

CIVIL PARTNERSHIP ACT 2011

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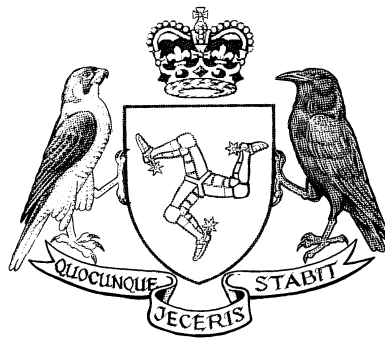
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Isle of Man } Signed in Tynwald: 15th March 2011
 to Wit } Received Royal Assent: 15th March 2011
 Announced to Tynwald: 15th March 2011

AN ACT

to make provision for civil partnership; to make minor amendments in respect of adoption; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1

INTRODUCTION

1. (1) A civil partnership is a relationship between two people of the same sex ("civil partners") — Civil partnership
P2004/33/1

- (a) which is formed when they register as civil partners of each other in the Island under Part 2;
- (b) which is formed when they register as civil partners of each other in any part of the United Kingdom in accordance with CPA 2004;
- (c) which is formed in any of the Channel Islands in accordance with a law having a corresponding effect to this Act; or
- (d) which they are treated under Part 3 as having formed (at the time determined under that Part) by virtue of having registered an overseas relationship.

(2) Subsection (1) is subject to the provisions of this Act under or by virtue of which a civil partnership is void.

(3) A civil partnership ends only on death, dissolution or annulment.

(4) The references in subsection (3) to dissolution and annulment are to dissolution and annulment having effect under, or recognised in accordance with, this Act.

(5) References in this Act to a relevant relationship are to be read in accordance with Part 3.

Interpretation
and glossary

2. (1) In this Act the Acts listed in the Table below are referred to by the abbreviations given there.

<i>Enactment</i>	<i>Abbreviation</i>
Children and Young Persons Act 2001 [c. 20]	CYPA 2001
Civil Partnership Act 2004 (an Act of Parliament [c. 33])	CPA 2004
Matrimonial Proceedings Act 2003 [c.7]	MPA 2003
Welfare Reform and Pensions Act 1999 (an Act of Parliament [c. 30])	WRAPA 1999

(2) In this Act —

“the court” in relation to proceedings in the Island means —

- (a) the High Court except in Schedule 6, and in Schedule 5 so far as necessary in the context of proceedings before a court of summary jurisdiction;
- (b) in the excepted places means a court of summary jurisdiction, and

“judge” shall be construed accordingly;

“specified” in relation to an order of a court, means specified in the order.

(3) The Table below shows where definitions of terms used more generally than the provision in which they are defined may be found, and the extent of their application.

INDEX OF DEFINED TERMS

<i>Term</i>	<i>Where term defined or otherwise explained</i>	<i>Extent of application</i>
“acquired gender”	section 48(3)	The whole Act
“child”	section 5(5)	Part 2
“child of the family” in relation to a civil partner	section 61(4)	The whole Act
“civil partners”	section 1(1)	The whole Act
“civil partnership document”	section 8(1)	Part 2
“interim gender recognition certificate”	section 48(3)	The whole Act
“mental disorder”	section 48(2)	Sections 48 and 49
“the register”	section 28(4)	Chapter 1 of Part 2
“registrar”	section 3(7)	The whole Act
“regulations”	section 34(3)	Chapter 1 of Part 2
“relevant relationship”	section 79(1)	The whole Act
“specified relationship”	section 81 and Schedule 11	The whole Act
“the waiting period”	section 12	Chapter 1 of Part 2

PART 2

CIVIL PARTNERSHIP

CHAPTER 1

REGISTRATION

Formation, eligibility and parental etc. consent

3. (1) For the purposes of section 1, two people are to be regarded as having registered as civil partners of each other once each of them has signed the civil partnership document —

Formation of civil partnership by registration

(a) at the invitation of, and in the presence of, a registrar,
and

(b) in the presence of each other and two witnesses.

(2) Subsection (1) applies regardless of whether subsections (3) and (4) are complied with.

(3) After the civil partnership document has been signed under subsection (1), it must also be signed, in the presence of the civil partners and each other, by —

(a) each of the two witnesses, and

(b) the registrar.

(4) After the witnesses and the registrar have signed the civil partnership document, the registrar must ensure that —

(a) the fact that the two people have registered as civil partners of each other, and

(b) any other information prescribed by regulations,

is recorded in the register as soon as is practicable.

(5) No religious service is to be used while the registrar is officiating at the signing of a civil partnership document.

(6) In this section “civil partnership document” has the meaning given by section 8(1).

(7) In this Act “registrar” means a registrar appointed under section 2 of the Civil Registration Act 1984.

[c.12]

Eligibility
P2004/33/3

4. (1) Two people are not eligible to register as civil partners of each other if —

(a) they are not of the same sex,

(b) either of them is already a civil partner or lawfully married,

(c) either of them is under 16, or

(d) they are within prohibited degrees of relationship.

(2) Part 1 of Schedule 1 contains provisions for determining when two people are within prohibited degrees of relationship.

5. (1) The consent of the appropriate persons is required before a child and another person may register as civil partners of each other.

Parental etc.
consent where
proposed civil
partner under
18

(2) Part 1 of Schedule 2 contains provisions for determining who are the appropriate persons for the purposes of this section.

P2004/33/4

(3) The requirement of consent under subsection (1) does not apply if the child is a widow, widower or a surviving civil partner.

(4) Nothing in this section affects any need to obtain the consent of the court before a ward of court and another person may register as civil partners of each other.

(5) In this Part “child”, except where used to express a relationship, means a person who is under 18.

Registration procedure: general

6. (1) Two people may register as civil partners of each other under —

Types of
pre-registration
procedure

(a) the standard procedure (see sections 9 to 18);

P2004/33/5

(b) the procedure for house-bound persons (see section 19);

(c) the procedure for detained persons (see section 20);

(d) the special procedure that applies in cases where a person is seriously ill and not expected to recover (see sections 21 to 27).

(2) The procedures referred to in subsection (1)(a) to (c) are subject to Schedule 3 (former spouses one of whom has changed sex).

(3) The procedures referred to in subsection (1) (including the procedures as modified by Schedule 3) are subject to —

(a) Part 2 of Schedule 1 (provisions applicable in connection with prohibited degrees of relationship), and

(b) Parts 2 and 3 of Schedule 2 (provisions applicable where proposed civil partner is under 18).

(4) This section is also subject to section 100 and Schedule 13 (immigration control and formation of civil partnerships).

Place of
registration

7. (1) Two people may register as civil partners of each other —

- (a) in a registrar’s office;
- (b) in a place which is for the time being approved by the Chief Registrar;
- (c) in any other place in the Island, but only with the consent of the owner of the place;
- (d) in Manx territorial waters on board a vessel which is for the time being approved by the Chief Registrar.

(2) If the registration of a civil partnership is to take place in accordance with paragraph (b), (c) or (d) of subsection (1), it may only do so with the consent of the Chief Registrar, which must be given or withheld in accordance with guidance under subsection (3).

(3) The Clerk of the Rolls shall issue guidance about the factors and circumstances to be taken into account by the Chief Registrar in determining whether to give consent under subsection (2).

(4) The guidance shall be framed so as to secure that the Chief Registrar’s consent is not unreasonably withheld, and shall be laid before Tynwald as soon as practicable after it is made.

(5) The Chief Registrar shall secure that the guidance issued under subsection (3) is available to members of the public.

(6) An appeal lies to the High Bailiff against any refusal by the Chief Registrar to approve a place or vessel under subsection (1).

(7) The High Bailiff’s decision is final.

(8) The Council of Ministers may by order —

- (a) amend subsection (1); and
- (b) make such other amendments to this Act as it considers necessary or expedient in consequence of any amendment under paragraph (a).

The civil
partnership
document

8. (1) In this Part “the civil partnership document” means —

- (a) in relation to the special procedure, a judge’s licence, and

P2004/33/7

(b) in relation to any other procedure, a civil partnership schedule.

(2) Before two people are entitled to register as civil partners of each other —

(a) the civil partnership document must be delivered to the registrar, and

(b) the registrar may then ask them for any information required (under section 3(4)) to be recorded in the register.

The standard procedure

9. (1) For two people to register as civil partners of each other under the standard procedure, each of them must —

(a) give a notice of proposed civil partnership to a registrar, and

(b) have resided at his or her place of residence for at least 7 days immediately before giving the notice.

(2) A notice of proposed civil partnership must contain such information as may be prescribed by regulations.

(3) A notice of proposed civil partnership must also include the necessary declaration, made and signed by the person giving the notice —

(a) at the time when the notice is given; and

(b) in the presence of an authorised person,

and the authorised person must attest the declaration by adding his or her name and official description.

(4) The necessary declaration is a solemn declaration in writing —

(a) that the proposed civil partner believes that there is no impediment of kindred or affinity or other lawful hindrance to the formation of the civil partnership; and

(b) that each of the proposed civil partners has resided at his or her place of residence for at least 7 days immediately before giving the notice.

Notice of
proposed civil
partnership
and
declaration

P2004/33/8

(5) Where a notice of proposed civil partnership is given to a registrar in accordance with this section, the registrar must ensure that the following information is recorded in the register as soon as possible —

- (a) the fact that the notice has been given and the information in it;
- (b) the fact that the authorised person has attested the declaration.

(6) “Authorised person” means the registrar or an employee or officer or other person provided by the registrar who is authorised by the registrar to attest notices of proposed civil partnership.

(7) For the purposes of this Chapter, a notice of proposed civil partnership is recorded when subsection (5) is complied with.

Power to
require
evidence of
name etc

P2004/33/9

10. (1) Where a notice of proposed civil partnership has been given, a registrar may require the person giving the notice to provide specified evidence —

- (a) relating to that person, or
- (b) if the registrar imposing the requirement considers that the circumstances are exceptional, relating not only to that person but also to that person’s proposed civil partner.

(2) Such a requirement may be imposed at any time before the issue of the civil partnership schedule under section 15.

(3) “Specified evidence”, in relation to a person, means such evidence as may be prescribed —

- (a) of the person’s name and surname;
- (b) of the person’s age;
- (c) as to whether the person has previously married or formed a civil partnership and, if so, as to the ending of the marriage or civil partnership;
- (d) of the person’s nationality; and
- (e) as to the person’s residence during the period of 7 days preceding the giving of a notice of proposed civil partnership by that person.

Proposed civil
partnership to
be publicised

P2004/33/10

11. (1) Where a notice of proposed civil partnership has been given to a registrar, the relevant information must be filed in the civil partnership notice book during the waiting period by a registrar.

(2) The civil partnership notice book must be open for inspection free of charge during the normal hours of opening at the office where the book is kept.

(3) “The relevant information” means —

- (a) the name of the person giving the notice,
- (b) the name of that person’s proposed civil partner, and
- (c) such other information as may be prescribed.

(4) The “civil partnership notice book” means the book provided by the Chief Registrar for the purpose of filing civil partnership notices.

12. In this Chapter “the waiting period”, in relation to a notice of proposed civil partnership, means the period —

Meaning of
“the waiting
period”

- (a) beginning the day after the notice is recorded, and
- (b) subject to section 13, ending at the end of the period of 7 days beginning with that day.

P2004/33/11

13. (1) If the Chief Registrar, on an application being made to him or her, is satisfied that there are compelling reasons because of the exceptional circumstances of the case for shortening the period of 7 days mentioned in section 12(b), the Chief Registrar may shorten it to such period as he or she considers appropriate.

Power to
shorten the
waiting period

P2004/33/12

(2) Regulations must make provision with respect to the making, and granting, of applications under subsection (1) and for the making of an appeal against a decision taken by the Chief Registrar to the Clerk of the Rolls.

14. (1) A person may object to the issue of a civil partnership schedule under section 15 by giving a registrar notice of his or her objection.

Objection to
proposed civil
partnership

P2004/33/13

(2) A notice of objection must —

- (a) state the objector’s place of residence and the ground of objection, and
- (b) be signed by or on behalf of the objector.

(3) If a notice of objection is given to a registrar, the registrar must ensure that the fact that it has been given is recorded in the register as soon as possible.

Issue of civil
partnership
schedule

P2004/33/14

15. (1) As soon as the waiting period in relation to each notice of proposed civil partnership has expired, a registrar at the request of one or both of the proposed civil partners, must issue a document to be known as a “civil partnership schedule”.

(2) Regulations may make provision as to the contents of a civil partnership schedule.

(3) The duty in subsection (1) does not apply if the registrar is not satisfied that there is no lawful impediment to the formation of the civil partnership.

(4) If an objection to the issue of the civil partnership schedule has been recorded in the register, no civil partnership schedule is to be issued until —

- (a) a registrar has investigated the objection and is satisfied that the objection ought not to obstruct the issue of the civil partnership schedule, or
- (b) the person who made the objection has withdrawn it.

Appeal
against refusal
to issue civil
partnership
schedule

P2004/33/15

16. (1) If a registrar refuses to issue a civil partnership schedule —

- (a) because an objection to its issue has been made under section 14, or
- (b) in reliance on section 15(3),

either of the proposed civil partners may appeal to the court.

(2) On an appeal under this section the court must either confirm the refusal or direct that a civil partnership schedule be issued.

Frivolous
objections and
representations:
liability for
costs etc.

P2004/33/16

17. (1) Subsection (3) applies if —

- (a) a person objects to the issue of a civil partnership schedule, but
- (b) the court declares that the grounds on which the objection is made are frivolous and ought not to obstruct the issue of the civil partnership schedule.

(2) Subsection (3) also applies if —

- (a) in reliance on section 15(3), a registrar refuses to issue a civil partnership schedule as a result of a representation made to him or her, and

- (b) on an appeal under section 16 against the refusal, the court declares that the representation is frivolous and ought not to obstruct the issue of the civil partnership schedule.
- (3) The person who made the objection or representation is liable for —
 - (a) the costs of the proceedings before the court, and
 - (b) damages recoverable by the proposed civil partner to whom the objection or representation relates.

18. (1) The proposed civil partners may not register as civil partners of each other on the production of the civil partnership schedule until the waiting period in relation to each notice of proposed civil partnership has expired.

Period during which registration may take place

P2004/33/17

(2) Subject to subsection (1), under the standard procedure, they may register as civil partners by signing the civil partnership schedule at any time during the applicable period.

(3) If they do not register as civil partners by signing the civil partnership schedule before the end of the applicable period —

- (a) the notices of proposed civil partnership and the civil partnership schedule are void, and
- (b) no registrar may officiate at the signing of the civil partnership schedule by them.

(4) The applicable period, in relation to two people registering as civil partners of each other, is the period of 12 months beginning with —

- (a) the day on which the notices of proposed civil partnership are recorded, or
- (b) if the notices are not recorded on the same day, the earlier of those days.

The procedures for house-bound and detained persons

19. (1) This section applies if two people wish to register as civil partners of each other at the place where one of them is house-bound.

House-bound persons

P2004/33/18

(2) A person is house-bound at any place if, in relation to that person, a statement is made by a registered medical practitioner that, in his or her opinion —

- (a) because of illness or disability, that person ought not to move or be moved from the place where he or she is at the time when the statement is made, and
 - (b) it is likely to be the case for at least the following 3 months that because of the illness or disability that person ought not to move or be moved from that place.
- (3) The procedure under which the two people concerned may register as civil partners of each other is the same as the standard procedure, except that —
- (a) each notice of proposed civil partnership must be accompanied by a statement under subsection (2) (“a medical statement”), which must have been made not more than 14 days before the day on which the notice is recorded,
 - (b) the fact that a registrar has received the medical statement must be recorded in the register, and
 - (c) the applicable period (for the purposes of section 18) is the period of 3 months beginning with —
 - (i) the day on which the notices of proposed civil partnership are recorded, or
 - (ii) if the notices are not recorded on the same day, the earlier of those days.
- (4) A medical statement must contain such information and be made in such manner as may be prescribed by regulations.
- (5) A medical statement may not be made in relation to a person who is detained as described in section 20(2).
- (6) For the purposes of this Chapter, a person in relation to whom a medical statement is made is to be treated as resident and usually resident at the place where the person is for the time being.

Detained
persons

P2004/33/19

20. (1) This section applies if two people wish to register as civil partners of each other at the place where one of them is detained.

(2) “Detained” means detained —

- (a) as a patient in a hospital (but otherwise than by virtue of Schedule 2A to the Summary Jurisdiction Act 1989, Schedule 1A to the Criminal Jurisdiction Act 1993 or section 2, 4, 5 or 132 of the Mental Health Act 1998 (short term detentions)), or

[c. 15]

[c. 9]

[c. 3]

- (b) in a prison or other place to which the Custody Act 1995 applies. [c. 1]
- (3) The procedure under which the two people concerned may register as civil partners of each other is the same as the standard procedure, except that —
- (a) each notice of proposed civil partnership must be accompanied by a supporting statement, which must have been made not more than 21 days before the day on which the notice is recorded,
 - (b) the fact that a registrar has received the supporting statement must be recorded in the register, and
 - (c) the applicable period (for the purposes of section 18) is the period of 3 months beginning with —
 - (i) the day on which the notices of proposed civil partnership are recorded, or
 - (ii) if the notices are not recorded on the same day, the earlier of those days.
- (4) A supporting statement, in relation to a detained person, is a statement made by the responsible authority which —
- (a) identifies the establishment where the person is detained, and
 - (b) states that the responsible authority has no objection to that establishment being specified in a notice of proposed civil partnership as the place at which the person is to register as a civil partner.
- (5) A supporting statement must contain such information and be made in such manner as may be prescribed by regulations.
- (6) “The responsible authority” means —
- (a) if the person is detained in a hospital, the hospital’s managers;
 - (b) if the person is detained in an institution in accordance with the Custody Act 1995, the officer in charge of that institution.
- (7) “Patient” and “managers” have the same meaning as in section 138(1) of the Mental Health Act 1998 and “hospital” has the meaning given in section 45(3) of that Act.

