entering into a civil partnership. The Rules amend the Family Proceedings Rules to prescribe procedures for proceedings under the Civil Partnership Act. These procedures are similar to those which currently exist for comparable proceedings relating to marriage. In summary, these procedures are prescribed in relation to applications under the following provisions of the 2004 Act:

- section 161 (dissolution order, nullity order, presumption of death order or separation order);
- section 181 (declarations);
- Schedule 15 (financial relief in the High Court or a county court in Northern Ireland); and
- Schedule 17 (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership).

The Gender Recognition Act 2004 provides for transsexual persons to obtain legal recognition in their acquired gender. A person may apply to a Gender Recognition Panel. If the applicant meets the statutory criteria and is unmarried, the Panel will issue to him a full gender recognition certificate. If he is married, the Panel will issue to him an interim gender recognition certificate. The Gender Recognition Act amended the Matrimonial Causes (Northern Ireland) Order 1978 to add two new grounds of nullity, where an interim or full gender recognition certificate has been issued to a party to the marriage. The amendments to the Family Proceedings Rules in consequence of the Gender Recognition Act 2004 make provision:

- in relation to the new grounds of nullity, in particular, require a copy of the relevant gender recognition certificate to be attached to the pleadings in proceedings under either ground and require the Secretary of State to be notified of proceedings brought on the ground of issue of an interim gender recognition certificate;
- for an application for a corrected certificate, where the court has issued a full gender recognition certificate containing an error;
- for an applicant who has been refused a gender recognition certificate to appeal to the High Court on a point of law; and
- for a reference to the High Court by the Secretary of State where he considers an application to have been granted by fraud.

Council Regulation (EC) No. 2201/2003 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility reproduced and repealed Council Regulation (EC) No. 1347/2000 of 29th May extending it to include matters of parental responsibility where there are no matrimonial proceedings. The amendments in consequence of Council Regulation (EC) No. 2201/2003 update the Family Proceedings Rules to make reference to the new Council Regulation and the correct Article of it. They also make provision:

- for a stay under the Council Regulation of children proceedings;

- to prescribe the procedure for applications under Article 15 of the new Council Regulation; and
- relating to certificates under Article 41 of the Council Regulation.

The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 amended the definition of the terms “relative” and “cohabitee” in the Family Homes and Domestic Violence Order (Northern Ireland) 1998. The 2005 Order also amended the 1998 Order so as to allow exclusion zones of defined areas to be attached to non-molestation orders and to make it clear that protective orders made ex-parte can only be made for a short period and that, if a court makes such an order, it must specify a date for a full hearing. The Rules make consequential amendments to the Notes for Guidance in Forms F2 and F3 in the Family Proceedings Rules.