



# Civil Partnership Act 2004

## 2004 CHAPTER 33

### PART 2

#### CIVIL PARTNERSHIP: ENGLAND AND WALES

### CHAPTER 2

#### DISSOLUTION, NULLITY AND OTHER PROCEEDINGS

##### *Introduction*

### **37 Powers to make orders and effect of orders**

- (1) The court may, in accordance with this Chapter—
  - (a) make an order (a “dissolution order”) which dissolves a civil partnership on the ground that it has broken down irretrievably;
  - (b) make an order (a “nullity order”) which annuls a civil partnership which is void or voidable;
  - (c) make an order (a “presumption of death order”) which dissolves a civil partnership on the ground that one of the civil partners is presumed to be dead;
  - (d) make an order (a “separation order”) which provides for the separation of the civil partners.
- (2) Every dissolution, nullity or presumption of death order—
  - (a) is, in the first instance, a conditional order, and
  - (b) may not be made final before the end of the prescribed period (see section 38);and any reference in this Chapter to a conditional order is to be read accordingly.
- (3) A nullity order made where a civil partnership is voidable annuls the civil partnership only as respects any time after the order has been made final, and the civil partnership is to be treated (despite the order) as if it had existed up to that time.

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) In this Chapter, other than in sections 58 to 61, “the court” means—
- (a) the High Court, or
  - [<sup>F1</sup>(b) the family court.]
- (5) This Chapter is subject to sections 219 to 224 (jurisdiction of the court).

#### Textual Amendments

- F1** S. 37(4)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 162](#); [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), [arts. 3-11](#))

### 38 The period before conditional orders may be made final

- (1) Subject to subsections (2) to (4), the prescribed period for the purposes of section 37(2) (b) is—
- (a) 6 weeks from the making of the conditional order, or
  - (b) if the 6 week period would end on a day on which the office or registry of the court dealing with the case is closed, the period of 6 weeks extended to the end of the first day on which the office or registry is next open.
- (2) The Lord Chancellor may by order amend this section so as to substitute a different definition of the prescribed period for the purposes of section 37(2)(b).
- (3) But the Lord Chancellor may not under subsection (2) provide for a period longer than 6 months to be the prescribed period.
- (4) In a particular case the court dealing with the case may by order shorten the prescribed period.
- (5) The power to make an order under subsection (2) is exercisable by statutory instrument.
- (6) An instrument containing such an order is subject to annulment in pursuance of a resolution of either House of Parliament.

### 39 Intervention of the Queen’s Proctor

- (1) This section applies if an application has been made for a dissolution, nullity or presumption of death order.
- (2) The court may, if it thinks fit, direct that all necessary papers in the matter are to be sent to the Queen’s Proctor who must under the directions of the Attorney General instruct counsel to argue before the court any question in relation to the matter which the court considers it necessary or expedient to have fully argued.
- (3) If any person at any time—
- (a) during the progress of the proceedings, or
  - (b) before the conditional order is made final,
- gives information to the Queen’s Proctor on any matter material to the due decision of the case, the Queen’s Proctor may take such steps as the Attorney General considers necessary or expedient.

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) If the Queen’s Proctor intervenes or shows cause against the making of the conditional order in any proceedings relating to its making, the court may make such order as may be just as to—
- (a) the payment by other parties to the proceedings of the costs incurred by him in doing so, or
  - (b) the payment by the Queen’s Proctor of any costs incurred by any of those parties because of his doing so.
- (5) The Queen’s Proctor is entitled to charge as part of the expenses of his office—
- (a) the costs of any proceedings under subsection (2);
  - (b) if his reasonable costs of intervening or showing cause as mentioned in subsection (4) are not fully satisfied by an order under subsection (4)(a), the amount of the difference;
  - (c) if the Treasury so directs, any costs which he pays to any parties under an order made under subsection (4)(b).

#### **40 Proceedings before order has been made final**

- (1) This section applies if—
- (a) a conditional order has been made, and
  - (b) the Queen’s Proctor, or any person who has not been a party to proceedings in which the order was made, shows cause why the order should not be made final on the ground that material facts have not been brought before the court.
- (2) This section also applies if—
- (a) a conditional order has been made,
  - (b) 3 months have elapsed since the earliest date on which an application could have been made for the order to be made final,
  - (c) no such application has been made by the civil partner who applied for the conditional order, and
  - (d) the other civil partner makes an application to the court under this subsection.
- (3) The court may—
- (a) make the order final,
  - (b) rescind the order,
  - (c) require further inquiry, or
  - (d) otherwise deal with the case as it thinks fit.
- (4) Subsection (3)(a)—
- (a) applies despite section 37(2) (period before conditional orders may be made final), but
  - (b) is subject to section 48(4) (protection for respondent in separation cases) <sup>F2</sup>....