(8) For the purposes of this Chapter, a detained person is to be treated as resident and usually resident at the place where that person is for the time being.

The special procedure

Notice of
proposed
civil
partnership
P2004/33/21

21. (1) For two people to register as civil partners of each other under the special procedure, one of them must —

- (a) give a notice of proposed civil partnership to a registrar, and
- (b) comply with any requirement made under section 22.

(2) The notice must contain such information as may be prescribed by regulations.

(3) The provisions of section 9(3) to (6) (necessary declaration etc.), apart from subsection (4)(b), apply for the purposes of this section as they apply for the purposes of that section.

Evidence to
be produced
P2004/33/22

22. (1) The person giving a notice of proposed civil partnership to a registrar under the special procedure must produce to the registrar such evidence as a judge may require to be satisfied —

- (a) that there is no lawful impediment to the formation of the civil partnership,
- (b) that the conditions in subsection (2) are met, and
- (c) that there is sufficient reason why a licence should be granted.

(2) The conditions are that one of the proposed civil partners —

- (a) is seriously ill and not expected to recover, and
- (b) understands the nature and purport of signing a judge's licence.

(3) The certificate of a registered medical practitioner is sufficient evidence of any or all of the matters referred to in subsection (2).

Application
to be reported
to judge
P2004/33/23

23. On receiving a notice of proposed civil partnership under section 21 and any evidence under section 22, the registrar must —

- (a) inform a judge, and

- (b) comply with any directions a judge may give for verifying the evidence given.

24. (1) Any person may object to a judge giving authority for the issue of a licence by giving the Chief Registrar notice of his or her objection.

Objection
to issue of
judge's
licence

- (2) A notice of objection must —

P2004/33/24

- (a) state the objector's place of residence and the ground of objection, and
- (b) be signed by or on behalf of the objector.

(3) Notice of objection and the information contained in it must be recorded in the register by the Chief Registrar as soon as possible.

25. (1) This section applies where a notice of proposed civil partnership is given to a registrar under section 21.

Issue of
judge's licence

P2004/33/25

(2) The registrar may issue a judge's licence if, and only if, given authority to do so by a judge.

- (3) The judge —

- (a) may not give authority unless satisfied that one of the proposed civil partners is seriously ill and not expected to recover, but
- (b) if so satisfied, must give authority unless a lawful impediment to the issue of a licence has been shown to the judge's satisfaction to exist.

(4) A licence under this section must state that it is issued on the authority of a judge.

(5) Regulations may (subject to subsection (4)) make provision as to the contents of a licence under this section.

(6) If an objection has been made to a judge giving authority for the issue of a licence, that authority shall not be given until —

- (a) the objection has been investigated and a judge has decided whether it ought to obstruct the issue of the licence, or
- (b) the objection has been withdrawn by the person who made it.

(7) Any decision of the judge under subsection (6)(a) is final.

Frivolous
objections:
liability for
costs

P2004/33/26

- 26.** (1) This section applies if —
- (a) a person objects to the judge giving authority for the issue of a licence, but
 - (b) the judge declares that the grounds on which the objection is made are frivolous and ought not to obstruct the issue of the licence.
- (2) The person who made the objection is liable for —
- (a) the costs of the proceedings before the judge, and
 - (b) damages recoverable by the proposed civil partner to whom the objection relates.

Period
during which
registration
may take
place

P2004/33/27

- 27.** (1) If a judge's licence has been issued under section 25, the proposed civil partners may register as civil partners by signing it at any time within one month from the day on which the notice of proposed civil partnership was given.
- (2) If they do not register as civil partners by signing the licence within the one month period —
- (a) the notice of proposed civil partnership and the licence are void, and
 - (b) no registrar may officiate at the signing of the licence by them.

Supplementary

The Chief
Registrar and
the register

P2004/33/30

- 28.** (1) The Chief Registrar must provide a system for keeping any records that relate to civil partnerships and are required by this Chapter to be made.
- (2) Records may be maintained in such format (including electronic) as the Chief Registrar thinks fit provided it is possible to inspect the information contained in them and to obtain a copy of such information in legible form.
- (3) The system may, in particular, enable those records to be kept together with other records kept by the Chief Registrar.
- (4) In this Chapter “the register” means the system for keeping records provided under subsection (1).

29. (1) A person commits an offence if he or she issues a civil partnership schedule knowing that he or she does so —

Offences relating to civil partnership schedule

- (a) before the waiting period in relation to each notice of proposed civil partnership has expired,
- (b) after the end of the applicable period, or
- (c) at a time when its issue has been forbidden under Schedule 2 by a person entitled to forbid its issue.

P2004/33/31

(2) A registrar (“R”) commits an offence if, acting as such, R officiates at the signing of a civil partnership schedule by proposed civil partners knowing that R does so —

- (a) at a place or in circumstances other than the place or circumstances specified in the notices of proposed civil partnership and the civil partnership schedule,
- (b) before the waiting period in relation to each notice of proposed civil partnership has expired, or
- (c) even though the civil partnership is void under section 47(b) or (c).

(3) A person who officiates at the signing of a civil partnership schedule when not a registrar commits an offence.

(4) A person guilty of an offence under subsection (1), (2) or (3) is liable —

- (a) on conviction on information, to custody for a term not exceeding 2 years or to a fine (or both);
- (b) on summary conviction, to a fine not exceeding £5,000.

(5) A prosecution under this section may not be commenced more than 3 years after the commission of the offence.

30. (1) A person commits an offence if —

Offences relating to judge’s licence

- (a) he or she gives information by way of evidence in response to a requirement under section 22(1), knowing that the information is false;
- (b) he or she gives a certificate as provided for by section 22(3), knowing that the certificate is false.

P2004/33/32

(2) A person commits an offence if, in his or her capacity as a registrar, he or she officiates at the signing of a judge’s licence by proposed civil partners knowing that he or she does so —

- (a) at a place or in circumstances other than the place or circumstances specified in the licence,
- (b) after the end of one month from the day on which the notice of proposed civil partnership was given, or
- (c) even though the civil partnership is void under section 47(b) or (c).

(3) A person who acts as a registrar at the signing of a judge's licence, knowing that he or she is not authorised to do so, is guilty of an offence.

(4) A person guilty of an offence under subsection (1), (2) or (3) is liable —

- (a) on conviction on information to custody not exceeding 2 years or to a fine (or both);
- (b) on summary conviction, to a fine not exceeding £5,000.

(5) A prosecution under this section may not be commenced more than 3 years after the commission of the offence.

Offences
relating to
the recording
of civil
partnerships

P2004/33/33

31. (1) A registrar who refuses or fails to comply with the provisions of this Chapter or of any regulations made under section 34 commits an offence.

(2) A registrar guilty of an offence under subsection (1) is liable —

- (a) on conviction on information to custody for a term not exceeding 2 years or to a fine (or both);
- (b) on summary conviction, to a fine not exceeding £5,000;

and on conviction shall, if the court by which he or she is sentenced so orders, cease to be a registrar.

(3) A person commits an offence if —

- (a) under arrangements made by a registrar for the purposes of section 3(4), he or she is under a duty to record information required to be recorded under section 3(4), but
- (b) refuses or without reasonable cause omits to do so.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding £1,000.

(5) A person who records in the register information relating to the formation of a civil partnership by the signing of a civil partnership schedule, knowing that the civil partnership is void under section 47(b) or (c), commits an offence.

(6) A person guilty of an offence under subsection (5) is liable —

(a) on conviction on information, to custody for a term not exceeding 3 years or to a fine or both;

(b) on summary conviction, to a fine not exceeding £5,000.

(7) A person who records in the register information relating to the formation of a civil partnership by the signing of a judge's licence, knowing that the civil partnership is void under section 47(b) or (c), commits an offence.

(8) A person guilty of an offence under subsection (7) is liable —

(a) on conviction on information, to custody for a term not exceeding 3 years or to a fine or both;

(b) on summary conviction, to a fine not exceeding £5,000.

(9) A prosecution under subsection (5) or (7) may not be commenced more than 3 years after the commission of the offence.

32. The Treasury may by order provide for fees and expenses, of such amounts as may be specified in, or determined in accordance with, the order, to be payable to such persons as may be prescribed by the order in respect of —

Fees and
expenses

P2004/33/34

(a) the giving of a notice of proposed civil partnership and the attestation of the necessary declaration;

(b) the making of an application under section 13(1) (application to shorten waiting period);

(c) the issue of a judge's licence;

(d) the attendance of the registrar when two people sign the civil partnership document;

(e) such other services provided in connection with civil partnerships either by registrars or on behalf of the Chief Registrar as may be prescribed by the order.

Power to
assimilate
provisions
relating to civil
registration

P2004/33/35

33. (1) The Council of Ministers may by order make such amendments of enactments as appear to it appropriate for the purposes of assimilating any provision connected with the formation or recording of civil partnerships to any provision made in relation to civil marriage in the Island.

(2) “Civil marriage” means marriage solemnised otherwise than according to the rites of the Church of England or any other religious usages.

(3) “Amendment” includes repeal or revocation.

Regulations

P2004/33/36

34. (1) Regulations may make provision supplementing the provisions of this Chapter.

(2) Regulations may in particular make provision —

(a) with respect to the retention of documents relating to civil partnerships;

(b) prescribing the duties of registrars;

(c) prescribing the duties of persons in whose presence any declaration is made for the purposes of this Chapter;

(d) for the issue by the Chief Registrar of guidance supplementing any provision made by the regulations;

(e) for the issue by the Chief Registrar of certified copies of entries in the register and for such copies to be received in evidence.

(3) In this Chapter —

“prescribed” means prescribed by regulations; and

“regulations” means regulations made by the Clerk of the Rolls.

CHAPTER 2

DISSOLUTION, NULLITY AND OTHER PROCEEDINGS

Introduction

Powers to
make orders
and effect
of orders

P2004/33/37

35. (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 provisional order, and
 - (b) may not be made final before the end of the prescribed period (see section 36); and any reference in this Chapter to a provisional 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.
- (4) This Chapter is subject to sections 87 to 91 (jurisdiction of the court).

36. (1) The prescribed period for the purposes of section 35(2)(b) is —

- (a) 6 weeks from the making of the provisional order, or
- (b) if the 6 week period would end on a day on which the General Registry is closed, the period of 6 weeks extended to the end of the first day on which the General Registry is next open.

The period before provisional orders may be made final

P2004/33/38

This is subject to the following qualifications.

- (2) Rules of court may prescribe a shorter period for the purposes of section 35(2)(b).
- (3) In a particular case the court may by order shorten the prescribed period.

37. (1) This section applies if an application has been made for a dissolution, nullity or presumption of death order.

Intervention of the Attorney General

- (2) The court may, if it thinks fit, direct that all necessary papers in the matter are to be sent to the Attorney General who

P2004/33/39

shall argue, or shall instruct an advocate 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 provisional order is made final,

gives information to the Attorney General on any matter material to the due decision of the case, the Attorney General may take such steps as the Attorney General considers necessary or expedient.

- (4) If the Attorney General intervenes or shows cause against the making of the provisional 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 the Attorney General in intervening or showing cause, or
 - (b) the payment by the Attorney General of any costs incurred by any of those parties because of the Attorney General intervening or showing cause.

Proceedings
before order
has been
made final

P2004/33/40

- 38.** (1) This section applies if —
 - (a) a provisional order has been made, and
 - (b) the Attorney General, 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 provisional 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 provisional 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 35(2) (period before provisional orders may be made final), but
 - (b) is subject to section 46(4) (protection for respondent in separation cases) and section 61 (restrictions on making of orders affecting children).

39. (1) No application for a dissolution order may be made to the court before the end of the period of one year from the date of the formation of the civil partnership.

Time bar on applications for dissolution orders

(2) Nothing in this section prevents the making of an application based on matters which occurred before the end of the one year period.

P2004/33/41

40. (1) This section applies in relation to cases where an application is made for a dissolution or separation order.

Attempts at reconciliation of civil partners

(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.

P2004/33/42;
2003/7/7

(3) The power to adjourn under subsection (2) is additional to any other power of adjournment.

41. (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.

Consideration by the court of certain agreements or arrangements

P2004/33/43;
2003/7/8

(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

Dissolution
of civil
partnership
which has
broken down
irretrievably

P2004/33/44

42. (1) Subject to section 39, an application for a dissolution order may be made to the court by either civil partner on the ground that the civil partnership has broken down irretrievably.

(2) 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) 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) But if the court is satisfied of any of those facts, it must make a dissolution order unless it is satisfied on all the evidence that the civil partnership has not broken down irretrievably.

(5) 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.

43. (1) Subsection (2) applies if —

- (a) in any proceedings for a dissolution order the applicant alleges, in reliance on section 42(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 that 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.

Supplemental provisions as to facts raising presumption of breakdown
P2004/33/45

(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 42(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 42(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 or her to understand —

- (a) the consequences to the respondent of consenting to the making of the order, and
- (b) the steps which must be taken to indicate that consent.

(5) For the purposes of section 42(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 the deserting civil partner not been so incapable, the court would have inferred that the desertion continued at that time.

(6) In considering for the purposes of section 42(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
- (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 42(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.

Dissolution
order not
precluded
by previous
separation
order etc.

P2004/33/46

44. (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 courts of summary jurisdiction or any corresponding enactment in force in any other part of the British Islands);
- (c) an order under section 95 of MPA 2003 (occupation orders);
- (d) an order under section 100 of MPA 2003 (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.

(5) For the purposes of section 42(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 or a court of summary jurisdiction which excludes the respondent from the civil partnership home, or
- (b) an order under section 95 or 100 of MPA 2003 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.

45. (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 the respondent, 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 the application on the fact of 5 years' separation and makes no such finding as to any other fact mentioned in section 42(5); and
- (c) apart from this section, the court would make a dissolution order.

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

P2004/33/47

- (3) The court must —
- (a) consider all the circumstances, including the conduct of the civil partners and the interests of those parties 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.

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

P2004/33/48

- 46.** (1) The court may, on an application made by the respondent, rescind a provisional 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 42(5); and
 - (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 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 or her financial position after the dissolution of the civil partnership; and
 - (b) the court —
 - (i) has made a provisional dissolution order on the basis of a finding that the applicant was entitled to rely in support of his or her 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 42(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) 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) But the court may 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 or she will make such financial provision for the respondent as it may approve.

Nullity

47. Where two people register as civil partners of each other, 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 4),
- (b) at the time when they do so they both know —
 - (i) that due notice of proposed civil partnership has not been given,

Grounds on which civil partnership is void

P2004/33/49

- (ii) that the civil partnership document has not been duly issued,
 - (iii) that the civil partnership document is void under section 18(3) or 27(2) (registration after time allowed),
 - (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, or
 - (v) that a registrar is not present, or
- (c) the civil partnership document is void under paragraph 6(5) of Schedule 2 (civil partnership between child and another person forbidden).

Grounds on which civil partnership is voidable

P2004/33/50

48. (1) Where two people register as civil partners of each other, 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 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.

[c. 3]

(2) In this section and section 49 “mental disorder” has the same meaning as in the Mental Health Act 1998.

[c.11]

(3) In this Act “acquired gender” and “interim gender recognition certificate” have the same meaning as in section 1 of the Gender Recognition Act 2009.

Bars to relief where civil partnership is voidable

P2004/33/51

49. (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 or her to obtain a nullity order, conducted himself or herself in relation to the respondent in such a way as to lead the respondent reasonably to believe that the applicant would not seek to do so, and
- (b) that it would be unjust to the respondent to make the order.

(2) The court must not make a nullity order by virtue of section 48(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).

This does not limit the operation of subsection (1).

(3) The court may, on an application made for that purpose, grant leave for the institution of proceedings if satisfied —

- (a) that the applicant has at some time during the 3 year period suffered from mental disorder, and
- (b) 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) The court must not make a nullity order by virtue of section 48(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.

This does not limit the operation of subsection (1).

(6) The court must not make a nullity order by virtue of section 48(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.

This does not limit the operation of subsection (1) or (2).

50. (1) Where two people have registered as civil partners of each other in the Island, it is not necessary in support of the civil partnership to give any proof —

Proof of certain matters not necessary to validity of civil partnership

- (a) that any person whose consent to the civil partnership was required by section 5 (parental etc. consent) had given consent, or
- (b) that the registrar was duly appointed as such;

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 47(c) (civil partnership void if forbidden).

Power to
validate civil
partnership

P2004/33/53

51. (1) Where two people have registered as civil partners of each other in the Island, the Clerk of the Rolls may by order validate the civil partnership if it appears to the Clerk of the Rolls that it is or may be void under section 47(b).

