

**2005 No. 3042**

**CIVIL PARTNERSHIP, ENGLAND AND WALES**

**The Civil Partnership (Treatment of Overseas Relationships)  
Order 2005**

<i>Made</i> - - - -	<i>1st November 2005</i>
<i>Laid before Parliament</i>	<i>4th November 2005</i>
<i>Coming into force</i> - -	<i>5th December 2005</i>

The Lord Chancellor makes the following order in exercise of the powers conferred by sections 215(5) and 259 of the Civil Partnership Act 2004(a):

**Citation, commencement, extent and interpretation**

1.—(1) This order may be cited as the Civil Partnership (Treatment of Overseas Relationships) Order 2005 and shall come into force on 5<sup>th</sup> December 2005.

(2) In this Order—

“the Act of 2004” means the Civil Partnership Act 2004; and

“recognised overseas relationship” means an overseas relationship which is treated as a civil partnership pursuant to chapter 2 of Part 5 of the Act of 2004.

(3) This Order extends to England and Wales.

**Overseas relationships dissolved etc. before commencement treated as civil partnerships**

2. The following provisions are specified for the purpose of section 215(5)(b) of the Act of 2004—

(a) in the case of a marriage celebrated on or after 5<sup>th</sup> December 2005, section 28A (power to require evidence) of, and Schedule 1 (kindred and affinity) to, the Marriage Act 1949(b);

(b) in the case of a notice of marriage given on or after 5<sup>th</sup> December 2005, section 27 (notice of marriage) of the Marriage Act 1949(c);

(c) the Inheritance (Provision for Family and Dependants) Act 1975(d);

(d) the Fatal Accidents Act 1976(e);

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(a) 2004 c.33. Section 9 was amended by S.I. 2005/2000.

(b) Section 28A inserted by section 162(1) Immigration and Asylum Act 1999 (c.33) and subsection (3) substituted by Civil Partnership Act 2004, section 261(1), Schedule 27, paragraph 15 from date to be appointed. Schedule 1 substituted by Civil Partnership Act 2004, Schedule 27, paragraph 17 from a date to be appointed.

(c) Section 27 amended by Marriage Act 1983 (c.32), section 1(7), Schedule 1, paragraph 5; Marriage Act 1994 (c.34), section 1(3), Schedule, paragraph 2; Immigration and Asylum Act 1999, sections 160(2), 161(1) and (2), 169(1) and (3), Schedule 14, paragraphs 3 and 8, Schedule 16; Civil Partnership Act 2004, section 261(1), Schedule 27, paragraph 14 from a date to be appointed.

(d) 1975 c.63.

(e) 1976 c.30.

- (e) in the case of a bankruptcy where the bankruptcy order was made on or after 5<sup>th</sup> December 2005—
  - (i) sections 283A (bankrupt’s home ceasing to form part of estate), 313 (charge on bankrupt’s home), 313A (low value home: application for sale, possession or charge), 332 (saving for bankrupt’s home), 335A (rights under trusts of land), and 366 (inquiry into bankrupt’s dealings and property) of the Insolvency Act 1986(a); and
  - (ii) rules 6.237 (bankrupt’s home – notification of property falling within section 283A), 6.237A (application in respect of the vesting of an interest in a dwelling-house (registered land)), 6.237B (vesting of bankrupt’s interest (unregistered land)), and 6.237D (charging order) of the Insolvency Rules 1986(b);
- (f) Schedule 1 to the Children Act 1989(c) (financial provision for children);
- (g) sections 33 (occupation orders where application has estate or interest etc or has home rights), 35(one former spouse or former civil partner with no existing right to occupy), 37 (neither spouse or civil partner entitled to occupy) of and Schedule 7 (transfer of tenancy) to the Family Law Act 1996(d); and
- (h) section 9 (power to require evidence of name etc.), section 65 (contribution by civil partner to property improvement), section 68 (applications under section 66 by former civil partners) of and Schedule 1 (prohibited degrees of relationship: England and Wales) to the Act of 2004.

**Transitional etc. provision relating to overseas relationships**

3.—(1) Section 41 (time bar on applications for dissolution orders) of the Act of 2004 applies in relation to a recognised overseas relationship registered under the relevant law before 5<sup>th</sup> December 2005 as though for the words “formation of the civil partnership” there were substituted “registration of the overseas relationship”.

