



# Civil Partnership Act 2004

## 2004 CHAPTER 33

### PART 4

#### CIVIL PARTNERSHIP: NORTHERN IRELAND

### CHAPTER 2

#### DISSOLUTION, NULLITY AND OTHER PROCEEDINGS

##### *Introduction*

#### **161 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) <sup>F1</sup> .....
  - (d) make an order (a “separation order”) which provides for the separation of the civil partners.
- (2) Every [<sup>F2</sup>dissolution order or nullity 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 162);
- 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.

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- (4) In this Chapter “the court” has the meaning given by section 188.
- (5) This Chapter is subject to section 219 and sections 228 to 232 (jurisdiction of the court).

#### **Textual Amendments**

- F1** S. 161(1)(c) repealed (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 19(1), (2), 20, Sch. 2, {Sch. 3}; S.R. 2009/356, [art. 2](#)
- F2** Words in s. 161(2) substituted (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 19(1), 20, [Sch. 2](#); S.R. 2009/356, [art. 2](#)

### **162 The period before conditional orders may be made final**

- (1) Subject to subsection (2), the prescribed period for the purposes of section 161(2)(b) is 6 weeks from the making of the conditional order.
- (2) In a particular case the court dealing with the case may by order shorten the prescribed period.

### **163 Intervention by the Crown Solicitor**

- (1) This section applies if an application has been made for a [<sup>F3</sup>dissolution order or nullity order].
- (2) The court may, if it thinks fit, direct that all necessary papers in the matter are to be sent to the Crown Solicitor 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 Crown Solicitor on any matter material to the due decision of the case, the Crown Solicitor may take such steps as the Attorney General considers necessary or expedient.
- (4) If the Crown Solicitor 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 Crown Solicitor of any costs incurred by any of those parties because of his doing so.
- (5) In this Chapter—
  - “the Attorney General” means the Attorney General for Northern Ireland;
  - and
  - “the Crown Solicitor” means the Crown Solicitor for Northern Ireland.

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### Textual Amendments

- F3** Words in s. 163(1) substituted (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 19(1), 20, [Sch. 2](#); S.R. 2009/356, [art. 2](#)

## 164 Proceedings before order has been made final

- (1) This section applies if—
- (a) a conditional order has been made, and
  - (b) the Crown Solicitor, 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 161(2) (period before conditional orders may be made final), but
  - (b) is subject to section 172(4) (protection for respondent in separation cases) and section 186 (restrictions on making of orders affecting children).

## 165 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 2 years 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 2 year period.

### Modifications etc. (not altering text)

- C1** S. 165 applied (with modifications) (N.I.) (5.12.2005) by [The Civil Partnership \(Treatment of Overseas Relationships\) Order \(Northern Ireland\) 2005 \(S.R. 2005/531\)](#), [art. 3\(1\)](#)
- C2** S. 165 applied (with modifications) (N.I.) (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), [171\(1\)](#) (with regs. 6-9)

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## **166 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) 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.
- (3) If during any such adjournment the parties resume living with each other in the same household, no account is to be taken of the fact for the purposes of the proceedings.
- (4) The power to adjourn under subsection (2) is additional to any other power of adjournment.

## **167 Consideration by the court of certain agreements or arrangements**

- (1) This section applies 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, on application made either before or after the making of the application for a dissolution or separation order, 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\(2\)](#)