(2) An order under subsection (1) may include provisions for relieving a person from any liability under section 29(2), 30(2) or 31(5) or (7).

(3) The draft of an order under subsection (1) must be advertised, in such manner as the Clerk of the Rolls thinks fit, not less than one month before the order is made.

(4) The Clerk of the Rolls must —

- (a) consider all objections to the order sent to the Clerk of the Rolls in writing during that period; and
- (b) if it appears to the Clerk of the Rolls to be necessary, require the Attorney General to cause an inquiry to be made into the validity of any such objections.

[c. 8]

(5) The Inquiries (Evidence) Act 2003 shall apply to an inquiry under subsection (4)(b) as if the inquiry were held by a person appointed by the Governor.

(6) After an inquiry under subsection (4)(b) the Attorney General must report the findings of the inquiry and the Attorney General's recommendations on the objections to the Clerk of the Rolls.

Validity
of civil
partnerships
registered
outside the
Island

P2004/33/54

52. (1) This section applies where two people have registered an apparent or alleged relevant relationship outside the Island.

(2) The civil partnership is void if —

- (a) the relationship is not a relevant relationship; or

- (b) (even though the relationship is a relevant relationship) the parties are not treated under Chapter 1 of Part 3 as having formed a civil partnership.
- (3) The civil partnership is voidable if —
 - (a) the relevant relationship is voidable under the relevant law;
 - (b) the circumstances fall within section 48(1)(d); or
 - (c) where either of the parties was domiciled in the Island at the time when the relevant relationship was registered, the circumstances fall within section 48(1)(a), (b), (c) or (e).
- (4) Section 49 applies for the purposes of —
 - (a) subsection (3)(a), in so far as applicable in accordance with the relevant law, and
 - (b) subsection (3)(b) and (c).
- (5) In this section “the relevant law” means the law of the country or territory where the relevant relationship was registered (including its rules of private international law).
- (6) For the purposes of subsections (3) and (4)(a) and (b), references in sections 47 and 48 to the formation of the civil partnership are to be read as references to the registration of the relevant relationship.
- (7) Chapter 1 of Part 3 contains rules about the characteristics of a relevant relationship.

Presumption of death orders

53. (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. Presumption
of death orders
P2004/33/55

- (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*Separation
orders

P2004/33/56

54. (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 42(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 42(5)(a), (b), (c) or (d) it must, subject to section 61 (restrictions on making orders affecting children), make a separation order.

(4) Section 43 (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.

Effect of
separation
order

P2004/33/57

55. 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.

Declarations

Declarations

P2004/33/58

56. (1) Any person may apply to the 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 the Island in respect of the civil partnership is entitled to recognition in the Island;
- (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 the Island.

(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.

57. (1) Where on an application for a declaration under section 56 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.

General provisions as to making and effect of declarations

P2004/33/59

(2) Any declaration under section 56 binds the Crown and all other persons.

(3) The court, on the dismissal of an application for a declaration under section 56, may not make any declaration for which an application has not been made.

(4) No declaration which may be applied for under section 56 may be made otherwise than under section 56 by any court.

(5) No declaration may be made by any court, whether under section 56 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.

58. (1) On an application for a declaration under section 56 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.

The Attorney General and proceedings for declarations

P2004/33/60

(2) The Attorney General, whether or not sent papers in relation to an application for a declaration under section 56, may —

- (a) intervene in the proceedings on that application in such manner as the Attorney General 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 56, the court may make such order as it considers just as to the payment of those costs by parties to the proceedings.

Supplementary provisions as to declarations

P2004/33/61

59. (1) Any declaration made under section 56, 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 56;
- (b) requiring notice of an application under section 56 to be served on the Attorney General and on persons who may be affected by any declaration for which the application is made.

(3) No proceedings under section 56 affect any final judgment or order already pronounced or made by any court of competent jurisdiction.

(4) The court hearing an application under section 56 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.

General provisions

Relief for respondent in dissolution proceedings

P2004/33/62

60. (1) If in any proceedings for a dissolution order the respondent alleges and proves any such fact as is mentioned in section 42(5)(a), (b), (c) or (d) the court may give the relief to which the respondent would have been entitled had an application been made seeking that relief.

(2) When applying subsection (1), treat —

- (a) the respondent as the applicant, and
- (b) the applicant as the respondent,

for the purposes of section 42(5).

61. (1) In any proceedings for a dissolution, nullity or separation order, the court must consider —

Restrictions
on making
orders
affecting
children

- (a) whether there are any children of the family to whom this section applies, and
- (b) if there are any such children, whether (in the light of the arrangements which have been, or are proposed to be, made for their upbringing and welfare) it should exercise any of its powers under CYPA 2001 with respect to any of them.

P2004/33/63

(2) If, in the case of any child to whom this section applies, it appears to the court that —

- (a) the circumstances of the case require it, or are likely to require it, to exercise any of its powers under CYPA 2001 with respect to any such child;
- (b) it is not in a position to exercise the power or (as the case may be) those powers without giving further consideration to the case; and
- (c) there are exceptional circumstances which make it desirable in the interests of the child that the court should give a direction under this section,

it may direct that the order is not to be made final, or (in the case of a separation order) is not to be made, until the court orders otherwise.

(3) This section applies to —

- (a) any child of the family who has not reached 16 at the date when the court considers the case in accordance with the requirements of this section; and
- (b) any child of the family who has reached 16 at that date and in relation to whom the court directs that this section shall apply.

(4) In this Act “child of the family”, except in relation to the prohibited degrees of relationship, means in relation to two persons who are civil partners of each other —

- (a) a child of both of them;
- (b) any other child, other than a child placed with both of them as foster parents by the Department of Health and Social Security or voluntary organisation, who has been treated by both the civil partners as a child of their family.

Parties to proceedings under this Chapter

P2004/33/64

- 62.** (1) Rules of court may make provision with respect to —
- (a) the joinder as parties to proceedings under sections 35 to 54 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 56.
- (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.

CHAPTER 3

PROPERTY AND FINANCIAL ARRANGEMENTS

Contribution by civil partner to property improvement

P2004/33/65;
2003/7/130

- 63.** (1) This section applies if —
- (a) a civil partner contributes in money or money's worth to the improvement of real or personal property in which or in the proceeds of sale of which either or both of the civil partners has or have a beneficial interest, and
 - (b) the contribution is of a substantial nature.
- (2) The contributing partner is to be treated as having acquired by virtue of the contribution a share or an enlarged share (as the case may be) in the beneficial interest of such an extent —
- (a) as may have been then agreed, or
 - (b) in default of such agreement, as may seem in all the circumstances just to the court before which the question of the existence or extent of the beneficial interest of either of the civil partners arises (whether in proceedings between them or in any other proceedings).
- (3) Subsection (2) is subject to any agreement (express or implied) between the civil partners to the contrary.

Disputes between civil partners about property

P1882/75/17;
P2004/33/66;
2003/7/128

- 64.** (1) In any question between the civil partners in a civil partnership as to title to or possession of property —

- (a) either civil partner, or
- (b) any person in whose books any stocks, funds, or shares of either party are standing,

may apply in a summary way to a judge.

(2) On such an application, the court may —

- (a) make such order with respect to the property, and as to the costs of and consequent on the application as it thinks fit (including an order for the sale of the property), or
- (b) adjourn the application from time to time, and direct any inquiry concerning the matters in dispute to be made in such manner as it thinks fit.

(3) On an application under subsection (1) a person mentioned in subsection (1)(b) shall be treated as a stakeholder only.

(4) An application under subsection (1) may be heard in private.

(5) Rules of court may be made for the purposes of this section.

65. (1) The right of a civil partner (“A”) to make an application under section 64 includes the right to make such an application where A claims that the other civil partner (“B”) has had in B’s possession or under B’s control —

- (a) money to which, or to a share of which, A was beneficially entitled, or
- (b) property (other than money) to which, or to an interest in which, A was beneficially entitled,

and that either the money or other property has ceased to be in B’s possession or under B’s control or that A does not know whether it is still in B’s possession or under B’s control.

(2) For the purposes of subsection (1)(a) it does not matter whether A is beneficially entitled to the money or share —

- (a) because it represents the proceeds of property to which, or to an interest in which, A was beneficially entitled, or
- (b) for any other reason.

Applications under section 64 where property not in possession etc.

P1958/35/7;
P2004/33/67;
2003/7/129

(3) Subsections (4) and (5) apply if, on such an application being made, the court is satisfied that B —

- (a) has had in B's possession or under B's control money or other property as mentioned in subsection (1)(a) or (b), and
- (b) has not made to A, in respect of that money or other property, such payment or disposition as would have been appropriate in the circumstances.

(4) The power of the court to make orders under section 64 includes power to order B to pay to A —

- (a) in a case falling within subsection (1)(a), such sum in respect of the money to which the application relates, or A's share of it, as the court considers appropriate, or
- (b) in a case falling within subsection (1)(b), such sum in respect of the value of the property to which the application relates, or A's interest in it, as the court considers appropriate.

(5) If it appears to the court that there is any property which —

- (a) represents the whole or part of the money or property, and
- (b) is property in respect of which an order could (apart from this section) have been made under section 64,

the court may (either instead of or as well as making an order in accordance with subsection (4)) make any order which it could (apart from this section) have made under section 64.

(6) Any power of the court which is exercisable on an application under section 64 is exercisable in relation to an application made under that section as extended by this section.

Applications
under section
64 by former
civil partners

P2004/33/68;
2003/7/128

66. (1) This section applies where a civil partnership has been dissolved or annulled.

(2) Subject to subsection (3), an application may be made under section 64 (including that section as extended by section 65) by either former civil partner despite the dissolution or annulment (and references in those sections to a civil partner are to be read accordingly).

(3) The application must be made within the period of 3 years beginning with the date of the dissolution or annulment.

67. (1) This section applies if an action in tort is brought by one civil partner against the other during the subsistence of the civil partnership.

Actions in tort between civil partners

(2) The court may stay the proceedings if it appears —

P1962/48/1;
P2004/33/69;
2003/7/126

(a) that no substantial benefit would accrue to either civil partner from the continuation of the proceedings, or

(b) that the question or questions in issue could more conveniently be disposed of on an application under section 64.

(3) In addition to its powers under subsection (2)(b), the court may in such an action —

(a) exercise any power which could be exercised on an application under section 64, or

(b) give such directions as it thinks fit for the disposal under that section of any question arising in the proceedings.

68. Section 127 of MPA 2003 (money payable under policy of assurance not to form part of the estate of the insured) applies in relation to a policy of assurance —

Assurance policy by civil partner for benefit of other civil partner etc.

(a) effected by a civil partner on his or her own life, and

(b) expressed to be for the benefit of his or her civil partner, or of his or her children, or of his or her civil partner and children, or any of them,

P2004/33/70

as it applies in relation to a policy of assurance effected by a party to a marriage and expressed to be for the benefit of the other party, or of the children of the family, or of the other party and the children, or of any of them.

69. Schedule 4 amends enactments relating to wills, administration of estates and family provision so that they apply in relation to civil partnerships as they apply in relation to marriage.

Wills, administration of estates and family provision

P2004/33/71

70. (1) Schedule 5 makes provision for financial relief in connection with civil partnerships that corresponds to provision made for financial relief and about children in connection with marriages by MPA 2003.

Financial relief for civil partners and children of family

P2004/33/72

(2) Any rule of law under which any provision of MPA 2003 is interpreted as applying to dissolution of a marriage on the

ground of presumed death is to be treated as applying (with any necessary modifications) in relation to the corresponding provision of Schedule 5.

(3) Schedule 6 makes provision for financial relief in connection with civil partnerships that corresponds to provision made for financial relief in connection with marriages by Part 3 of MPA 2003.

(4) Schedule 7 makes provision for financial relief in the Island after a civil partnership has been dissolved or annulled, or civil partners have been legally separated, in a country or territory outside the Island.

CHAPTER 4

CIVIL PARTNERSHIP AGREEMENTS

Civil
partnership
agreements
unenforceable

P2004/33/73

71. (1) A civil partnership agreement does not under the law of the Island have effect as a contract giving rise to legal rights.

(2) No action lies for breach of a civil partnership agreement, whatever the law applicable to the agreement.

(3) In this section “civil partnership agreement” means an agreement between two people —

(a) to register as civil partners of each other in the Island;

(b) to enter into a qualifying UK relationship (as to which see section 80); or

(c) to enter into an overseas relationship (see section 81).

(4) This section applies in relation to civil partnership agreements whether entered into before or after this section comes into force, but does not affect any action commenced before it comes into force.

Property
where civil
partnership
agreement is
terminated

P2004/33/74;
2003/7/134/
135

72. (1) This section applies if a civil partnership agreement (within the meaning of section 71(3)) is terminated.

(2) Section 63 (contributions by civil partner to property improvement) applies, in relation to any property in which either or both of the parties to the agreement had a beneficial interest while the agreement was in force, as it applies in relation to property in which a civil partner has a beneficial interest.

(3) Sections 64 and 65 (disputes between civil partners about property) apply to any dispute between or claim by one of the parties in relation to property in which either or both had a beneficial interest while the agreement was in force, as if the parties were civil partners of each other.

(4) An application made under section 64 or 65 by virtue of subsection (3) must be made within 3 years of the termination of the agreement.

(5) A party to a civil partnership agreement who makes a gift of property to the other party on the condition (express or implied) that it is to be returned if the agreement is terminated is not prevented from recovering the property merely because of his or her having terminated the agreement.

CHAPTER 5

AMENDMENTS RELATING TO CHILDREN

73. Schedule 8 contains amendments to enactments relating to children.

Amendments
relating to
children

P2004/33/75

CHAPTER 6

MISCELLANEOUS

74. (1) A person commits an offence if —

(a) for the purpose of procuring the formation of a civil partnership, or a civil partnership schedule or a judge's licence under Chapter 1, he or she —

(i) makes or signs a declaration required under this Part or Part 3, or

(ii) gives a notice or certificate so required,

knowing that the declaration, notice or certificate is false;

(b) for the purpose of a record being made in any register relating to civil partnerships, he or she —

(i) makes a statement as to any information which is required to be registered under this Part or Part 3, or

(ii) causes such a statement to be made,

knowing that the statement is false,

False statements
etc. with
reference to
civil partnerships

P2004/33/80

- (c) he or she forbids the issue of a document mentioned in subsection (1)(a) by representing himself or herself to be a person whose consent to a civil partnership between a child and another person is required under this Part or Part 3, knowing the representation to be false, or
 - (d) with respect to a declaration made under paragraph 4(1) of Schedule 1 he or she makes a statement mentioned in paragraph 5 of that Schedule which he or she knows to be false in a material particular.
- (2) A person guilty of an offence under subsection (1) is liable —
- (a) on conviction on information, to custody for a term not exceeding 7 years or to a fine or both;
 - (b) on summary conviction, to a fine not exceeding £5,000.
- [XVIII p.86] (3) The Perjury Act 1952 has effect as if this section were contained in it.

Land

75. Schedule 9 amends certain enactments relating to land.

P2004/33/81

Family homes
and domestic
violence

76. Schedule 10 amends Part 5 of the MPA 2003 so that it applies in relation to civil partnerships as it applies in relation to marriages.

P2004/33/82

Evidence

77. (1) Any enactment or rule of law relating to the giving of evidence by a spouse applies in relation to a civil partner as it applies in relation to the spouse.

P2004/33/84

(2) Subsection (1) is subject to any specific amendment made by or under this Act which relates to the giving of evidence by a civil partner.

(3) For the avoidance of doubt, in any such amendment, references to a person's civil partner do not include a former civil partner.

(4) References in subsections (1) and (2) to giving evidence are to giving evidence in any way (whether by supplying information, making discovery, producing documents or otherwise).

(5) Any rule of law —

(a) which is preserved by section 24 of the Evidence Act 1871, or

[III p.501]

(b) under which in any proceedings evidence of reputation or family tradition is admissible for the purpose of proving or disproving the existence of a marriage,

is to be treated as applying in an equivalent way for the purpose of proving or disproving the existence of a civil partnership.

78. (1) Subsections (2) to (8) modify Acts of Parliament relating to social security in their application to the Island. Social security

(2) The Social Security Contributions and Benefits Act 1992 shall have effect subject to the modifications set out in subsections (3) to (5). [c.4]

(3) In section 124A (entitlement to income support dependent upon being an Isle of Man worker) —

(a) in subsection (6) —

(i) omit “Subject to subsection (7) below,”;

(ii) in paragraph (b) after “spouse” insert “or civil partner”; and

(b) omit subsection (7).

(4) In section 128 (conditions of entitlement to family income supplement) —

(a) in subsection (1) —

(i) after “a person in the Isle of Man” insert “(“the claimant”)”;

(ii) in paragraph (a) for “his” substitute “the claimant’s”;

(iii) in paragraph (b) for “he nor any member of his” substitute “the claimant nor any member of the claimant’s”;

(iv) in paragraph (c) for “he” substitute “the claimant” in both places; and

(v) for paragraph (d) substitute—

“(d) the claimant —

- (i) is a member of a married couple or a civil partnership and one or both of the members of that couple or partnership are engaged and normally engaged in remunerative work,
- (ii) is a member of a couple (but not a member of a married couple or a civil partnership) either or both of whom are responsible for a child or a person of a prescribed description and one or both members of the couple are engaged and normally engaged in remunerative work, or
- (iii) is not a member of a couple, but is both responsible for a child or a person of a prescribed description and engaged and normally engaged in remunerative work.”;

(b) in subsection (2) —

- (i) omit “Subject to subsection (2A) below,”; and
- (ii) for “person” substitute “claimant” and after “he” insert “or she”; and

(c) omit subsection (2A).

