



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.

^{F1}(2)

- (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.

- (4) In this Chapter, other than in sections 58 to 61, “the court” means—

- (a) the High Court, or
- ^{F2}(b) the family court.]

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(5) This Chapter is subject to sections 219 to 224 (jurisdiction of the court).

Textual Amendments

- F1** S. 37(2) omitted (6.4.2022) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), [ss. 4\(2\)](#), [8\(1\)\(8\)](#) (with [s. 8\(7\)](#)); [S.I. 2022/283](#), [reg. 2](#)
- F2** 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](#))

[^{F3}37A Dissolution on ground of breakdown: conditional and final orders

- (1) Every dissolution order—
- (a) is, in the first instance, a conditional order, and
 - (b) may not be made final before the end of the period of 6 weeks from the making of the conditional order (the “first prescribed period”).
- (2) The court may not make a conditional order unless—
- (a) in the case of an application that is to proceed as an application by one civil partner only, that person has confirmed to the court that they wish the application to continue, or
 - (b) in the case of an application that is to proceed as an application by both civil partners, those persons have confirmed to the court that they wish the application to continue;
- and a person may not give confirmation for the purposes of this subsection before the end of the period of 20 weeks from the start of proceedings (the “second prescribed period”).
- (3) The Lord Chancellor may by order amend this section so as to substitute—
- (a) a different definition of the first prescribed period, or
 - (b) a different definition of the second prescribed period.
- (4) But the Lord Chancellor may not under subsection (3) provide for a period which would result in the total number of days in the first and second prescribed periods (taken together) exceeding 26 weeks.
- (5) In a particular case the court dealing with the case may by order shorten the first prescribed period or the second prescribed period.
- (6) The power to make an order under subsection (3) is exercisable by statutory instrument.
- (7) An instrument containing such an order may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.]

Textual Amendments

- F3** S. 37A inserted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), [ss. 4\(3\)](#), [8\(1\)\(8\)](#) (with [s. 8\(7\)](#)); [S.I. 2022/283](#), [reg. 2](#)

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38 [F4]Annulment and presumption of death: conditional and final orders]

[F5(A1) Every 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 for the purposes of this paragraph.]

(1) Subject to subsections (2) to (4), the prescribed period for the purposes of [F6]subsection (A1)(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 [F7]subsection (A1)(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.

Textual Amendments

- F4** S. 38 heading substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), ss. 4(4)(a), 8(1)(8) (with s. 8(7)); S.I. 2022/283, reg. 2
- F5** S. 38(A1) inserted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), ss. 4(4)(b), 8(1)(8) (with s. 8(7)); S.I. 2022/283, reg. 2
- F6** Words in s. 38(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), ss. 4(4)(c), 8(1)(8) (with s. 8(7)); S.I. 2022/283, reg. 2
- F7** Words in s. 38(2) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), ss. 4(4)(d), 8(1)(8) (with s. 8(7)); S.I. 2022/283, reg. 2

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,

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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.

- (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 [^{F8}sections 37A(1) and 38(A1)] (period before conditional orders may be made final), but
 - (b) is subject to section 48(4) (protection for respondent ^{F9} ...) ^{F10}

Textual Amendments

F8 Words in s. 40(4)(a) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 35(a)** (with s. 8(7)); S.I. 2022/283, reg. 2

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- F9** Words in s. 40(4)(b) omitted (6.4.2022) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 35\(b\)](#) (with s. 8(7)); S.I. 2022/283, reg. 2
- F10** 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)

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.

^{F11}(2)

Textual Amendments

- F11** S. 41(2) omitted (6.4.2022) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 36](#) (with s. 8(7)); S.I. 2022/283, reg. 2

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 [^{F12}legal representative] acting for [^{F13}an applicant to certify whether the representative] 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

- F12** 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)
- F13** Words in s. 42(2) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 37](#) (with s. 8(7)); S.I. 2022/283, reg. 2

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Commencement Information

- II** 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
 - (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.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 103(10) inserted by [2023 asp 3 s. 56\(5\)](#)
- s. 108(5) inserted by [2023 asp 3 s. 56\(8\)](#)
- s. 213(1A) inserted by [2013 c. 30 Sch. 2 para. 5\(2\)](#)