#### **Textual Amendments**

- F2** Words in s. 40(4)(b) omitted (22.4.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), [ss. 17\(6\), 139\(6\)](#); [S.I. 2014/793](#), [art. 2](#) (with transitional provisions in [S.I. 2014/1042](#), arts. 5, 11)

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### 41 Time bar on applications for dissolution orders

- (1) No application for a dissolution order may be made to the court before the end of the period of 1 year from the date of the formation of the civil partnership.
- (2) Nothing in this section prevents the making of an application based on matters which occurred before the end of the 1 year period.

##### Modifications etc. (not altering text)

- C1** S. 41 applied (with modifications) (5.12.2005) by [The Civil Partnership \(Treatment of Overseas Relationships\) Order 2005 \(S.I. 2005/3042\)](#), **art. 3(1)**
- C2** S. 41 applied (with modifications) (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 2 para. 4(1)**

#### 42 Attempts at reconciliation of civil partners

- (1) This section applies in relation to cases where an application is made for a dissolution or separation order.
- (2) Rules of court must make provision for requiring the [<sup>F3</sup>legal representative] acting for the applicant to certify whether he has—
  - (a) discussed with the applicant the possibility of a reconciliation with the other civil partner, and
  - (b) given the applicant the names and addresses of persons qualified to help effect a reconciliation between civil partners who have become estranged.
- (3) If at any stage of proceedings for the order it appears to the court that there is a reasonable possibility of a reconciliation between the civil partners, the court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect a reconciliation between them.
- (4) The power to adjourn under subsection (3) is additional to any other power of adjournment.

##### Textual Amendments

- F3** Words in s. 42(2) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 20\)](#), ss. 208, 211, **Sch. 21 para. 150** (with ss. 29, 192, 193); [S.I. 2009/3250](#), **art. 2(h)** (with arts. 6, 9)

##### Commencement Information

- I1** S. 42 wholly in force at 5.12.2005; s. 42 not in force at Royal Assent see s. 263; s. 42(1) in force at 15.4.2005 for certain purposes by [S.I. 2005/1112](#), **art. 2, Sch. 1** and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3175](#), **art. 2(1), Sch. 1**; s. 42(2) in force at 15.4.2005 by [S.I. 2005/1112](#), **art. 2, Sch. 1**; s. 42(3)(4) in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3175](#), **art. 2(1), Sch. 1**

#### 43 Consideration by the court of certain agreements or arrangements

- (1) This section applies in relation to cases where—
  - (a) proceedings for a dissolution or separation order are contemplated or have begun, and

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) an agreement or arrangement is made or proposed to be made between the civil partners which relates to, arises out of, or is connected with, the proceedings.
- (2) Rules of court may make provision for enabling—
- (a) the civil partners, or either of them, to refer the agreement or arrangement to the court, and
  - (b) the court—
    - (i) to express an opinion, if it thinks it desirable to do so, as to the reasonableness of the agreement or arrangement, and
    - (ii) to give such directions, if any, in the matter as it thinks fit.