[c. 5]

(6) The Social Security Administration Act 1992 shall have effect subject to the modifications in subsections (7) and (8).

(7) In section 105 (failure to maintain) —

(a) in subsection (3) for paragraphs (a) and (b) substitute —

“(a) a person (“A”) shall be liable to maintain A’s spouse or civil partner and any child of whom A is the parent;”;

(b) for subsection (3A) substitute —

“(3A) For the purpose of subsection (3)(a) it does not matter whether the child is a marital child within the meaning of section 5 of the Children and Young Persons Act 2001 (an Act of Tynwald).”;

[c. 20]

(c) in subsection (4) for “a person is liable to maintain another if that other person is his or her” substitute “A is liable to maintain another if the other is A’s”.

(8) In section 109B(5)(a) (power to require information) for “his” substitute “that person’s”.

(9) The amendments made by this section shall have effect as if they were contained in an order under section 1 of the Social Security Act 2000 (and accordingly other provision may be made in place of those amendments by an order under that section). [c. 5]

PART 3

RELATIONSHIPS FORMED OUTSIDE THE ISLAND TREATED AS CIVIL PARTNERSHIPS

CHAPTER 1

CHARACTERISTICS OF RELEVANT RELATIONSHIP

- 79.** (1) For the purposes of this Act a “relevant relationship” is a relationship which is —
- (a) a qualifying UK relationship (see section 80); or
 - (b) an overseas relationship which is —
 - (i) a specified relationship (see section 81), or
 - (ii) is a relationship which meets the general conditions (see section 82),

Meaning of
“relevant
relationship”
and associated
terms

P2004/33/212

and is registered, whether before or after the passing of this Act, in accordance with subsection (2).

(2) A relationship is registered in accordance with this subsection if it is registered with an appropriate authority in a country or territory outside the Island, by two people —

- (a) who under the relevant law are of the same sex at the time when they do so, and
- (b) neither of whom is already a civil partner or lawfully married.

(3) In this Chapter, “the relevant law” means the law of the country or territory where the relationship is registered (including its rules of private international law).

- 80.** A relationship is a qualifying UK relationship if it is —
- (a) registered in any part of the United Kingdom in accordance with CPA 2004; or

Qualifying UK
relationships

- (b) it is formed under a law having an equivalent effect to this Act in any of the Channel Islands.

Specified
relationships

P2004/33/213

81. (1) A specified relationship is a relationship which is specified for the purposes of section 79 by Schedule 11.

(2) The Council of Ministers may by order amend Schedule 11 by —

- (a) adding a relationship,
- (b) amending the description of a relationship, or
- (c) omitting a relationship.

The general
conditions

P2004/33/214

82. The general conditions are that, under the relevant law —

- (a) the relationship may not be entered into if either of the parties is already a party to a relationship of that kind or lawfully married,
- (b) the relationship is of indeterminate duration, and
- (c) the effect of entering into it is that the parties are —
 - (i) treated as a couple either generally or for specified purposes, or
 - (ii) treated as married.

Overseas
treated as civil
partnerships:
the general
rule

P2004/33/215

83. (1) Two people are to be treated as having formed a civil partnership as a result of having registered an overseas relationship if, under the relevant law, they —

- (a) had capacity to enter into the relationship, and
- (b) met all requirements necessary to ensure the formal validity of the relationship.

(2) Subject to subsection (3), the time when they are to be treated as having formed the civil partnership is the time when the overseas relationship is registered (under the relevant law) as having been entered into.

(3) If the overseas relationship is registered (under the relevant law) as having been entered into before this section comes into operation, the time when they are to be treated as having formed a civil partnership is the time when this section comes into operation.

- (4) But if —
- (a) before this section comes into force, a dissolution or annulment of the overseas relationship was obtained outside the Island, and
 - (b) the dissolution or annulment would be recognised under Chapter 2 if the overseas relationship had been treated as a civil partnership at the time of the dissolution or annulment,

subsection (3) does not apply and subsections (1) and (2) have effect subject to subsection (5).

- (5) The overseas relationship is not to be treated as having been a civil partnership for the purposes of any provisions except —
- (a) Schedule 7 (financial relief in the Island after dissolution or annulment obtained outside the Island);
 - (b) such provisions as are specified (with or without modifications) in an order under section 103;
 - (c) Chapter 2 (so far as necessary for the purposes of paragraphs (a) and (b)).
- (6) This section is subject to sections 84 to 86.

84. (1) Two people are not to be treated as having formed a civil partnership as a result of having registered a relevant relationship if, at the critical time, they were not of the same sex under the law of the Island.

The same-sex
requirement
P2004/33/216

(2) But if a full gender recognition certificate is issued under the Gender Recognition Act 2004 (an Act of Parliament) to a person who has registered a relevant relationship which is within subsection (4), after the issue of the certificate the relationship is no longer prevented from being treated as a civil partnership on the ground that, at the critical time, the parties were not of the same sex.

[c. 7]

(3) However, subsection (2) does not apply to a relevant relationship which is within subsection (4) if either of the parties has formed a subsequent civil partnership or lawful marriage.

(4) A relevant relationship is within this subsection if (and only if), at the time mentioned in section 83(2) —

- (a) one of the parties (“A”) was regarded under the relevant law as having changed gender (but was not regarded under the law of the Island as having done so), and

- (b) the other party was (under the law of the Island) of the gender to which A had changed under the relevant law.

(5) In this section “the critical time” means the time determined in accordance with section 83(2) or (as the case may be) (3).

Person domiciled in the Island

P2004/33/217

85. (1) Subsection (2) applies if a relevant relationship has been registered by a person who was at the time mentioned in section 83(2) domiciled in the Island.

(2) The two people concerned are not to be treated as having formed a civil partnership if, at the time mentioned in section 83(2) —

- (a) either of them was under 16, or
- (b) they would have been within prohibited degrees of relationship under Part 1 of Schedule 1 if they had been registering as civil partners of each other in the Island.

The public policy exception

P2004/33/218

86. Two people are not to be treated as having formed a civil partnership as a result of having entered into a relevant relationship if it would be manifestly contrary to public policy to recognise the capacity, under the relevant law, of one or both of them to enter into the relationship.

CHAPTER 2

DISSOLUTION ETC. : JURISDICTION AND RECOGNITION

Introduction

Power to make provision corresponding to EC Regulation 2201/2003

P2004/33/219

87. (1) The Council of Ministers may by regulations make provision —

- (a) as to the jurisdiction of the court in proceedings for the dissolution or annulment of a civil partnership or for legal separation of the civil partners in cases where a civil partner —
- (i) is or has been habitually resident in a member State,
- (ii) is a national of a member State, or
- (iii) is domiciled in the Island, and

- (b) as to the recognition in the Island of any judgment of a court of a member State which orders the dissolution or annulment of a civil partnership or the legal separation of the civil partners.

In this Part such regulations are called “jurisdiction regulations”.

(2) Jurisdiction regulations may in particular make provision corresponding to that made by Council Regulation (EC) No 2201/2003 of 27th November 2003 in relation to jurisdiction and the recognition and enforcement of judgments in matrimonial matters.

[OJ L No. 338
of 23.12.2003]

(3) Jurisdiction regulations may provide that for the purposes of this Part and the regulations “member State” means —

- (a) all member States of the European Communities with the exception of such member States as are specified in the regulations, or
- (b) such of those member States as are specified in the regulations.

(4) Jurisdiction regulations may make provision under subsection (1)(b) which applies even if the date of the dissolution, annulment or legal separation is earlier than the date on which this section comes into operation.

(5) Before making jurisdiction regulations the Council of Ministers must consult the Deemsters.

Jurisdiction of the court

88. (1) The court has jurisdiction to entertain proceedings for a dissolution order or a separation order if (and only if) —

Proceedings
for dissolution,
separation or
nullity order

- (a) the court has jurisdiction under jurisdiction regulations,
- (b) no court has, or is recognised as having, jurisdiction under jurisdiction regulations and either civil partner is domiciled in the Island on the date when the proceedings are begun, or
- (c) the following conditions are met —
 - (i) the two people concerned registered as civil partners of each other in the Island,
 - (ii) no court has, or is recognised as having, jurisdiction under jurisdiction regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.

P2004/33/221

(2) The High Court has jurisdiction to entertain proceedings for a nullity order if (and only if) —

- (a) the court has jurisdiction under jurisdiction regulations,
- (b) no court has, or is recognised as having, jurisdiction under jurisdiction regulations and either civil partner —
 - (i) is domiciled in the Island on the date when the proceedings are begun, or
 - (ii) died before that date and either was at death domiciled in the Island or had been habitually resident in the Island throughout the period of one year ending with the date of death, or
- (c) the following conditions are met —
 - (i) the two people concerned registered as civil partners of each other in the Island,
 - (ii) no court has, or is recognised as having, jurisdiction under jurisdiction regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.

(3) At any time when proceedings are pending in respect of which the court has jurisdiction by virtue of subsection (1) or (2) (or this subsection), the court also has jurisdiction to entertain other proceedings, in respect of the same civil partnership, for a dissolution, separation or nullity order, even though that jurisdiction would not be exercisable under subsection (1) or (2).

Proceedings
for
presumption
of death order

P2004/33/222

89. The High Court has jurisdiction to entertain proceedings for a presumption of death order if (and only if) —

- (a) the applicant is domiciled in the Island on the date when the proceedings are begun,
- (b) the applicant was habitually resident in the Island throughout the period of one year ending with that date, or
- (c) the two people concerned registered as civil partners of each other in the Island and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

- 90.** (1) Rules of court may make provision in relation to civil partnerships corresponding to the provision made in relation to marriages by Schedule 1 to the MPA2003 (staying of proceedings).
- (2) The rules may in particular make provision —
- (a) for the provision of information by applicants and respondents in proceedings for dissolution, nullity or separation orders where proceedings relating to the same civil partnership are continuing in another jurisdiction, and
- (b) for proceedings before the court to be stayed by the court where there are concurrent proceedings elsewhere in respect of the same civil partnership.

Proceedings for dissolution, nullity or separation order supplementary

P2004/33/223

- 91.** The court has jurisdiction to entertain an application under section 56 if (and only if) —
- (a) either of the civil partners in the civil partnership to which the application relates —
- (i) is domiciled in the Island on the date of the application,
- (ii) has been habitually resident in the Island throughout the period of one year ending with that date, or
- (iii) died before that date and either was at death domiciled in the Island or had been habitually resident in the Island throughout the period of one year ending with the date of death, or
- (b) the two people concerned registered as civil partners of each other in the Island and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

Applications for declarations as to validity etc.

P2004/33/224

Recognition of dissolution, annulment and separation

- 92.** (1) No dissolution or annulment of a civil partnership obtained in any part of the British Islands is effective in the Island unless obtained from a court of civil jurisdiction.
- (2) The validity of a dissolution or annulment of a civil partnership or a legal separation of the civil partners which has been obtained from a court of civil jurisdiction in any part of the British Islands outside the Island shall be recognised in the Island.

Effect of dissolution, annulment or separation obtained elsewhere in the British Islands

P2004/33/233

This is subject to the following qualifications.

(3) Recognition of the validity of a dissolution, annulment or legal separation obtained from a court of civil jurisdiction in any other part of the British Islands may be refused in the Island if the dissolution, annulment or separation was obtained at a time when it was irreconcilable with a decision determining the question of the subsistence or validity of the civil partnership —

- (a) previously given by the High Court; or
- (b) previously given by a court elsewhere and entitled to be recognised in the Island.

(4) Recognition of the validity of a dissolution or legal separation obtained from a court of civil jurisdiction in any part of the British Islands outside the Island may be refused in the Island if the dissolution or separation was obtained at a time when, according to the law of the Island, there was no subsisting civil partnership.

Recognition
in the Island
of overseas
dissolution,
annulment
or separation

93. (1) Subject to subsection (2), the validity of an overseas dissolution, annulment or legal separation is to be recognised in the Island if, and only if, it is entitled to recognition by virtue of sections 94 to 96.

P2004/33/234

(2) This section and sections 94 to 96 do not apply to an overseas dissolution, annulment or legal separation as regards which provision as to recognition is made by jurisdiction regulations.

(3) For the purposes of subsections (1) and (2) and sections 94 to 96, an overseas dissolution, annulment or legal separation is a dissolution or annulment of a civil partnership or a legal separation of civil partners which has been obtained outside the British Islands (whether before or after this section comes into operation).

Grounds for
recognition

P2004/33/235

94. (1) The validity of an overseas dissolution, annulment or legal separation obtained by means of proceedings is to be recognised if —

- (a) the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained, and
- (b) at the relevant date either civil partner —
 - (i) was habitually resident in the country in which the dissolution, annulment or legal separation was obtained,

- (ii) was domiciled in that country, or
- (iii) was a national of that country.

(2) The validity of an overseas dissolution, annulment or legal separation obtained otherwise than by means of proceedings is to be recognised if —

- (a) the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained,
- (b) at the relevant date —
 - (i) each civil partner was domiciled in that country, or
 - (ii) either civil partner was domiciled in that country and the other was domiciled in a country under whose law the dissolution, annulment or legal separation is recognised as valid, and
- (c) neither civil partner was habitually resident in the Island throughout the period of one year immediately preceding that date.

(3) In this section “the relevant date” means —

- (a) in the case of an overseas dissolution, annulment or legal separation obtained by means of proceedings, the date of the commencement of the proceedings;
- (b) in the case of an overseas dissolution, annulment or legal separation obtained otherwise than by means of proceedings, the date on which it was obtained.

(4) Where in the case of an overseas annulment the relevant date fell after the death of either civil partner, any reference in subsection (1) or (2) to that date is to be read in relation to that civil partner as a reference to the date of death.

95. (1) Recognition of the validity of an overseas dissolution, annulment or legal separation may be refused in the Island if the dissolution, annulment or separation was obtained at a time when it was irreconcilable with a decision determining the question of the subsistence or validity of the civil partnership —

- (a) previously given by the High Court, or
- (b) previously given by a court elsewhere and recognised or entitled to be recognised in the Island.

(2) Recognition of the validity of an overseas dissolution or legal separation may be refused if the dissolution or separation was obtained at a time when there was no subsisting civil partnership.

(3) Recognition of the validity of an overseas dissolution, annulment or legal separation may be refused if —

(a) in the case of a dissolution, annulment or legal separation obtained by means of proceedings, it was obtained —

(i) without such steps having been taken for giving notice of the proceedings to a civil partner as, having regard to the nature of the proceedings and all the circumstances, should reasonably have been taken, or

(ii) without a civil partner having been given (for any reason other than lack of notice) such opportunity to take part in the proceedings as, having regard to those matters, that person should reasonably have been given, or

(b) in the case of a dissolution, annulment or legal separation obtained otherwise than by means of proceedings —

(i) there is no official document certifying that the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained, or

(ii) where either civil partner was domiciled in another country at the relevant date, there is no official document certifying that the dissolution, annulment or legal separation is recognised as valid under the law of that other country, or

(c) in either case, recognition of the dissolution, annulment or legal separation would be manifestly contrary to public policy.

(4) In this section —

“official”, in relation to a document certifying that a dissolution, annulment or legal separation is effective, or is recognised as valid, under the law of any country, means issued by a person or body appointed or recognised for the purpose under that law;

“the relevant date” has the same meaning as in section 94.

96. (1) For the purposes of sections 94 and 95, a civil partner is to be treated as domiciled in a country if he or she was domiciled in that country —

Supplementary provisions relating to recognition of dissolution etc.

(a) according to the law of that country in family matters; or

P2004/33/237

(b) according to the law of the Island.

(2) The Council of Ministers may by regulations make provision —

(a) applying sections 94 and 95 and subsection (1) with modifications in relation to any country whose territories have different systems of law in force in matters of dissolution, annulment or legal separation;

(b) applying sections 94 and 95 with modifications in relation to —

(i) an overseas dissolution, annulment or legal separation in the case of an overseas relationship (or an apparent or alleged overseas relationship);

(ii) any case where a civil partner is domiciled in a country or territory whose law does not recognise legal relationships between two people of the same sex;

(c) with respect to recognition of the validity of an overseas dissolution, annulment or legal separation in cases where there are cross-proceedings;

(d) with respect to cases where a legal separation is converted under the law of the country or territory in which it is obtained into a dissolution which is effective under the law of that country or territory;

(e) with respect to proof of findings of fact made in proceedings in any country or territory outside the Island.

(3) Before making regulations under this section, the Council of Ministers must consult the Deemsters.

(4) In this section and sections 93 to 95 and 97—

“annulment” includes any order annulling a civil partnership, however expressed;

“proceedings” means judicial or other proceedings.

(5) Nothing in this Chapter is to be read as requiring the recognition of any finding of fault made in proceedings for dissolution, annulment or legal separation or of any maintenance, custody or other ancillary order made in any such proceedings.

Non-
recognition
elsewhere of
dissolution or
annulment

P2004/33/238

97. (1) This section applies where —

- (a) a dissolution or annulment of a civil partnership has been granted by the court, or
- (b) the validity of a dissolution or annulment of a civil partnership is recognised by virtue of this Chapter.