(2) Section 65 (contributions by civil partner to property improvement) applies to a contribution made by a party to a recognised overseas relationship registered under the relevant law before 5<sup>th</sup> December 2005 as though—

- (a) for “a civil partner” there were substituted “a party to an overseas relationship”;
- (b) for “the civil partners” each time it appears there were substituted “the parties to the overseas relationship”; and
- (c) for “the contributing partner” there were substituted “the contributing party”.

(3) Paragraph 21(2)(d) of Schedule 5 to the Act of 2004 applies to an application under Part 1 of that Schedule or under Part 1 of Schedule 7 to the Act of 2004 which relates to a recognised overseas relationship registered under the relevant law before 5<sup>th</sup> December 2005 as though for the reference to “the duration of the civil partnership” there were substituted “the duration of the overseas relationship by virtue of which they are treated as having formed a civil partnership”.

(4) Paragraph 5(2)(d) of Schedule 6 to the Act of 2004 applies to an application under Part 1 of that Schedule which relates to a recognised overseas relationship registered under the relevant law before 5<sup>th</sup> December 2005 as though for the reference to “the duration of the civil partnership” there were substituted “the duration of the overseas relationship by virtue of which they are treated as having formed a civil partnership”.

**4. Where—**

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(a) 1986 c. 45, amended so far as relevant by Trusts of Land and Appointment of Trustees Act 1996 (c. 47), Schedule 3, paragraph 23; Enterprise Act 2002 (c. 40), s. 261(1) to (3); Civil Partnership Act 2004, Schedule 27, paragraphs 113 to 115, 117, 118, 120 and 122.

(b) S.I. 1986/1925; relevant amendments are made by S.I. 2003/1730 and 2005/2114.

(c) 1989.c.41.

(d) 1996 c.27, amended so far as relevant by Civil Partnership Act 2004, Schedule 9 paragraphs 4, 6, 8, and 16; Domestic Violence Crime and Victims Act 2004 (c.28), Schedule 10, paragraph 42; S.I. 1997/74.

- (a) a person is treated as a civil partner by virtue of having registered a recognised overseas relationship under the relevant law before 5<sup>th</sup> December 2005; and
- (b) he has, before registering that relationship, made a will,

section 18B of the Wills Act 1837(a) is not to apply to that will.

5.—(1) Section 212 of the Act of 2004 shall apply for the purpose of determining whether a relationship entered into before 5<sup>th</sup> December 2005 is an overseas relationship as though for the words in subsection (1)(b) from “and” to the end of the subsection there were substituted—

- “(ii) neither of whom is already lawfully married or a party to a recognised overseas relationship registered under the relevant law before the relationship concerned was entered into; and
- (iii) neither of whom is on 5<sup>th</sup> December 2005 a party to a marriage which on the date of its celebration was valid according to the law of England and Wales (including its rules of private international law).”.

Signed by authority of the Lord Chancellor

1st November 2005

*Cathy Ashton*  
Parliamentary Under Secretary of State,  
Department for Constitutional Affairs

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(a) 1837 c.26. Section 18B inserted by Civil Partnership Act 2004, Schedule 4, paragraphs 1 and 2.

## EXPLANATORY NOTE

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

This Order makes provision relating to the treatment of overseas relationships treated as civil partnerships by virtue of Chapter 2 of Part 5 of the Civil Partnership Act 2004 (c.33) (“the 2004 Act”) which were registered in the country where they were entered into before the date on which the 2004 Act comes into force (the 5<sup>th</sup> December 2005).

Under section 215 of the 2004 Act an overseas relationship registered abroad before 5<sup>th</sup> December 2005 will be treated as a Civil Partnership which was formed on the date when that section comes into force. For most purposes an overseas relationship which was dissolved or annulled before that date will not be treated as a Civil Partnership. Section 215(4) modifies this rule in relation to certain specified provisions and section 215(5) gives a Minister of the Crown power to specify additional provisions. **Article 2** of this Order exercises that power.

**Article 3** of this Order modifies the application of various provisions of the 2004 Act which refer to the length of the civil partnership concerned so that they apply in relation to overseas relationships registered before 5<sup>th</sup> December 2005 in a way which allows consideration of the actual length of that overseas relationship.

**Article 4** saves a will made by a party before registering, before 5<sup>th</sup> December 2005, an overseas relationship, from becoming invalid on recognition of the relationship as a civil partnership.

**Article 5** modifies the provision which determines when an overseas relationship formed before 5<sup>th</sup> December 2005 will be recognised as a civil partnership to ensure that a person cannot be recognised as being a party to more than one civil partnership or a civil partnership and a marriage at the same time.

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