### *Dissolution of civil partnership*

#### **44 Dissolution of civil partnership which has broken down irretrievably**

- (1) Subject to section 41, an application for a dissolution order may be made to the court by [<sup>F4</sup>either civil partner][<sup>F4</sup>either or both civil partners] on the ground that the civil partnership has broken down irretrievably.
- [<sup>F5</sup>(1A) An application under subsection (1) must be accompanied by a statement by the applicant or applicants that the civil partnership has broken down irretrievably.]
- (2) [<sup>F6</sup>On an application for a dissolution order the court must inquire, so far as it reasonably can, into—
- (a) the facts alleged by the applicant, and
  - (b) any facts alleged by the respondent.]
- (3) [<sup>F7</sup>The court hearing an application for a dissolution order must not hold that the civil partnership has broken down irretrievably unless the applicant satisfies the court of one or more of the facts described in subsection (5)(a), (b), (c) or (d).]
- (4) [<sup>F8</sup>The court dealing with an application under subsection (1) must—
- (a) take the statement to be conclusive evidence that the civil partnership has broken down irretrievably, and
  - (b) make a dissolution order.]
- (5) [<sup>F9</sup>The facts referred to in subsections (3) and (4) are—
- (a) that the respondent has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent;
  - (b) that—
    - (i) the applicant and the respondent have lived apart for a continuous period of at least 2 years immediately preceding the making of the application (“2 years' separation”), and
    - (ii) the respondent consents to a dissolution order being made;
  - (c) that the applicant and the respondent have lived apart for a continuous period of at least 5 years immediately preceding the making of the application (“5 years' separation”);
  - (d) that the respondent has deserted the applicant for a continuous period of at least 2 years immediately preceding the making of the application.]
- [<sup>F10</sup>(6) Without prejudice to the generality of section 75 of the Courts Act 2003, Family Procedure Rules may make provision as to the procedure for an application under

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

subsection (1) by both civil partners to become an application by one civil partner only (including provision for a statement made under subsection (1A) in connection with the application to be treated as made by one civil partner only).]

#### Textual Amendments

- F4** Words in s. 44(1) substituted (25.6.2020 for specified purposes) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\), ss. 3\(2\), 8\(3\)\(b\)](#) (with s. 8(7))
- F5** S. 44(1A) inserted (25.6.2020 for specified purposes) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\), ss. 3\(3\), 8\(3\)\(b\)](#) (with s. 8(7))
- F6** S. 44(2) omitted (25.6.2020 for specified purposes) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\), ss. 3\(4\), 8\(3\)\(b\)](#) (with s. 8(7))
- F7** S. 44(3) omitted (25.6.2020 for specified purposes) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\), ss. 3\(4\), 8\(3\)\(b\)](#) (with s. 8(7))
- F8** S. 44(4) substituted (25.6.2020 for specified purposes) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\), ss. 3\(5\), 8\(3\)\(b\)](#) (with s. 8(7))
- F9** S. 44(5) omitted (25.6.2020 for specified purposes) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\), ss. 3\(6\), 8\(3\)\(b\)](#) (with s. 8(7))
- F10** S. 44(6) inserted (25.6.2020 for specified purposes) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\), ss. 3\(7\), 8\(3\)\(b\)](#) (with s. 8(7))

## 45 Supplemental provisions as to facts raising presumption of breakdown

- (1) Subsection (2) applies if—
  - (a) in any proceedings for a dissolution order the applicant alleges, in reliance on section 44(5)(a), that the respondent has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent, but
  - (b) after the date of the occurrence of the final incident relied on by the applicant and held by the court to support his allegation, the applicant and the respondent have lived together for a period (or periods) which does not, or which taken together do not, exceed 6 months.
- (2) The fact that the applicant and respondent have lived together as mentioned in subsection (1)(b) must be disregarded in determining, for the purposes of section 44(5)(a), whether the applicant cannot reasonably be expected to live with the respondent.
- (3) Subsection (4) applies in relation to cases where the applicant alleges, in reliance on section 44(5)(b), that the respondent consents to a dissolution order being made.
- (4) Rules of court must make provision for the purpose of ensuring that the respondent has been given such information as will enable him to understand—
  - (a) the consequences to him of consenting to the making of the order, and
  - (b) the steps which he must take to indicate his consent.
- (5) For the purposes of section 44(5)(d) the court may treat a period of desertion as having continued at a time when the deserting civil partner was incapable of continuing the necessary intention, if the evidence before the court is such that, had he not been so incapable, the court would have inferred that the desertion continued at that time.
- (6) In considering for the purposes of section 44(5) whether the period for which the civil partners have lived apart or the period for which the respondent has deserted the applicant has been continuous, no account is to be taken of—
  - (a) any one period not exceeding 6 months, or

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) any two or more periods not exceeding 6 months in all, during which the civil partners resumed living with each other.
- (7) But no period during which the civil partners have lived with each other counts as part of the period during which the civil partners have lived apart or as part of the period of desertion.
- (8) For the purposes of section 44(5)(b) and (c) and this section civil partners are to be treated as living apart unless they are living with each other in the same household, and references in this section to civil partners living with each other are to be read as references to their living with each other in the same household.