(2) The fact that the dissolution or annulment would not be recognised outside the Island does not —

- (a) preclude either party from forming a subsequent civil partnership or marriage in the Island, or
- (b) cause the subsequent civil partnership or marriage of either party (wherever it takes place) to be treated as invalid in the Island.

PART 4

RELATIONSHIPS ARISING THROUGH CIVIL PARTNERSHIPS

Interpretation
of statutory
references to
stepchildren
etc.

P2004/33/246

98. (1) In any provision to which this section applies, references to a stepchild or step-parent of a person (here, “A”), and cognate expressions, are to be read as follows —

A’s stepchild includes a person who is the child of A’s civil partner (but is not A’s child);

A’s step-parent includes a person who is the civil partner of A’s parent (but is not A’s parent);

A’s stepdaughter includes a person who is the daughter of A’s civil partner (but is not A’s daughter);

A’s stepson includes a person who is the son of A’s civil partner (but is not A’s son);

A’s stepfather includes a person who is the civil partner of A’s father (but is not A’s parent);

A’s stepmother includes a person who is the civil partner of A’s mother (but is not A’s parent);

A's stepbrother includes a person who is the son of the civil partner of A's parent (but is not the son of either of A's parents);

A's stepsister includes a person who is the daughter of the civil partner of A's parent (but is not the daughter of either of A's parents).

(2) For the purposes of any provision to which this section applies —

“brother-in-law” includes civil partner's brother,

“daughter-in-law” includes daughter's civil partner,

“father-in-law” includes civil partner's father,

“mother-in-law” includes civil partner's mother,

“parent-in-law” includes civil partner's parent,

“sister-in-law” includes civil partner's sister, and

“son-in-law” includes son's civil partner.

99. (1) Section 98 applies to —

(a) any provision listed in Schedule 12 (references to stepchildren, in-laws etc. in existing Acts),

(b) except in so far as otherwise provided, any provision made by a future Act, and

(c) except in so far as otherwise provided, any provision made by future public documents.

(2) The Council of Ministers may by order —

(a) amend Schedule 12 by adding to it any provision of an existing Act;

(b) provide for section 98 to apply to prescribed provisions of existing public documents.

(3) In this section —

“existing Act” means an Act passed on or before the last day of the session of the Legislature in which this Act is passed;

Provisions
to which
section 98
applies

P2004/33/247

“existing public documents” means any public document made before the day on which this section comes into operation;

“future Act” means an Act passed after the session of the Legislature in which this Act is passed;

“future public documents” means any public document made on or after the day on which this section comes into operation.

PART 5

MISCELLANEOUS

Immigration control and formation of civil partnerships
P2004/33/249

100. Schedule 13 contains provisions relating to the formation of civil partnerships in the Island by persons subject to immigration control.

Power to amend enactments relating to pensions
P2004/33/255

101. (1) A Department may by order amend any enactment or public document relating to pensions, allowances or gratuities in such manner as it considers appropriate for the purpose of, or in connection with, making provision with respect to pensions, allowances or gratuities for the surviving civil partners or dependants of deceased civil partners.

This is subject to the qualification in subsection (2).

(2) In the case of judicial pensions, allowances or gratuities, the power conferred by subsection (1) is exercisable by the Treasury with the sanction of the Civil Service Commission.

(3) The provision which may be made by virtue of subsection (1) —

- (a) may be the same as, or different to, the provision made with respect to widows, widowers or the dependants of persons who are not civil partners, and
- (b) may be made with a view to ensuring that pensions, allowances or gratuities take account of rights which accrued, service which occurred or any other circumstances which existed before the passing of this Act.

(4) The power conferred by subsection (1) is not restricted by any provision of this Act.

(5) Before a Department or the Civil Service Commission makes an order under subsection (1) it must consult such persons as it considers appropriate.

PART 6

SUPPLEMENTARY

102. (1) This section applies to any power conferred by this Act to make regulations or an order (except a power of a court to make an order).

Regulations
and orders

P2004/33/258

(2) The power may be exercised so as to make different provision for different cases and different purposes.

(3) The power includes power to make any supplementary, incidental, consequential, transitional, transitory or saving provision which the person making the regulations or order considers expedient.

103. (1) The Council of Ministers may by order make such further provision (including supplementary, incidental, consequential, transitory, transitional or saving provision) as it considers appropriate —

Power to
make further
provision in
connection
with civil
partnership

(a) for the general purposes, or any particular purpose, of this Act,

P2004/33/259

(b) in consequence of any provision made by or under this Act, or

(c) for giving full effect to this Act or any provision of it.

(2) An order under subsection (1) may amend or repeal any enactment contained in an Act passed on or before the last day of the session of the Legislature in which this Act is passed, including an enactment conferring power to make public documents where the power is limited by reference to persons who are or have been parties to a marriage.

(3) An order under subsection (1) may —

(a) provide for any provision of this Act which comes into force before another such provision has come into force to have effect, until that other provision has come into force, with such modifications as are specified in the order;

(b) amend or revoke any public document.

(4) The power to make an order under subsection (1) is not restricted by any other provision of this Act.

Community obligations and civil partners

P2004/33/260

[c. 14]

104. (1) Subsection (2) applies where the Council of Ministers, by order under section 2A(1) of the European Communities (Isle of Man) Act 1973 (“ECA 1973”) (application to Island of EC instruments) —

- (a) is making provision for the purpose of applying a Community instrument to the Island which relates to persons who are or have been parties to a marriage, or
- (b) has made such provision and it has not been revoked.

(2) The Council of Ministers may by order make provision in relation to persons who are or have been civil partners in a civil partnership that is the same or similar to the provision referred to in subsection (1).

(3) “Marriage” and “civil partnership” include a void marriage and a void civil partnership respectively.

(4) Section 2A(4) to (7) of ECA 1973 apply in relation to the power conferred by subsection (2) to make an order as they apply in relation to the power conferred by subsection (1) of that section.

Minor and consequential amendments and repeals

P2004/33/261

105. (1) Schedule 14 contains minor and consequential amendments.

- (2) Schedule 15 contains repeals.

Tynwald procedure

106. (1) Orders and regulations under this Act, except those to which subsection (2) applies, shall not have effect unless they are approved by Tynwald.

- (2) This subsection applies to —
 - (a) regulations made by the Clerk of the Rolls under Chapter 1 of Part 2 (registration of civil partnerships); or
 - (b) orders under —
 - (i) section 51(1) (power of the Clerk of the Rolls to validate civil partnerships which are void for want of form); or
 - (ii) section 107(2) (appointed day orders).

(3) Regulations and orders to which subsection (2) applies shall be laid before Tynwald as soon as may be after they are made.

(4) Rules of court under any provision of this Act shall be laid before Tynwald after they are made, and if Tynwald, at the sitting before which they are laid or the following sitting, resolves that they be annulled, they shall cease to have effect.

107. (1) This Act may be cited as the Civil Partnership Act 2011. Short title and commencement

(2) This Act, other than sections 102, 103, 106 and this section, shall come into operation on such day as the Treasury may by order appoint and different days may be so appointed for different provisions and for different purposes.

SCHEDULES

Sections 4(2), 6(3), 74(1)
and 85(2) SCHEDULE 1

PROHIBITED DEGREES OF RELATIONSHIP

PART 1

THE PROHIBITIONS

Absolute prohibitions

1. (1) Two people are within prohibited degrees of relationship if one falls within the list below in relation to the other.

Adoptive child

Adoptive parent

Child

Former adoptive child

Former adoptive parent

Grandparent

Grandchild

Parent

Parent's sibling

Sibling

Sibling's child

(2) In the list "sibling" means a brother, sister, half-brother or half-sister.

Qualified prohibitions

2. (1) Two people are within prohibited degrees of relationship if one of them falls within the list below in relation to the other, unless —

(a) both of them have reached 21 at the time when they register as civil partners of each other, and

(b) the younger has not at any time before reaching 18 been a child of the family in relation to the other.

Child of former civil partner

Child of former spouse

Former civil partner of grandparent

Former civil partner of parent

SCH. 1

Former spouse of grandparent

Former spouse of parent

Grandchild of former civil partner

Grandchild of former spouse

(2) “Child of the family”, in relation to another person, means a person who —

- (a) has lived in the same household as that other person, and
- (b) has been treated by that other person as a child of his or her family.

PART 2

SPECIAL PROVISIONS RELATING TO QUALIFIED PROHIBITIONS

Provisions relating to paragraph 2

3. Paragraphs 4 to 6 apply where two people are subject to paragraph 2 but intend to register as civil partners of each other by signing a civil partnership schedule.

4. (1) The fact that a notice of proposed civil partnership has been given must not be recorded in the register unless the registrar —

- (a) is satisfied by the production of evidence that both the proposed civil partners have reached 21, and
- (b) has received a declaration made by each of the proposed civil partners —
 - (i) specifying their affinal relationship, and
 - (ii) declaring that the younger of them has not at any time before reaching 18 been a child of the family in relation to the other.

(2) Sub-paragraph (1) does not apply if a declaration is obtained under paragraph 6.

(3) A declaration under sub-paragraph (1)(b) must contain such information and must be signed and attested in such manner as may be prescribed by regulations.

(4) The fact that a registrar has received a declaration under sub-paragraph (1)(b) must be recorded in the register.

(5) A declaration under sub-paragraph (1)(b) must be filed and kept by the registrar.

5. (1) Sub-paragraph (2) applies if —

SCH. 1

(a) a registrar received from a person who is not one of the proposed civil partners a written statement signed by that person which alleges that a declaration made under paragraph 4 is false in a material particular, and

(b) the register shows that such a statement has been received.

(2) No certificate authorising the marriage may be issued by a registrar unless a High Court declaration is obtained under paragraph 6.

6. (1) Either of the proposed civil partners may apply to the court for a declaration that, given that —

(a) both of them have reached 21, and

(b) the younger of those persons has not at any time before reaching 18 been a child of the family in relation to the other,

there is no impediment of affinity to the formation of the civil partnership.

(2) Such an application may be made whether or not any statement has been received by the registrar under paragraph 5.

7. Section 14 (objection to proposed civil partnership) does not apply in relation to a civil partnership to which paragraphs 4 to 6 apply, except so far as an objection to the issue of a civil partnership schedule is made under that section on a ground other than the affinity between the proposed civil partners.

Sections 5(2), 6(3), 29(1) and 47 SCHEDULE 2

CIVIL PARTNERSHIPS OF PERSONS UNDER 18

PART 1

APPROPRIATE PERSONS

1. Column 2 of the table specifies the appropriate persons (or person) to give consent to a child whose circumstances fall within column 1 and who intends to register as the civil partner of another —

<i>Case</i>	<i>Appropriate Persons</i>
1 The circumstances do not fall within any of items 2 to 4	Each of the following — (a) any parent of the child who has parental responsibility for him or her, and (b) any guardian of the child.
2 A care order has effect with respect to the child	Each of the following — (a) the Department, and (b) each parent or guardian (in so far as their parental responsibility has not been restricted under section 32(2) of CYPA 2001).
3 A residence order has effect with respect to the child and the circumstances do not fall within item 4	Each of the persons with whom the child lives, or is to live, as a result of the order.
4 Where items 2 and 3 do not apply but a residence order was in force with respect to the child immediately before the child reached the age of 16	Each of the persons with whom the child lived or was to live in accordance with the order (instead of the consents required by item 1).

2. In the table —

“guardian of a child”, “parental responsibility”, “residence order” and “care order” have the same meaning as CYPA 2001; and

“the Department” means the Department of Health and Social Security.

PART 2

OBTAINING CONSENT: GENERAL

Consent of appropriate person unobtainable

3. (1) This paragraph applies if —

SCH. 2

- (a) a child and another person intend to register as civil partners of each other under any procedure other than the special procedure, and
 - (b) a registrar is satisfied that the consent of a person whose consent is required (“A”) cannot be obtained because A is absent, inaccessible or under a disability.
- (2) If there is any other person whose consent is also required A’s consent is not required.
- (3) If no other person’s consent is required —
- (a) the Chief Registrar may dispense with the need for any consent, or
 - (b) the court may, on an application being made to it, consent to the child registering as the civil partner of the person mentioned in sub-paragraph (1)(a).
- (4) The consent of the court under sub-paragraph (3)(b) has the same effect as if it had been given by A.

Consent of appropriate person refused

4. (1) This paragraph applies if —
- (a) a child and another person intend to register as civil partners of each other under any procedure other than the special procedure, and
 - (b) any person whose consent is required refuses his or her consent.
- (2) The court may, on an application being made to it, consent to the child registering as the civil partner of the person mentioned in sub-paragraph (1)(a).
- (3) The consent of the court under sub-paragraph (2) has the same effect as if it had been given by the person who has refused his or her consent.

Declaration

5. If one of the proposed civil partners is a child and is not a surviving civil partner, a widow or a widower, the necessary declaration under section 9 must also —
- (a) state in relation to each appropriate person —
 - (i) that that person’s consent has been obtained, or
 - (ii) that the need to obtain that person’s consent has been dispensed with under paragraph 3, or
 - (iii) that the court has given consent under paragraph 3 or 4, or
 - (b) state that no person exists whose consent is required to a civil partnership between the child and another person.

Forbidding proposed civil partnership

SCH. 2

6. (1) This paragraph applies if it has been recorded in the register that a notice of proposed civil partnership between a child and another person has been given.

(2) Any person whose consent is required to a child and another person registering as civil partners of each other (“the relevant person”) may forbid the issue of a civil partnership schedule by giving a registrar written notice that the relevant person forbids it.

(3) A notice under sub-paragraph (2) must specify —

(a) the name of the relevant person,

(b) the relevant person’s place of residence, and

(c) the capacity, in relation to either of the proposed civil partners, in which the relevant person forbids the issue of the civil partnership schedule.

(4) On receiving the notice, a registrar must ensure that the fact that the issue of a civil partnership schedule has been forbidden is recorded in the register.

(5) If the issue of a civil partnership schedule has been forbidden under this paragraph, the notice of proposed civil partnership and all proceedings on it are void.

(6) Sub-paragraphs (2) to (5) do not apply if the court has given its consent under paragraph 3 or 4.

Evidence

7. (1) This paragraph applies if, for the purpose of obtaining a civil partnership schedule, a person declares that the consent of any person or persons whose consent is required under section 5 has been given.

(2) The registrar may refuse to issue the civil partnership schedule unless satisfied by the production of written evidence that the consent of that person or those persons has in fact been given.

Issue of civil partnership schedule

8. The duty in section 15(1) to issue a civil partnership schedule does not apply if its issue has been forbidden under paragraph 6.

9. If a proposed civil partnership is between a child and another person, the civil partnership schedule must contain a statement that the issue of the civil partnership schedule has not been forbidden under paragraph 6.

PART 3

OBTAINING CONSENT: SPECIAL PROCEDURE

Consent of appropriate person unobtainable or refused

10. (1) Sub-paragraph (2) applies if —

SCH. 2

- (a) a child and another person intend to register as civil partners of each other under the special procedure, and
 - (b) the court is satisfied that the consent of a person (“A”) whose consent is required cannot be obtained because A is absent, inaccessible, or under a disability.
- (2) If this sub-paragraph applies the court may dispense with the need for A’s consent (whether or not there is any other person whose consent is also required).
- (3) The consent of the court under sub-paragraph (2) has the same effect as if it had been given by A.
- (4) Sub-paragraph (5) applies if —
- (a) a child and another person intend to register as civil partners of each other under the special procedure, and
 - (b) any person whose consent is required refuses his or her consent.
- (5) The court may, on application being made, consent to the child registering as the civil partner of the person mentioned in sub-paragraph (4)(a).
- (6) The consent of the court under sub-paragraph (5) has the same effect as if it had been given by the person who has refused his or her consent.

Declaration

- 11.** If one of the proposed civil partners is a child and is not a surviving civil partner, the necessary declaration under section 9 must also —
- (a) state in relation to each appropriate person —
 - (i) that that person’s consent has been obtained, or
 - (ii) that the court has given consent under paragraph 10(2) or (5), or
 - (b) state that no person exists whose consent is required to a civil partnership between the child and another person.

Forbidding proposed civil partnership

- 12.** Paragraph 6 applies in relation to the special procedure as if —
- (a) any reference to forbidding the issue of a civil partnership schedule were a reference to forbidding a judge to give authority for the issue of a judge’s licence, and
 - (b) sub-paragraph (6) referred to the court giving its consent under paragraph 10(2) or (5).

Evidence

- 13.** (1) This paragraph applies —

- (a) if a child and another person intend to register as civil partners of each other under the special procedure, and SCH. 2
- (b) the consent of any person (“A”) is required to the child registering as the civil partner of that person.

(2) The person giving the notice (under section 21) of proposed civil partnership to the registrar must produce to the registrar such evidence as a judge may require to satisfy the judge that A’s consent has in fact been given.

(3) The power to require evidence under sub-paragraph (2) is in addition to the power to require evidence under section 22.

Issue of judge’s licence

14. The duty of a judge under section 25(3)(b) to give authority for the issue of a judge’s licence does not apply if its issue has been forbidden by virtue of paragraph 12.

PART 4

PROVISIONS RELATING TO THE COURT

15. (1) Rules of court may be made for enabling applications under Part 2 or 3 of this Schedule to be heard in private.

(2) Rules of court must provide that, where an application is made in consequence of a refusal to give consent, notice of the application is to be served on the person who has refused consent.

Section 6(2)

SCHEDULE 3

REGISTRATION BY FORMER SPOUSES ONE OF WHOM HAS
CHANGED SEX*Application of Schedule*

1. This Schedule applies if —

(a) a court —

(i) in England and Wales or Northern Ireland makes absolute a decree of nullity granted on the ground that an interim gender recognition certificate has been issued under section 4(3) of the Gender Recognition Act 2004 (an Act of Parliament) (“the UK Act”) to a party to the marriage, or

(ii) in Scotland, grants a decree of divorce on that ground,

and, on doing so, issues a full gender recognition certificate (under section 5(1) of the UK Act) to that party, and

(b) the parties wish to register in the Island as civil partners of each other without being delayed by the waiting period.

[c. 7]

The relevant period

2. For the purposes of this Schedule the relevant period is the period —

(a) beginning with the issue of the full gender recognition certificate, and

(b) ending at the end of one month from the day on which it is issued.

*Modifications of standard procedure and procedures for house-bound and
detained persons*

3. If —

(a) each of the parties gives a notice of proposed civil partnership during the relevant period, and

(b) on doing so, each makes an election under this paragraph,

Chapter 1 of Part 2 applies with the modifications given in paragraphs 4 to 6.

4. (1) Omit —

(a) section 11 (proposed civil partnership to be publicised);

(b) section 12 (meaning of “the waiting period”);

(c) section 13 (power to shorten the waiting period).

(2) In section 15 (issue of civil partnership schedule), for subsection (1) substitute — SCH. 3

“(1) As soon as the notices of proposed civil partnership have been given, a registrar must, at the request of one or both of the proposed civil partners, issue a document to be known as a “civil partnership schedule.”.

(3) For section 18 (period during which registration may take place) substitute —

“Period during which registration may take place **18.** (1) The proposed civil partners may register as civil partners by signing the civil partnership schedule at any time during the applicable period.

(2) If they do not register a civil partners by signing the civil partnership schedule before the end of the applicable period —

- (a) the notices of proposed civil partnership and the civil partnership schedule are void, and
- (b) no registrar may officiate at the signing of the civil partnership schedule by them.

(3) The applicable period, in relation to two people registering as civil partners of each other, is the period of one month beginning with —

- (a) the day on which the notices of proposed civil partnership are given, or
- (b) if the notices are not given on the same day, the earlier of those days.”.

5. In section 19 (house-bound persons), in subsection (3) —

- (a) treat the reference to the standard procedure as a reference to the standard procedure as modified by this Schedule, and
- (b) omit paragraph (c) (which provides for a 3 month registration period).

6. In section 20 (detained persons), in subsection (3) —

- (a) treat the reference to the standard procedure as a reference to the standard procedure as modified by this Schedule, and
- (b) omit paragraph (c) (which provides for a 3 month registration period).

Section 69

SCHEDULE 4

WILLS, ADMINISTRATION OF ESTATES AND FAMILY PROVISION

PART 1

WILLS

Wills Act 1985 (c.11)

1. (1) Amend section 4 (gift to witness void) in accordance with subparagraph (2).

(2) In subsection (1) for “his spouse” (in both places) substitute “that person’s spouse or civil partner”.

(3) Section 4 of the 1985 Act applies in relation to the attestation of a will by a person to whose civil partner there is given or made any such disposition as is described in that section as it applies in relation to a person to whose spouse there is given or made any such disposition.

2. In subsections (2) and (3) of section 5 (evidence of attestation) for “his spouse” substitute “that person’s spouse or civil partner”.

3. After section 8 insert —

“Will to be
revoked by
civil
partnership

8A. (1) Subject to subsections (2) to (6), a will is revoked by the formation of a civil partnership between the testator and another person.

(2) A disposition in a will in exercise of a power of appointment takes effect despite the formation of a subsequent civil partnership between the testator and another person unless the property so appointed would in default of appointment pass to the testator’s personal representatives.

(3) If it appears from a will —

- (a) that at the time it was made the testator was expecting to form a civil partnership with a particular person, and
- (b) that the testator intended that the will should not be revoked by the formation of the civil partnership,

the will is not revoked by its formation.

(4) Subsections (5) and (6) apply if it appears from a will —

- (a) that at the time it was made the testator was expecting to form a civil partnership with a particular person, and
- (b) that the testator intended that a disposition in the will should not be revoked by the formation of the civil partnership.

(5) The disposition takes effect despite the formation of the civil partnership.

(6) Any other disposition in the will also takes effect, unless it appears from the will that the testator intended the disposition to be revoked by the formation of the civil partnership. SCH. 4

Effect of
dissolution
or
annulment
of civil
partnership
on wills

8B. (1) This section applies if, after a testator has made a will —

- (a) the High Court dissolves his or her civil partnership or makes a nullity order in respect of it, or
- (b) his or her civil partnership is dissolved or annulled and the dissolution or annulment is entitled to recognition by virtue of Chapter 1 of Part 3 of the Civil Partnership Act 2011.

(2) Except in so far as a contrary intention appears by the will —

- (a) provisions of the will appointing executors or trustees or conferring a power of appointment, if they appoint or confer the power on the former civil partner, take effect as if the former civil partner had died on the date on which the civil partnership is dissolved or annulled, and
- (b) any property which, or an interest in which, is devised or bequeathed to the former civil partner shall pass as if the former civil partner had died on that date.

(3) Subsection (2)(b) does not affect any right of the former civil partner to apply for financial provision under the Inheritance (Provision for Family and Dependants) Act 1982. [c. 8]

(4) Where —

- (a) by the terms of a will an interest in remainder is subject to a life interest; and
- (b) the life interest lapses by virtue of subsection (2)(b),

the interest in remainder shall be treated as if it had not been subject to the life interest and, if it is contingent on the termination of the life interest, as if it had not been so contingent.”.

4. In section 9(1)(a) for “section 7 or 8” substitute “section 7, 8, 8A or 8B”.

PART 2

ADMINISTRATION OF ESTATES AND FAMILY PROVISION

Inheritance (Provision for Family and Dependants) Act 1982 (c. 8)

5. (1) Amend section 1 (application for financial provision from deceased person’s estate) as follows.

(2) For subsection (1)(a) and (b) (application may be made by spouse or by former spouse who has not remarried) substitute —

“(a) the spouse or civil partner of the deceased;

SCH. 4

(b) a former spouse or former civil partner of the deceased, but not one who has subsequently married or subsequently formed a civil partnership;

(ba) any person (not being a person included in paragraph (a) or (b)) to whom subsection (1A) or (1B) applies;”.

(3) In subsection (1)(d) (application be made by child of the family), after “marriage” (in each place) insert “or civil partnership”.

(4) After subsection (1) insert —

“(1A) This subsection applies to a person if for the whole of the period of two years ending immediately before the date when the deceased died, the person was living —

(a) in the same household as the deceased, and

(b) as the husband or wife of the deceased.

(1B) This subsection applies to a person if for the whole of the period of two years ending immediately before the date when the deceased died the person was living —

(a) in the same household as the deceased, and

(b) as the civil partner of the deceased.”.

(5) In subsection (2) (meaning of “reasonable financial provision”), after paragraph (a) insert —

“(aa) in the case of an application made by virtue of subsection (1)(a) by the civil partner of the deceased (except where, at the date of death, a separation order under Chapter 2 of Part 2 of the Civil Partnership Act 2011 was in operation in relation to the civil partnership and the separation was continuing), means such financial provision as it would be reasonable in all the circumstances of the case for a civil partner to receive, whether or not that provision is required for his or her maintenance;”.

6. In section 2(1) (orders which may be made on an application), after paragraph (f) insert —

“(g) an order varying any settlement made —

(i) during the subsistence of a civil partnership formed by the deceased, or

(ii) in anticipation of the formation of a civil partnership by the deceased,

on the civil partners (including such a settlement made by will), the variation being for the benefit of the surviving civil partner, or any child of both the civil partners, or any person who was treated by the deceased as a child of the family in relation to that civil partnership.”.

7. (1) Amend section 3 (matters to which court is to have regard in exercising powers under section 2) as follows. SCH. 4

(2) For subsection (2) substitute—

“(2) This subsection applies where an application for an order under section 2 of this Act is made by virtue of section 1(1)(a) or (b) of this Act.

The court shall, in addition to the matters specifically mentioned in paragraphs (a) to (f) of that subsection, have regard to —

- (a) the age of the applicant and the duration of the marriage or civil partnership;
- (b) the contribution made by the applicant to the welfare of the family of the deceased, including any contribution made by looking after the home or caring for the family.

In the case of an application by the spouse of the deceased, the court shall also, unless at the date of death a decree of judicial separation was in force and the separation was continuing, have regard to the provision which the applicant might reasonably have expected to receive if on the day on which the deceased died, the marriage instead of being terminated by death had been terminated by a decree of divorce.

In the case of an application by the civil partner of the deceased, the court shall also, unless at the date of the death a separation order under Chapter 2 of Part 2 of the Civil Partnership Act 2011 was in operation and the separation was continuing, have regard to the provision which the applicant might reasonably have expected to receive if on the day on which the deceased died the civil partnership, instead of being terminated by death, had been terminated by a dissolution order.”.

(3) After subsection (2) insert —

“(2A) Where an application for an order under section 2 is made by virtue of section 1(1)(ba), the court shall, in addition to the matters specifically mentioned in subsection (1)(a) to (f), have regard to —

- (a) the age of the applicant and the length of the period during which the applicant lived as the husband or wife or civil partner of the deceased and in the same household as the deceased;
- (b) the contribution made by the applicant to the welfare of the family of the deceased, including any contribution made by looking after the home or caring for the family.”.

(4) After subsection (4) insert—

“(4A) Nothing in subsections (2) to (4) limits the operation of subsection (1)(g).”.

8. In section 6(3) and (10) (variation etc. of orders which cease on occurrence of specified event other than remarriage of former spouse), for “(other than the remarriage of a former wife or former husband)” substitute “(other than the formation of a subsequent marriage or civil partnership by a former spouse or former civil partner)”.

SCH. 4 9. After section 14 insert —

“Provision as to cases where no financial relief was granted in proceedings for the dissolution etc. of a civil partnership

14A. (1) Subsection (2) applies where —

- (a) a dissolution order, nullity order, separation order or presumption of death order has been made under Chapter 2 of Part 2 of the Civil Partnership Act 2011 in relation to a civil partnership,
- (b) one of the civil partners dies within twelve months from the date on which the order is made, and
- (c) either —
 - (i) an application for a financial provision order under Part 1 of Schedule 5 to that Act or a property adjustment order under Part 2 of that Schedule has not been made by the other civil partner, or
 - (ii) such an application has been made but the proceedings on the application have not been determined at the time of the death of the deceased.

(2) If an application for an order under section 2 of this Act is made by the surviving civil partner, the court shall, despite anything in section 1 or section 3 of this Act, have power, if it thinks it just to do so, to treat the surviving civil partner as if the order mentioned in subsection (1)(a) had not been made.

(3) This section shall not apply in relation to a separation order unless at the date of the death of the deceased the separation order was in force and the separation was continuing.”.

10. After section 15 insert —

“Restriction imposed in proceedings for the dissolution etc. of a civil partnership on application under this Act

15ZA. (1) On making a dissolution order, nullity order, separation order or presumption of death order under Chapter 2 of Part 2 of the Civil Partnership Act 2011, or at any time after making such an order, the court, if it considers it just to do so, may, on the application of either of the civil partners, order that the other civil partner shall not on the death of the applicant be entitled to apply for an order under section 2 of this Act.

(2) In the case of a dissolution order, nullity order or presumption of death order (“the main order”) an order may be made under subsection (1) before (as well as after) the main order is made final, but if made before the main order is made final it shall not take effect unless the main order is made final.

(3) Where an order under subsection (1) made in connection with a dissolution order, nullity order or presumption of death order has come into force with respect to a civil partner, then, on the death of the other civil partner, the court shall not entertain any application for an order under section 2 of this Act made by the surviving civil partner.

(4) Where an order under subsection (1) made in connection with a separation order has come into force with respect to a civil partner, then, if the other civil partner dies while the separation order is in force and the separation is continuing, the court shall not entertain any application for an order under section 2 of this Act made by the surviving civil partner.” SCH. 4

11. After section 15A insert —

“Restriction imposed in proceedings under Schedule 7 to the Civil Partnership Act 2011 on application under this Act **15B.** (1) On making an order under paragraph 9 of Schedule 7 to the Civil Partnership Act 2011 (orders for financial provision, property adjustment and pension-sharing following dissolution etc. outside the Island of a civil partnership) the court, if it considers it just to do so, may, on the application of either of the civil partners, order that the other civil partner shall not on the death of the applicant be entitled to apply for an order under section 2 of this Act.

(2) Where an order under subsection (1) has been made with respect to one of the civil partners in a case where a civil partnership has been dissolved or annulled, then, on the death of the other civil partner, the court shall not entertain an application under section 2 of this Act made by the surviving civil partner.

(3) Where an order under subsection (1) has been made with respect to one of the civil partners in a case where civil partners have been legally separated, then, if the other civil partner dies while the legal separation is in force, the court shall not entertain an application under section 2 of this Act made by the surviving civil partner.”

12. In section 16(1) (power to vary secured periodical payments orders) —

- (a) for “the Matrimonial Proceedings Act 2001” substitute “the Matrimonial Proceedings Act 2003 or the Civil Partnership Act 2011”, and
- (b) for “that Act” substitute “the Act of 2003 or Part 10 of Schedule 5 to the Act of 2011”.

13. For section 17(4) (meaning of “maintenance agreement”) substitute —

“(4) In this section “maintenance agreement” in relation to a deceased person means any agreement between the deceased and a person who was the deceased’s spouse or civil partner —

- (a) in whatever form;
- (b) whether made before or after the coming into force of this Act; and
- (c) containing provision about the rights and liabilities of the deceased and the spouse or civil partner while living separately in respect of financial provision —
 - (i) for the other party to the marriage or civil partnership; or

SCH. 4

- (ii) for the maintenance or education of any child of the family.

For the purpose of this definition it is immaterial whether the marriage or civil partnership has been dissolved or annulled.”.

14. (1) Amend section 18 (availability of court’s powers) as follows.

(2) In the cross-heading and subsection (1)(a) for “Matrimonial Proceedings Act 2001” substitute “Matrimonial Proceedings Act 2003”.

(3) For each of the references to “section 19(8)” substitute “section 44(8)”.

(4) In subsection (1)(b) —

(a) for “section 24” substitute “section 49”; and

(b) for “section 25” substitute “section 50”.

(5) For each of the references to “section 26(1)” substitute “section 51(1)”.

15. After section 18 insert —

“Availability of court’s powers under this Act in applications under paragraphs 51 and 64 of Schedule 5 to the Civil Partnership Act 2011 **18A.** (1) Subsection (2) applies where —

- (a) a person against whom a secured periodical payments order was made under Schedule 5 to the Civil Partnership Act 2011 has died and an application is made under paragraph 60 of that Schedule for the variation or discharge of that order or for the revival of the operation of any suspended provision of the order, or
- (b) a party to a maintenance agreement within the meaning of Part 12 of that Schedule has died, the agreement being one which provides for the continuation of payments under the agreement after the death of one of the parties, and an application is made under paragraph 64 of that Schedule for the alteration of the agreement under paragraph 59 of that Schedule.

(2) Where this subsection applies, the court shall have power to direct that the application made under paragraph 51 or 64 of that Schedule shall be deemed to have been accompanied by an application for an order under section 2 of this Act.

(3) Where the court gives a direction under subsection (2) above it shall have power, in the proceedings on the application under paragraph 51 or 64 of that Schedule —

- (a) to make any order which it could have made under this Act if the application under that paragraph had been made jointly with an application for an order under section 2; and
- (b) to give such consequential directions as may be necessary for enabling it to exercise any of the powers available to it under this Act on an application for an order under section 2.

(4) Where an order made under section 15ZA(1) of this Act is in force with respect to a civil partner, the court shall not give a direction under subsection (2) above with respect to any application made under paragraph 51 or 64 of that Schedule by that civil partner on the death of the other civil partner.” SCH. 4

- 16.** (1) Amend section 19 (effect, duration and form of orders) as follows.
- (2) In subsection (2) —
- (a) in paragraph (a) for “former husband or former wife” substitute “former spouse or former civil partner”;
- (b) after paragraph (b) insert —
- “or
- (c) an applicant who was the civil partner of the deceased in a case where, at the date of death, a separation order under Chapter 2 of Part 2 of the Civil Partnership Act 2011 was in force in relation to their civil partnership and the separation was continuing.”.
- (c) in the full-out words at the end for “on the remarriage of the applicant” onwards substitute “on the formation by the applicant of a subsequent marriage or civil partnership, except in relation to any arrears due under the order on the date of the formation of the subsequent marriage or civil partnership.”.
- 17.** (1) Amend section 24 (interpretation) as follows.
- (2) In subsection (1) —
- (a) after the definition of “family provision order” insert —
- ““former civil partner” means a person whose civil partnership with the deceased was during the lifetime of the deceased either —
- (a) dissolved or annulled by an order made under the law of any part of the British Islands, or
- (b) dissolved or annulled in any country or territory outside the British Islands by a dissolution or annulment which is entitled to be recognised as valid by the law of the Island;”.
- (b) in the definition of ““former wife” or “former husband””, for ““former wife” or “former husband”” substitute ““former spouse””.
- (3) In subsection (4) —
- (a) before “wife” insert “spouse,” and
- (b) in paragraph (b), after “entered into a later marriage” insert “or formed a later civil partnership”.