#### Commencement Information

- I2** S. 45 wholly in force at 5.12.2005; s. 45 not in force at Royal Assent see s. 263; s. 45(3)(4) in force at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#); s. 45(1)(2)(5)-(8) in force at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

#### 46 Dissolution order not precluded by previous separation order etc.

- (1) Subsections (2) and (3) apply if any of the following orders has been made in relation to a civil partnership—
  - (a) a separation order;
  - (b) an order under Schedule 6 (financial relief in magistrates' courts etc.);
  - (c) an order under section 33 of the Family Law Act 1996 (c. 27) (occupation orders);
  - (d) an order under section 37 of the 1996 Act (orders where neither civil partner entitled to occupy the home).
- (2) Nothing prevents—
  - (a) either civil partner from applying for a dissolution order, or
  - (b) the court from making a dissolution order,on the same facts, or substantially the same facts, as those proved in support of the making of the order referred to in subsection (1).
- (3) On the application for the dissolution order, the court—
  - (a) may treat the order referred to in subsection (1) as sufficient proof of any desertion or other fact by reference to which it was made, but
  - (b) must not make the dissolution order without receiving evidence from the applicant.
- (4) If—
  - (a) the application for the dissolution order follows a separation order or any order requiring the civil partners to live apart,
  - (b) there was a period of desertion immediately preceding the institution of the proceedings for the separation order, and
  - (c) the civil partners have not resumed living together and the separation order has been continuously in force since it was made,the period of desertion is to be treated for the purposes of the application for the dissolution order as if it had immediately preceded the making of the application.

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) For the purposes of section 44(5)(d) the court may treat as a period during which the respondent has deserted the applicant any period during which there is in force—
- (a) an injunction granted by the High Court<sup>F11</sup>, the family court or the county court] which excludes the respondent from the civil partnership home, or
  - (b) an order under section 33 or 37 of the 1996 Act which prohibits the respondent from occupying a dwelling-house in which the applicant and the respondent have, or at any time have had, a civil partnership home.

#### Textual Amendments

**F11** Words in s. 46(5)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 163](#); [S.I. 2014/954, art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

#### 47 Refusal of dissolution in 5 year separation cases on ground of grave hardship

- (1) The respondent to an application for a dissolution order in which the applicant alleges 5 years' separation may oppose the making of an order on the ground that—
- (a) the dissolution of the civil partnership will result in grave financial or other hardship to him, and
  - (b) it would in all the circumstances be wrong to dissolve the civil partnership.
- (2) Subsection (3) applies if—
- (a) the making of a dissolution order is opposed under this section,
  - (b) the court finds that the applicant is entitled to rely in support of his application on the fact of 5 years' separation and makes no such finding as to any other fact mentioned in section 44(5), and
  - (c) apart from this section, the court would make a dissolution order.
- (3) The court must—
- (a) consider all the circumstances, including the conduct of the civil partners and the interests of the civil partners and of any children or other persons concerned, and
  - (b) if it is of the opinion that the ground mentioned in subsection (1) is made out, dismiss the application for the dissolution order.
- (4) “Hardship” includes the loss of the chance of acquiring any benefit which the respondent might acquire if the civil partnership were not dissolved.

#### 48 Proceedings before order made final: protection for respondent in separation cases

- (1) The court may, on an application made by the respondent, rescind a conditional dissolution order if—
- (a) it made the order on the basis of a finding that the applicant was entitled to rely on the fact of 2 years' separation coupled with the respondent's consent to a dissolution order being made,
  - (b) it made no such finding as to any other fact mentioned in section 44(5), and