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(4) For subsection (5) substitute —

“(4A) For the purposes of this Act any reference to a civil partner shall be treated as including a reference to a person who in good faith formed a void civil partnership with the deceased unless either —

(a) the civil partnership between the deceased and that person was dissolved or annulled during the lifetime of the deceased and the dissolution or annulment is recognised by the law of the Island, or

(b) that person has during the lifetime of the deceased formed a later civil partnership or entered into a later marriage.

(5) Any reference in this Act to —

(a) a party to a later marriage;

(b) a person who has formed a later civil partnership,

is to be construed as if a marriage or civil partnership which is void or voidable were valid.

(5A) The celebration of a marriage or the formation of a civil partnership shall be treated for the purposes of this Act as the celebration of a later marriage or the formation of a later civil partnership, in relation to either of the spouses or civil partners, even though the previous marriage or civil partnership of that spouse or civil partner was void or voidable.”.

(5) After subsection (6) insert —

“(6A) Any reference in this Act to an order made under, or under any provision of, the Civil Partnership Act 2011 shall be construed as including a reference to anything which is deemed to be such an order.”.

Administration of Estates Act 1990

[c. 17]

18. (1) Amend section 53(1) (meaning of “the statutory trusts”) as follows.

(2) In paragraph (a)(i), after “or marry under that age” insert “or form a civil partnership under that age”.

(3) In paragraph (a)(ii), after “or marry” insert “, or form a civil partnership,”.

(4) In paragraph (b), after “marries” insert “, or forms a civil partnership,”.

(5) In paragraph (c) after “marriage” insert “, or formation of the civil partnership”.

19. In section 55 in the marginal note after “matrimonial” insert “or civil partnership”.

20. In section 64(1) in the definition of “valuable consideration” after “includes marriage,” insert “and the formation of a civil partnership,”. SCH. 4

21. In Schedule 1—

- (a) for the heading substitute “Rights of Surviving Spouse or Civil Partner as Respects Matrimonial or Civil Partnership Home”;
- (b) for “husband and wife” (in each place) substitute “spouse or civil partner”.

Section 70(1) SCHEDULE 5
 [2003/7/26,27,37 to 44,46 to 56]
 FINANCIAL RELIEF IN THE HIGH COURT

PART 1

FINANCIAL PROVISION IN CONNECTION WITH DISSOLUTION,
 NULLITY OR SEPARATION

Circumstances in which orders under this Part may be made

- 1.** (1) The court may make any one or more of the orders set out in paragraph 2 —
- (a) on making a dissolution, nullity or separation order, or
 - (b) at any time afterwards.
- (2) The court may make any one or more of the orders set out in paragraph 2(d), (e) and (f) —
- (a) in proceedings for a dissolution, nullity or separation order, before making the order;
 - (b) if proceedings for a dissolution, nullity or separation order are dismissed after the beginning of the trial, either straightaway or within a reasonable period after the dismissal.
- (3) The power of the court to make an order under sub-paragraph (1) or (2)(a) in favour of a child of the family is exercisable from time to time.
- (4) If the court makes an order in favour of a child under sub-paragraph (2)(b), it may from time to time make a further order in the child's favour of any of the kinds set out in paragraph 2(d), (e) or (f).

The orders: periodical and secured periodical payments and lump sums

- 2.** The orders are —
- (a) an order that either civil partner must make to the other such periodical payments for such term as may be specified;
 - (b) an order that either civil partner must secure to the other, to the satisfaction of the court, such periodical payments for such term as may be specified;
 - (c) an order that either civil partner must pay to the other such lump sum or sums as may be specified;
 - (d) an order that one of the civil partners must make —
 - (i) to such person as may be specified for the benefit of a child of the family, or
 - (ii) to a child of the family,
 such periodical payments for such term as may be specified;

- (e) an order that one of the civil partners must secure — SCH. 5
- (i) to such person as may be specified for the benefit of a child of the family, or
 - (ii) to a child of the family,
- to the satisfaction of the court, such periodical payments for such term as may be specified;
- (f) an order that one of the civil partners must pay such lump sum as may be specified —
- (i) to such person as may be specified for the benefit of a child of the family, or
 - (ii) to a child of the family.

Particular provision that may be made by lump sum orders

3. (1) An order under this Part requiring one civil partner to pay the other a lump sum may be made for the purpose of enabling the other civil partner to meet any liabilities or expenses reasonably incurred by the other in maintaining —

- (a) himself or herself, or
- (b) a child of the family,

before making an application for an order under this Part in his or her favour.

(2) An order under this Part requiring a lump sum to be paid to or for the benefit of a child of the family may be made for the purpose of enabling any liabilities or expenses reasonably incurred by or for the benefit of the child before making an application for an order under this Part to be met.

- (3) An order under this Part for the payment of a lump sum may —
- (a) provide for its payment by instalments of such amount as may be specified, and
 - (b) require the payment of the instalments to be secured to the satisfaction of the court.

(4) Sub-paragraphs (1) to (3) do not restrict the powers to make the orders set out in paragraph 2(c) and (f).

- (5) If the court —
- (a) makes an order under this Part for the payment of a lump sum, and
 - (b) directs that —
 - (i) payment of the sum or any part of it is to be deferred, or

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- (ii) the sum or any part of it is to be paid by instalments,

it may provide for the deferred amount or the instalments to carry interest at such rate as may be specified from such date as may be specified until the date when payment of it is due.

- (6) A date specified under sub-paragraph (5) must not be earlier than the date of the order.

When orders under this Part may take effect

4. (1) If an order is made under paragraph 2(a), (b) or (c) on or after making a dissolution or nullity order, neither the order nor any settlement made in pursuance of it takes effect unless the dissolution or nullity order has been made final.

(2) This paragraph does not affect the power of the court to give a direction under paragraph 68 (settlement of instrument by court to secure payment or effect property adjustment).

Restrictions on making of orders under this Part

5. The power to make an order under paragraph 2(d), (e) or (f) is subject to paragraph 40(1) and (5) (restrictions on making orders in favour of children who have reached 18).

PART 2

PROPERTY ADJUSTMENT ON OR AFTER DISSOLUTION, NULLITY OR SEPARATION

Property adjustment orders

6. (1) The property adjustment orders are —
- (a) an order that one of the civil partners must transfer such property as may be specified, being property to which he or she is entitled —
 - (i) to the other civil partner,
 - (ii) to a child of the family, or
 - (iii) to such person as may be specified for the benefit of a child of the family;
 - (b) an order that a settlement of such property as may be specified, being property to which one of the civil partners is entitled, be made to the satisfaction of the court for the benefit of —
 - (i) the other civil partner and the children of the family, or
 - (ii) either or any of them;
 - (c) an order varying for the benefit of —

- (i) the civil partners and the children of the family, or SCH. 5
- (ii) either or any of them,
- a relevant settlement;
- (d) an order extinguishing or reducing the interest of either of the civil partners under a relevant settlement.
- (2) The court may make a property adjustment order under sub-paragraph (1)(c) even though there are no children of the family.
- (3) In this paragraph —
- “entitled” means entitled in possession or reversion, and
- “relevant settlement” means, in relation to a civil partnership, a settlement made, during its subsistence or in anticipation of its formation, on the civil partners including one made by will or codicil, but not including one in the form of a pension arrangement (within the meaning of Part 4).

When property adjustment orders may take effect

- 7.** (1) If a property adjustment order is made on or after making a dissolution or nullity order, neither the property adjustment order nor any settlement made under it takes effect unless the dissolution or nullity order has been made final.
- (2) This paragraph does not affect the power to give a direction under paragraph 68 (settlement of instrument by court).

Restrictions on making property adjustment orders

- 8.** The power to make a property adjustment order under paragraph 6(1)(a) is subject to paragraph 40(1) and (5) (restrictions on making orders in favour of children who have reached 18).

PART 3

SALE OF PROPERTY ORDERS

Circumstances in which sale of property orders may be made

- 9.** (1) The court may make a sale of property order —
- (a) on making —
- (i) under Part 1, a secured periodical payments order or an order for the payment of a lump sum, or
- (ii) a property adjustment order, or
- (b) at any time afterwards.

SCH. 5 (2) In this Schedule “sale of property order” means a sale of property order under this Part.

Sale of property orders

10. (1) A sale of property order is an order for the sale of such property as may be specified, being property in which, or in the proceeds of sale of which, either or both of the civil partners has or have a beneficial interest, either in possession or reversion.

(2) A sale of property order may contain such consequential or supplementary provisions as the court thinks fit.

(3) A sale of property order may in particular include —

- (a) provision requiring the making of a payment out of the proceeds of sale of the property to which the order relates, and
- (b) provision requiring any property to which the order relates to be offered for sale to a specified person, or class of persons.

When sale of property orders may take effect

11. (1) If a sale of property order is made on or after the making of a dissolution or nullity order, it does not take effect unless the dissolution or nullity order has been made final.

(2) Where a sale of property order is made, the court may direct that —

- (a) the order, or
- (b) such provision of it as the court may specify,

is not to take effect until the occurrence of an event specified by the court or the end of a period so specified.

When sale of property orders cease to have effect

12. If a sale of property order contains a provision requiring the proceeds of sale of the property to which the order relates to be used to secure periodical payments to a civil partner, the order ceases to have effect —

- (a) on the death of the civil partner, or
- (b) on the formation of a subsequent civil partnership or marriage by the civil partner.

Protection of third parties

13. (1) Sub-paragraphs (2) and (3) apply if —

- (a) a civil partner has a beneficial interest in any property, or in the proceeds of sale of any property, and

- (b) another person (“A”) who is not the other civil partner also has a beneficial interest in the property or the proceeds. SCH. 5

(2) Before deciding whether to make a sale of property order in relation to the property, the court must give A an opportunity to make representations with respect to the order.

(3) Any representations made by A are included among the circumstances to which the court is required to have regard under paragraph 19.

PART 4

PENSION SHARING ORDERS ON OR AFTER DISSOLUTION OR NULLITY ORDER

Circumstances in which pension sharing orders may be made

- 14.** (1) The court may make a pension sharing order —
- (a) on making a dissolution or nullity order, or
 - (b) at any time afterwards.
- (2) In this Schedule “pension sharing order” means a pension sharing order under this Part.

Pension sharing orders

- 15.** (1) A pension sharing order is an order which —
- (a) provides that one civil partner’s —
 - (i) shareable rights under a specified pension arrangement, or
 - (ii) shareable state scheme rights,are to be subject to pension sharing for the benefit of the other civil partner, and
 - (b) specifies the percentage value to be transferred.
- (2) Shareable rights under a pension arrangement are rights in relation to which pension sharing is available under Chapter 1 of Part 4 of WRAPA 1999 as it has effect in the Island.
- (3) Shareable state scheme rights are rights in relation to which pension sharing is available under Chapter 2 of Part 4 of WRAPA 1999.
- (4) In this Part “pension arrangement” means —
- (a) an occupational pension scheme,
 - (b) a personal pension scheme,
 - (c) a retirement annuity contract,

- SCH. 5 (d) an annuity or insurance policy purchased, or transferred, for the purpose of giving effect to rights under —
- (i) an occupational pension scheme, or
 - (ii) a personal pension scheme, and
- (e) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a pension credit under section 29(1)(b) of the 1999 Act.
- (5) In subparagraph (4) —
- [c.48] “occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993 (an Act of Parliament) as it has effect in the Island;
- “personal pension scheme” has the same meaning as in the 1993 Act as it has effect in the Island;
- [XXI p.260] “retirement annuity contract” means a contract or scheme approved under section 49 of the Income Tax Act 1970.

Pension sharing orders: apportionment charges

16. If a pension sharing order relates to rights under a pension arrangement, the court may include in the order provision about the apportionment between the civil partners of any charge under section 41 of the WRAPA 1999 (charges in respect of pension sharing costs) as that provision has effect in the Island.

Restrictions on making of pension sharing orders

- 17.** (1) A pension sharing order may not be made in relation to a pension arrangement which —
- (a) is the subject of a pension sharing order in relation to the civil partnership, or
 - (b) has been the subject of pension sharing between the civil partners.
- (2) A pension sharing order may not be made in relation to shareable state scheme rights if —
- (a) such rights are the subject of a pension sharing order in relation to the civil partnership, or
 - (b) such rights have been the subject of pension sharing between the civil partners.
- (3) A pension sharing order may not be made in relation to the rights of a person under a pension arrangement if there is in force a requirement imposed by virtue of Part 6 which relates to benefits or future benefits to which that person is entitled under the pension arrangement.

When pension sharing orders may take effect

18. (1) A pension sharing order is not to take effect unless the dissolution or nullity order on or after which it is made has been made final.

(2) No pension sharing order may be made so as to take effect before the end of such period after the making of the order as may be prescribed by regulations made by the Department of Health and Social Security. SCH. 5

PART 5

MATTERS TO WHICH COURT IS TO HAVE REGARD UNDER PARTS 1 TO 4

General

19. The court in deciding —

(a) whether to exercise its powers under —

- (i) Part 1 (financial provision on dissolution etc.),
- (ii) Part 2 (property adjustment orders),
- (iii) Part 3 (sale of property orders), or
- (iv) any provision of Part 4 (pension sharing orders) other than paragraph 16 (appointment of charges), and

(b) if so, in what way,

must have regard to all the circumstances of the case, giving first consideration to the welfare, while under 18, of any child of the family who has not reached 18.

Particular matters to be taken into account when exercising powers in relation to civil partners

20. (1) This paragraph applies to the exercise by the court in relation to a civil partner of its powers under —

- (a) Part 1 (financial provision on dissolution etc.) by virtue of paragraph 2(a), (b) or (c),
- (b) Part 2 (property adjustment orders),
- (c) Part 3 (sale of property orders), or
- (d) Part 4 (pension sharing orders).

(2) The court must in particular have regard to —

- (a) the income, earning capacity, property and other financial resources which each civil partner —
 - (i) has, or
 - (ii) is likely to have in the foreseeable future,

including, in the case of earning capacity, any increase in that capacity which it would in the opinion of the court be reasonable to expect a civil partner in the civil partnership to take steps to acquire;

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- (b) the financial needs, obligations and responsibilities which each civil partner has or is likely to have in the foreseeable future;
- (c) the standard of living enjoyed by the family before the breakdown of the civil partnership;
- (d) the age of each civil partner and the duration of the civil partnership;
- (e) any physical or mental disability of either of the civil partners;
- (f) the contributions which each civil partner has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;
- (g) the conduct of each civil partner, if that conduct is such that it would in the opinion of the court be inequitable to disregard it;
- (h) in the case of proceedings for a dissolution or nullity order, the value to each civil partner of any benefit which, because of the dissolution or annulment of the civil partnership, that civil partner will lose the chance of acquiring.

Particular matters to be taken into account when exercising powers in relation to children

21. (1) This paragraph applies to the exercise by the court in relation to a child of the family of its powers under —

- (a) Part 1 (financial provision on dissolution etc.) by virtue of paragraph 2(d), (e) or (f),
- (b) Part 2 (property adjustment orders), or
- (c) Part 3 (sale of property orders).

(2) The court must in particular have regard to —

- (a) the financial needs of the child;
- (b) the income, earning capacity (if any), property and other financial resources of the child;
- (c) any physical or mental disability of the child;
- (d) the way in which the child was being and in which the civil partners expected the child to be educated or trained;
- (e) the considerations mentioned in relation to the civil partners in paragraph 20(2)(a), (b), (c) and (e).

(3) In relation to the exercise of any of those powers against a civil partner (“A”) in favour of a child of the family who is not A’s child, the court must also have regard to —

- (a) whether A has assumed any responsibility for the child’s maintenance;

- (b) if so, the extent to which, and the basis upon which, A assumed such responsibility and the length of time for which A discharged such responsibility; SCH. 5
- (c) whether in assuming and discharging such responsibility A did so knowing that the child was not A's child;
- (d) the liability of any other person to maintain the child.

Terminating financial obligations

22. (1) Sub-paragraphs (2) and (3) apply if, on or after the making of a dissolution or nullity order, the court decides to exercise its powers under —

- (a) Part 1 (financial provision on dissolution etc.) by virtue of paragraph 2(a), (b) or (c),
- (b) Part 2 (property adjustment orders),
- (c) Part 3 (sale of property orders), or
- (d) Part 4 (pension sharing orders),

in favour of one of the civil partners.

(2) The court must consider whether it would be appropriate to exercise those powers in such a way that the financial obligations of each civil partner towards the other will be terminated as soon after the making of the dissolution or nullity order as the court considers just and reasonable.

- (3) If the court decides to make —
 - (a) a periodical payments order, or
 - (b) a secured periodical payments order,

in favour of one of the civil partners (“A”), it must in particular consider whether it would be appropriate to require the payments to be made or secured only for such term as would in its opinion be sufficient to enable A to adjust without undue hardship to the termination of A's financial dependence on the other civil partner.