---

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

- (c) it is satisfied that the applicant misled the respondent (whether intentionally or unintentionally) about any matter which the respondent took into account in deciding to give his consent.
- (2) Subsections (3) to (5) apply if—
- (a) the respondent to an application for a dissolution order in which the applicant alleged—
    - (i) 2 years' separation coupled with the respondent's consent to a dissolution order being made, or
    - (ii) 5 years' separation,has applied to the court for consideration under subsection (3) of his financial position after the dissolution of the civil partnership, and
  - (b) the court—
    - (i) has made a conditional dissolution order on the basis of a finding that the applicant was entitled to rely in support of his application on the fact of 2 years' or 5 years' separation, and
    - (ii) has made no such finding as to any other fact mentioned in section 44(5).
- (3) The court hearing an application by the respondent under subsection (2) must consider all the circumstances, including—
- (a) the age, health, conduct, earning capacity, financial resources and financial obligations of each of the parties, and
  - (b) the financial position of the respondent as, having regard to the dissolution, it is likely to be after the death of the applicant should the applicant die first.
- (4) Subject to subsection (5), the court must not make the order final unless it is satisfied that—
- (a) the applicant should not be required to make any financial provision for the respondent, or
  - (b) the financial provision made by the applicant for the respondent is—
    - (i) reasonable and fair, or
    - (ii) the best that can be made in the circumstances.
- (5) The court may if it thinks fit make the order final if—
- (a) it appears that there are circumstances making it desirable that the order should be made final without delay, and
  - (b) it has obtained a satisfactory undertaking from the applicant that he will make such financial provision for the respondent as it may approve.

### *Nullity*

## **49 Grounds on which civil partnership is void**

Where two people register as civil partners of each other in England and Wales, the civil partnership is void if—

- (a) at the time when they do so, they are not eligible to register as civil partners of each other under Chapter 1 (see section 3),
- (b) at the time when they do so they both know—
  - (i) that due notice of proposed civil partnership has not been given,

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (ii) that the civil partnership document has not been duly issued,
- (iii) that the civil partnership document is void under section 17(3) or 27(2) (registration after end of time allowed for registering),
- (iv) that the place of registration is a place other than that specified in the notices (or notice) of proposed civil partnership and the civil partnership document,<sup>F12</sup> . . .
- (v) that a civil partnership registrar is not present, or
- [<sup>F13</sup>(vi) that the place of registration is on premises that are not approved premises although the registration is purportedly in accordance with section 6(3A)(a), or]
- (c) the civil partnership document is void under paragraph 6(5) of Schedule 2 (civil partnership between child and another person forbidden).

#### Textual Amendments

- F12** Word in s. 49(b)(iv) omitted (5.12.2005) by virtue of [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 14(2)** (subject to art. 1(3))
- F13** S. 49(b)(vi) inserted (5.12.2005) by [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, **Sch. para. 14(3)** (subject to art. 1(3))

## 50 Grounds on which civil partnership is voidable

- (1) Where two people register as civil partners of each other in England and Wales, the civil partnership is voidable if—
- (a) either of them did not validly consent to its formation (whether as a result of duress, mistake, unsoundness of mind or otherwise);
  - (b) at the time of its formation either of them, though capable of giving a valid consent, was suffering (whether continuously or intermittently) from mental disorder of such a kind or to such an extent as to be unfitted for civil partnership;
  - (c) at the time of its formation, the respondent was pregnant by some person other than the applicant;
  - (d) an interim gender recognition certificate under the Gender Recognition Act 2004 (c. 7) has, after the time of its formation, been issued to either civil partner;
  - (e) the respondent is a person whose gender at the time of its formation had become the acquired gender under the 2004 Act.
- (2) In this section and section 51 “mental disorder” has the same meaning as in the Mental Health Act 1983 (c. 20).

## 51 Bars to relief where civil partnership is voidable

- (1) The court must not make a nullity order on the ground that a civil partnership is voidable if the respondent satisfies the court—
- (a) that the applicant, with knowledge that it was open to him to obtain a nullity order, conducted himself in relation to the respondent in such a way as to lead the respondent reasonably to believe that he would not seek to do so, and
  - (b) that it would be unjust to the respondent to make the order.

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Without prejudice to subsection (1), the court must not make a nullity order by virtue of section 50(1)(a), (b), (c) or (e) unless—
  - (a) it is satisfied that proceedings were instituted within 3 years from the date of the formation of the civil partnership, or
  - (b) leave for the institution of proceedings after the end of that 3 year period has been granted under subsection (3).
- (3) A judge of the court may, on an application made to him, grant leave for the institution of proceedings if he—
  - (a) is satisfied that the applicant has at some time during the 3 year period suffered from mental disorder, and
  - (b) considers that in all the circumstances of the case it would be just to grant leave for the institution of proceedings.
- (4) An application for leave under subsection (3) may be made after the end of the 3 year period.
- (5) Without prejudice to subsection (1), the court must not make a nullity order by virtue of section 50(1)(d) unless it is satisfied that proceedings were instituted within the period of 6 months from the date of issue of the interim gender recognition certificate.
- (6) Without prejudice to subsections (1) and (2), the court must not make a nullity order by virtue of section 50(1)(c) or (e) unless it is satisfied that the applicant was at the time of the formation of the civil partnership ignorant of the facts alleged.

## 52 Proof of certain matters not necessary to validity of civil partnership

- (1) Where two people have registered as civil partners of each other in England and Wales, it is not necessary in support of the civil partnership to give any proof—
  - (a) that any person whose consent to the civil partnership was required by section 4 (parental etc. consent) had given his consent,<sup>F14</sup>...
  - <sup>F15</sup>(aa) that before the registration either of the civil partners resided, or resided for any period, in the area stated in the notices of proposed civil partnership to be the area of that person's place of residence;<sup>F16</sup>or
  - (ab) that, in the case of a civil partnership to which Schedule 3A applied, any of the events listed in paragraph 2(2) to (6) of that Schedule occurred.]
  - <sup>F17</sup>(b) .....and no evidence is to be given to prove the contrary in any proceedings touching the validity of the civil partnership.
- (2) Subsection (1)(a) is subject to section 49(c) (civil partnership void if forbidden).

### Textual Amendments

- F14** Word in s. 52(1)(a) omitted (1.3.2015) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 4 para. 29\(a\)](#) (with [Sch. 9 para. 66](#)); S.I. 2015/371, art. 2(1)(f)
- F15** S. 52(1)(aa) inserted (5.12.2005) by [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, [Sch. para. 15\(2\)](#) (subject to art. 1(3))
- F16** S. 52(1)(ab) and word inserted (1.3.2015) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 4 para. 29\(b\)](#) (with [Sch. 9 para. 66](#)); S.I. 2015/371, art. 2(1)(f)

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F17** S. 52(1)(b) omitted (5.12.2005) by virtue of [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), art. 3, [Sch. para. 15\(3\)](#) (subject to art. 1(3))

### **53 Power to validate civil partnership**

- (1) Where two people have registered as civil partners of each other in England and Wales, the Lord Chancellor may by order validate the civil partnership if it appears to him that it is or may be void under section 49(b).
- (2) An order under subsection (1) may include provisions for relieving a person from any liability under section 31(2), 32(2) or 33(5) or (7).
- (3) The draft of an order under subsection (1) must be advertised, in such manner as the Lord Chancellor thinks fit, not less than one month before the order is made.
- (4) The Lord Chancellor must—
  - (a) consider all objections to the order sent to him in writing during that month, and
  - (b) if it appears to him necessary, direct a local inquiry into the validity of any such objections.
- (5) An order under subsection (1) is subject to special parliamentary procedure.

### **54 Validity of civil partnerships registered outside England and Wales**

- (1) Where two people register as civil partners of each other in Scotland, the civil partnership is—
  - (a) void, if it would be void in Scotland under section 123, and
  - (b) voidable, if the circumstances fall within section 50(1)(d).
- (2) Where two people register as civil partners of each other in Northern Ireland, the civil partnership is—
  - (a) void, if it would be void in Northern Ireland under section 173, and
  - (b) voidable, if the circumstances fall within any paragraph of section 50(1).
- [<sup>F18</sup>(2A) Where two people convert, or purport to convert, their marriage into a civil partnership under Part 3, 4 or 5 of the Marriage and Civil Partnership (Northern Ireland) (No. 2) Regulations 2020, the civil partnership is—
  - (a) void, if it would be void in Northern Ireland under section 173, and
  - (b) voidable, if it would be voidable there under section 174.]
- (3) Subsection (4) applies where two people register as civil partners of each other under an Order in Council under—
  - (a) section 210 (registration at British consulates etc.), or
  - (b) section 211 (registration by armed forces personnel),
 (“the relevant section”).
- (4) The civil partnership is—
  - (a) void, if—
    - (i) the condition in subsection (2)(a) or (b) of the relevant section is not met, or

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (ii) a requirement prescribed for the purposes of this paragraph by an Order in Council under the relevant section is not complied with, and
- (b) voidable, if—
  - (i) the appropriate part of the United Kingdom is England and Wales or Northern Ireland and the circumstances fall within any paragraph of section 50(1), or
  - (ii) the appropriate part of the United Kingdom is Scotland and the circumstances fall within section 50(1)(d).
- (5) The appropriate part of the United Kingdom is the part by reference to which the condition in subsection (2)(b) of the relevant section is met.
- (6) Subsections (7) and (8) apply where two people have registered an apparent or alleged overseas relationship.
- (7) The civil partnership is void if—
  - (a) the relationship is not an overseas relationship, or
  - (b) (even though the relationship is an overseas relationship) the parties are not treated under Chapter 2 of Part 5 as having formed a civil partnership.
- (8) The civil partnership is voidable if—
  - (a) the overseas relationship is voidable under the relevant law,
  - (b) the circumstances fall within section 50(1)(d), or
  - (c) where either of the parties was domiciled in England and Wales or Northern Ireland at the time when the overseas relationship was registered, the circumstances fall within section 50(1)(a), (b), (c) or (e).
- (9) Section 51 applies for the purposes of—
  - (a) subsections (1)(b), (2)(b) and (4)(b),
  - (b) subsection (8)(a), in so far as applicable in accordance with the relevant law, and
  - (c) subsection (8)(b) and (c).
- (10) In subsections (8)(a) and (9)(b) “the relevant law” means the law of the country or territory where the overseas relationship was registered (including its rules of private international law).
- (11) For the purposes of subsections (8) and (9)(b) and (c), references in sections 50 and 51 to the formation of the civil partnership are to be read as references to the registration of the overseas relationship.

#### Textual Amendments

- F18** S. 54(2A) inserted (7.12.2020) by [The Marriage and Civil Partnership \(Northern Ireland\) \(No. 2\) Regulations 2020 \(S.I. 2020/1143\)](#), regs. 1(2), **44(4)**

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Presumption of death orders*

#### **55 Presumption of death orders**

- (1) The court may, on an application made by a civil partner, make a presumption of death order if it is satisfied that reasonable grounds exist for supposing that the other civil partner is dead.
- (2) In any proceedings under this section the fact that—
  - (a) for a period of 7 years or more the other civil partner has been continually absent from the applicant, and
  - (b) the applicant has no reason to believe that the other civil partner has been living within that time,
 is evidence that the other civil partner is dead until the contrary is proved.

### *Separation orders*

#### **56 Separation orders**

- (1) An application for a separation order may be made to the court by either civil partner on the ground that any such fact as is mentioned in section 44(5)(a), (b), (c) or (d) exists.
- (2) On an application for a separation order the court must inquire, so far as it reasonably can, into—
  - (a) the facts alleged by the applicant, and
  - (b) any facts alleged by the respondent,
 but whether the civil partnership has broken down irretrievably is irrelevant.
- (3) If the court is satisfied on the evidence of any such fact as is mentioned in section 44(5) (a), (b), (c) or (d) it must <sup>F19</sup>... make a separation order.
- (4) Section 45 (supplemental provisions as to facts raising presumption of breakdown) applies for the purposes of an application for a separation order alleging any such fact as it applies in relation to an application for a dissolution order alleging that fact.

#### **Textual Amendments**

**F19** Words in s. 56(3) omitted (22.4.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), ss. 17(7), 139(6); S.I. 2014/793, art. 2 (with transitional provisions in S.I. 2014/1042, arts. 5, 11)

#### **57 Effect of separation order**

If either civil partner dies intestate as respects all or any of his or her real or personal property while—

- (a) a separation order is in force, and
- (b) the separation is continuing,

the property as respects which he or she died intestate devolves as if the other civil partner had then been dead.

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## Declarations

### 58 Declarations

- (1) Any person may apply to the High Court or [<sup>F20</sup>the family court] for one or more of the following declarations in relation to a civil partnership specified in the application—
  - (a) a declaration that the civil partnership was at its inception a valid civil partnership;
  - (b) a declaration that the civil partnership subsisted on a date specified in the application;
  - (c) a declaration that the civil partnership did not subsist on a date so specified;
  - (d) a declaration that the validity of a dissolution, annulment or legal separation obtained outside England and Wales in respect of the civil partnership is entitled to recognition in England and Wales;
  - (e) a declaration that the validity of a dissolution, annulment or legal separation so obtained in respect of the civil partnership is not entitled to recognition in England and Wales.
- (2) Where an application under subsection (1) is made to a court by a person other than a civil partner in the civil partnership to which the application relates, the court must refuse to hear the application if it considers that the applicant does not have a sufficient interest in the determination of that application.

#### Textual Amendments

**F20** Words in s. 58 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 164](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

### 59 General provisions as to making and effect of declarations

- (1) Where on an application for a declaration under section 58 the truth of the proposition to be declared is proved to the satisfaction of the court, the court must make the declaration unless to do so would be manifestly contrary to public policy.
- (2) Any declaration under section 58 binds Her Majesty and all other persons.
- (3) The court, on the dismissal of an application for a declaration under section 58, may not make any declaration for which an application has not been made.
- (4) No declaration which may be applied for under section 58 may be made otherwise than under section 58 by any court.
- (5) No declaration may be made by any court, whether under section 58 or otherwise, that a civil partnership was at its inception void.
- (6) Nothing in this section affects the powers of any court to make a nullity order in respect of a civil partnership.

*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 60 The Attorney General and proceedings for declarations

- (1) On an application for a declaration under section 58 the court may at any stage of the proceedings, of its own motion or on the application of any party to the proceedings, direct that all necessary papers in the matter be sent to the Attorney General.
- (2) The Attorney General, whether or not he is sent papers in relation to an application for a declaration under section 58, may—
  - (a) intervene in the proceedings on that application in such manner as he thinks necessary or expedient, and
  - (b) argue before the court dealing with the application any question in relation to the application which the court considers it necessary to have fully argued.
- (3) Where any costs are incurred by the Attorney General in connection with any application for a declaration under section 58, the court may make such order as it considers just as to the payment of those costs by parties to the proceedings.

## 61 Supplementary provisions as to declarations

- (1) Any declaration made under section 58, and any application for such a declaration, must be in the form prescribed by rules of court.
- (2) Rules of court may make provision—
  - (a) as to the information required to be given by any applicant for a declaration under section 58;
  - (b) requiring notice of an application under section 58 to be served on the Attorney General and on persons who may be affected by any declaration applied for.
- (3) No proceedings under section 58 affect any final judgment or order already pronounced or made by any court of competent jurisdiction.
- (4) The court hearing an application under section 58 may direct that the whole or any part of the proceedings must be heard in private.
- (5) An application for a direction under subsection (4) must be heard in private unless the court otherwise directs.

### Commencement Information

- I3** S. 61 wholly in force at 5.12.2005; s. 61 not in force at Royal Assent see s. 263; s. 61(1) in force at 15.4.2005 for certain purposes by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#); s. 61(2) in force at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#)

### *General provisions*

## 62 Relief for respondent in dissolution proceedings

- (1) If in any proceedings for a dissolution order the respondent alleges and proves any such fact as is mentioned in section 44(5)(a), (b), (c) or (d) the court may give to the respondent the relief to which he would have been entitled if he had made an application seeking that relief.



*Status: Point in time view as at 07/12/2020.*

*Changes to legislation: Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) When applying subsection (1), treat—
- (a) the respondent as the applicant, and
  - (b) the applicant as the respondent,
- for the purposes of section 44(5).

**F21 63 Restrictions on making of orders affecting children**

.....

**Textual Amendments**

**F21** S. 63 repealed (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 17(1)(b)**, 139(6); [S.I. 2014/793](#), **art. 2** (with transitional provisions in [S.I. 2014/1042](#), arts. 5, 11)

**64 Parties to proceedings under this Chapter**

- (1) Rules of court may make provision with respect to—
- (a) the joinder as parties to proceedings under sections 37 to 56 of persons involved in allegations of improper conduct made in those proceedings,
  - (b) the dismissal from such proceedings of any parties so joined, and
  - (c) the persons who are to be parties to proceedings on an application under section 58.
- (2) Rules of court made under this section may make different provision for different cases.
- (3) In every case in which the court considers, in the interest of a person not already a party to the proceedings, that the person should be made a party, the court may if it thinks fit allow the person to intervene upon such terms, if any, as the court thinks just.

**Commencement Information**

**I4** S. 64 wholly in force at 5.12.2005; s. 64 not in force at Royal Assent see s. 263; s. 64(1)(2) in force at 15.4.2005 by [S.I. 2005/1112](#), **art. 2**, **Sch. 1**; s. 64(3) in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3175](#), **art. 2(1)**, **Sch. 1**

**Status:**

Point in time view as at 07/12/2020.

**Changes to legislation:**

Civil Partnership Act 2004, Chapter 2 is up to date with all changes known to be in force on or before 13 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.