- (4) If —
 - (a) on or after the making of a dissolution or nullity order, an application is made by one of the civil partners for a periodical payments or secured periodical payments order in that civil partner's favour, but
 - (b) the court considers that no continuing obligation should be imposed on either civil partner to make or secure periodical payments in favour of the other,

the court may dismiss the application with a direction that the applicant is not entitled to make any future application in relation to that civil partnership for an order under Part 1 by virtue of paragraph 2(a) or (b).

MAKING OF PART 1 ORDERS HAVING REGARD TO PENSION
BENEFITS

Pension benefits to be included in matters to which court is to have regard

23. (1) The matters to which the court is to have regard under paragraph 20(2)(a) include any pension benefits under a pension arrangement or by way of pension which a civil partner has or is likely to have; and, accordingly, in relation to any pension benefits paragraph 20(2)(a)(ii) has effect as if “in the foreseeable future” were omitted.

(2) The matters to which the court is to have regard under paragraph 20(2)(h) include any pension benefits which, because of the making of a dissolution or nullity order, a civil partner will lose the chance of acquiring.

(3) “Pension benefits” means —

(a) benefits under a pension arrangement, or

(b) benefits by way of pension (whether under a pension arrangement or not).

Provisions applying where pension benefits taken into account in decision to make Part 1 order

24. (1) This paragraph applies if, having regard to any benefits under a pension arrangement, the court decides to make an order under Part 1.

(2) To the extent to which the Part 1 order is made having regard to any benefits under a pension arrangement, it may require the person responsible for the pension arrangement, if at any time any payment in respect of any benefits under the arrangement becomes due to the civil partner with pension rights, to make a payment for the benefit of the other civil partner.

(3) The Part 1 order must express the amount of any payment required to be made by virtue of sub-paragraph (2) as a percentage of the payment which becomes due to the civil partner with pension rights.

(4) Any such payment by the person responsible for the arrangement —

(a) discharges so much of his or her liability to the civil partner with pension rights as corresponds to the amount of the payment, and

(b) is to be treated for all purposes as a payment made by the civil partner with pension rights in or towards the discharge of that civil partner’s liability under the order.

(5) If the civil partner with pension rights has a right of commutation under the arrangement, the Part 1 order may require that civil partner to exercise it to any extent.

(6) This paragraph applies to any payment due in consequence of commutation in pursuance of the Part 1 order as it applies to other payments in respect of benefits under the arrangement.

(7) The power conferred by sub-paragraph (5) may not be exercised for the purpose of commuting a benefit payable to the civil partner with pension rights to a benefit payable to the other civil partner. SCH. 5

(8) The powers conferred by sub-paragraphs (2) and (5) may not be exercised in relation to a pension arrangement which —

- (a) is the subject of a pension sharing order in relation to the civil partnership, or
- (b) has been the subject of pension sharing between the civil partners.

Pensions: lump sums

25. (1) This paragraph applies if the benefits which the civil partner with pension rights has or is likely to have under a pension arrangement include any lump sum payable in respect of that civil partner's death.

(2) The court's power under Part 1 to order a civil partner to pay a lump sum to the other civil partner includes the power to make by the order any provision in sub-paragraph (3) to (5).

(3) If the person responsible for the pension arrangement has power to determine the person to whom the sum, or any part of it, is to be paid, the court may require him or her to pay the whole or part of that sum, when it becomes due, to the other civil partner.

(4) If the civil partner with pension rights has power to nominate the person to whom the sum, or any part of it, is to be paid, the court may require the civil partner with pension rights to nominate the other civil partner in respect of the whole or part of that sum.

(5) In any other case, the court may require the person responsible for the pension arrangement in question to pay the whole or part of that sum, when it becomes due, for the benefit of the other civil partner instead of to the person to whom, apart from the order, it would be paid.

(6) Any payment by the person responsible for the arrangement under an order made under Part 1 made by virtue of this paragraph discharges so much of his or her liability in respect of the civil partner with pension rights as corresponds to the amount of the payment.

(7) The powers conferred by this paragraph may not be exercised in relation to a pension arrangement which —

- (a) is the subject of a pension sharing order in relation to the civil partnership, or
- (b) has been the subject of pension sharing between the civil partners.

Pensions: supplementary

26. If —

- (a) a Part 1 order made by virtue of paragraph 24 or 25 imposes any requirement on the person responsible for a pension arrangement ("the first arrangement"),

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- (b) the civil partner with pension rights acquires rights under another pension arrangement (“the new arrangement”) which are derived (directly or indirectly) from the whole of that civil partner’s rights under the first arrangement, and
- (c) the person responsible for the new arrangement has been given notice in accordance with regulations made by the Department of Health and Social Security,

the Part 1 order has effect as if it had been made instead in respect of the person responsible for the new arrangement.

Regulations

27. (1) The Department of Health and Social Security may by regulations —

- (a) make provision, in relation to any provision of paragraph 24 or 25 which authorises the court making a Part 1 order to require the person responsible for a pension arrangement to make a payment for the benefit of the other civil partner, as to —

- (i) the person to whom, and

- (ii) the terms on which,

the payment is to be made;

- (b) make provision, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of paragraph 24 or 25 in a Part 1 order, about the rights or liabilities of the payer, the payee or the person to whom the payment was due;
- (c) require notices to be given in respect of changes of circumstances relevant to Part 1 orders which include provision made by virtue of paragraphs 24 and 25;
- (d) make provision for the person responsible for a pension arrangement to be discharged in prescribed circumstances from a requirement imposed by virtue of paragraph 24 or 25;
- (e) make provision about calculation and verification in relation to the valuation of —
 - (i) benefits under a pension arrangement, or
 - (ii) shareable state scheme rights (within the meaning of paragraph 15(3)),

for the purposes of the court’s functions in connection with the exercise of any of its powers under this Schedule.

(2) Regulations under sub-paragraph (1)(e) may include —

- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person, and

- (b) provision by reference to regulations under section 30 or 49(4) of WRAPA 1999 as that Act has effect in the Island. SCH. 5
- (3) “Prescribed” means prescribed by regulations.

Interpretation of provisions relating to pensions

- 28.** (1) In this Part “the civil partner with pension rights” means the civil partner who has or is likely to have benefits under a pension arrangement.
- (2) In this Part “pension arrangement” has the same meaning as in Part 4.
- (3) In this Part, references to the person responsible for a pension arrangement are to be read in accordance with section 26 of WRAPA 1999 as that Act has effect in the Island.

PART 7

MAINTENANCE PENDING OUTCOME OF DISSOLUTION, NULLITY
OR SEPARATION PROCEEDINGS

- 29.** On an application for a dissolution, nullity or separation order, the court may make an order requiring either civil partner to make to the other for the other’s maintenance such periodical payments for such term —
- (a) beginning no earlier than the date on which the application was made, and
- (b) ending with the date on which the proceedings are determined,
- as the court thinks reasonable.

PART 8

FAILURE TO MAINTAIN: FINANCIAL PROVISION AND INTERIM
ORDERS

Circumstances in which orders under this Part may be made

- 30.** (1) Either civil partner in a subsisting civil partnership may apply to the court for an order under this Part on the ground that the other civil partner (“the respondent”) —
- (a) has failed to provide reasonable maintenance for the applicant, or
- (b) has failed to provide, or to make a proper contribution towards,
- reasonable maintenance for any child of the family.
- (2) The court must not entertain an application under this paragraph unless —
- (a) the applicant or the respondent is domiciled in the Island on the date of the application,

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- (b) the applicant has been habitually resident there throughout the period of one year ending with that date, or
 - (c) the respondent is resident there on that date.
- (3) If, on an application under this paragraph, it appears to the court that —
- (a) the applicant or any child of the family to whom the application relates is in immediate need of financial assistance, but
 - (b) it is not yet possible to determine what order, if any, should be made on the application,

the court may make an interim order.

(4) If, on an application under this paragraph, the applicant satisfies the court of a ground mentioned in sub-paragraph (1), the court may make one or more of the orders set out in paragraph 32.

Interim orders

31. An interim order is an order requiring the respondent to make to the applicant, until the determination of the application, such periodical payments as the court thinks reasonable.

Orders that may be made where failure to maintain established

32. The orders are —

- (a) an order that the respondent must make to the applicant such periodical payments for such term as may be specified;
- (b) an order that the respondent must secure to the applicant, to the satisfaction of the court, such periodical payments for such term as may be specified;
- (c) an order that the respondent must pay to the applicant such lump sum as may be specified;
- (d) an order that the respondent must make such periodical payments for such term as may be specified —
 - (i) to such person as may be specified, for the benefit of the child to whom the application relates, or
 - (ii) to the child to whom the application relates;
- (e) an order that the respondent must secure —
 - (i) to such person as may be specified for the benefit of the child to whom the application relates, or
 - (ii) to the child to whom the application relates,

to the satisfaction of the court, such periodical payments for such term as may be specified; SCH. 5

- (f) an order that the respondent must pay such lump sum as may be specified —
 - (i) to such person as may be specified for the benefit of the child to whom the application relates, or
 - (ii) to the child to whom the application relates.

Particular provision that may be made by lump sum orders

33. (1) An order under this Part for the payment of a lump sum may be made for the purpose of enabling any liabilities or expenses reasonably incurred in maintaining the applicant or any child of the family to whom the application relates before the making of the application to be met.

(2) An order under this Part for the payment of a lump sum may —

- (a) provide for its payment by instalments of such amount as may be specified, and
- (b) require the payment of the instalments to be secured to the satisfaction of the court.

(3) Sub-paragraphs (1) and (2) do not restrict the power to make an order by virtue of paragraph 32(1)(c) or (f).

Matters to which the court is to have regard on application under paragraph 30(1)(a)

34. (1) This paragraph applies if an application under paragraph 30 is made on the ground mentioned in paragraph 30(1)(a).

(2) In deciding —

- (a) whether the respondent has failed to provide reasonable maintenance for the applicant, and
- (b) what order, if any, to make under this Part in favour of the applicant,

the court must have regard to all the circumstances of the case including the matters mentioned in paragraph 20(2).

(3) If an application is also made under paragraph 30 in respect of a child of the family who has not reached 18, the court must give first consideration to the welfare of the child while under 18.

(4) Paragraph 20(2)(c) has effect as if for the reference in it to the breakdown of the civil partnership there were substituted a reference to the failure to provide reasonable maintenance for the applicant.

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Matters to which the court is to have regard on application under paragraph 30(1)(b)

35. (1) This paragraph applies if an application under paragraph 30 is made on the ground mentioned in paragraph 30(1)(b).

(2) In deciding —

(a) whether the respondent has failed to provide, or to make a proper contribution towards, reasonable maintenance for the child of the family to whom the application relates, and

(b) what order, if any, to make under this Part in favour of the child,

the court must have regard to all the circumstances of the case.

(3) Those circumstances include —

(a) the matters mentioned in paragraph 21(2)(a) to (e), and

(b) if the child of the family to whom the application relates is not the child of the respondent, the matters mentioned in paragraph 21(3).

(4) Paragraph 20(2)(c) (as it applies by virtue of paragraph 21(2)(e)) has effect as if for the reference in it to the breakdown of the civil partnership there were substituted a reference to —

(a) the failure to provide, or

(b) the failure to make a proper contribution towards,

reasonable maintenance for the child of the family to whom the application relates.

(5) If, in proceedings on an application under paragraph 30, the court is of the opinion that the application would be more conveniently dealt with by a court of summary jurisdiction under Schedule 6, it may by order —

(a) stay the proceedings, and

(b) direct that the application be heard and determined by such court of summary jurisdiction as is specified in the order as if it had been made to that court under paragraph 4 of Schedule 6.

Restrictions on making orders under this Part

36. The power to make an order under paragraph 32(1)(d), (e) or (f) is subject to paragraph 40(1) and (5) (restrictions on orders in favour of children who have reached 18).

PART 9

COMMENCEMENT OF CERTAIN PROCEEDINGS AND DURATION OF CERTAIN ORDERS

37. (1) Sub-paragraph (2) applies if an application for a dissolution, nullity or separation order has been made.

- (2) Subject to sub-paragraph (3), proceedings for — SCH. 5
- (a) an order under Part 1 (financial provision on dissolution etc.),
 - (b) a property adjustment order, or
 - (c) an order under Part 7 (maintenance pending outcome of dissolution, nullity or separation proceedings),

may be begun (subject to and in accordance with rules of court) at any time after the presentation of the application.

- (3) Rules of court may provide, in such cases as may be prescribed by the rules, that —
- (a) an application for any such relief as is mentioned in sub-paragraph (2) must be made in the application or response, and
 - (b) an application for any such relief which —
 - (i) is not so made, or
 - (ii) is not made until after the end of such period following the presentation of the application or filing of the response as may be so prescribed,

may be made only with the leave of the court.

Duration of periodical and secured periodical payments orders for a civil partner

38. (1) The court may specify in a periodical payments or secured periodical payments order in favour of a civil partner such term as it thinks fit, except that the term must not begin before the date of the making of an application for the order, or extend beyond the limits given in sub-paragraphs (2) and (3).

- (2) The limits in the case of a periodical payments order are —
- (a) the death of either civil partner;
 - (b) where the order is made on or after the making of a dissolution or nullity order, the formation of a subsequent civil partnership or marriage by the civil partner in whose favour the order is made.
- (3) The limits in the case of a secured periodical payments order are —
- (a) the death of the civil partner in whose favour the order is made;
 - (b) where the order is made on or after the making of a dissolution or nullity order, the formation of a subsequent civil partnership or marriage by the civil partner in whose favour the order is made.

(4) In the case of an order made on or after the making of a dissolution or nullity order, sub-paragraphs (1) to (3) are subject to paragraphs 22(3) and 50(4).

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(5) If a periodical payments or secured periodical payments order in favour of a civil partner is made on or after the making of a dissolution or nullity order, the court may direct that the civil partner is not entitled to apply under paragraph 42 for the extension of the term specified in the order.

(6) If —

- (a) a periodical payments or secured periodical payments order in favour of a civil partner is made otherwise than on or after the making of a dissolution or nullity order, and
- (b) the civil partnership is subsequently dissolved or annulled but the order continues in force,

the order ceases to have effect (regardless of anything in it) on the formation of a subsequent civil partnership or marriage by that civil partner, except in relation to any arrears due under it on the date of its formation.

Subsequent civil partnership or marriage

39. If, after the making of a dissolution or nullity order, one of the civil partners forms a subsequent civil partnership or marriage, that civil partner is not entitled to apply, by reference to the dissolution or nullity order, for —

- (a) an order under Part 1 in that civil partner's favour, or
- (b) a property adjustment order,

against the other civil partner in the dissolved or annulled civil partnership.

Duration of continuing orders in favour of children, and age limit on making certain orders in their favour

40. (1) Subject to sub-paragraph (5) —

- (a) no order under Part 1,
- (b) no property adjustment order made by virtue of paragraph 6(1)(a) (transfer of property), and
- (c) no order made under Part 8 (failure to maintain) by virtue of paragraph 32,

is to be made in favour of a child who has reached 18.

(2) The term to be specified in a periodical payments or secured periodical payments order in favour of a child may begin with the date of the making of an application for the order or any later date.

(3) The term to be specified in such an order —

- (a) must not in the first instance extend beyond the date of the birthday of the child next following the child's reaching the upper limit of the compulsory school age unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date, and

- (b) must not in any event, subject to sub-paragraph (5), extend beyond the date of the child's 18th birthday. SCH. 5
- (4) Sub-paragraph (3)(a) must be read with section 23 of the Education Act 2001 (which applies to determine for the purposes of any enactment whether a person is of compulsory school age). [c.33]
- (5) Sub-paragraphs (1) and (3)(b) do not apply in the case of a child if it appears to the court that —
- (a) the child is, or will be, or, if an order were made without complying with either or both of those provisions, would be —
- (i) receiving instruction at an educational establishment, or
- (ii) undergoing training for a trade, profession or vocation,
- whether or not the child also is, will be or would be in gainful employment, or
- (b) there are special circumstances which justify the making of an order without complying with either or both of sub-paragraphs (1) and (3)(b).
- (6) A periodical payments order in favour of a child, regardless of anything in the order, ceases to have effect on the death of the person liable to make payments under the order, except in relation to any arrears due under the order on the date of the death.

PART 10

VARIATION, DISCHARGE ETC. OF CERTAIN ORDERS FOR
FINANCIAL RELIEF*Orders etc. to which this Part applies*

- 41.** (1) This Part applies to the following orders —
- (a) a periodical payments order under Part 1 (financial provision on dissolution etc.) or Part 8 (failure to maintain);
- (b) a secured periodical payments order under Part 1 or 8;
- (c) an order under Part 7 (maintenance pending outcome of dissolution proceedings etc.);
- (d) an interim order under Part 8;
- (e) an order made under Part 1 by virtue of paragraph 3(3) or under Part 8 by virtue of paragraph 33(2) (lump sum by instalments);
- (f) a deferred order made under Part 1 by virtue of paragraph 2(c) (lump sum for civil partner) which includes provision made by virtue of —
- (i) paragraph 24(2), or
- (ii) paragraph 25,

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(g) a property adjustment order made on or after the making of a separation order by virtue of paragraph 6(1)(b), (c) or (d) (order for settlement or variation of settlement);

(h) a sale of property order,

(i) a pension sharing order made before the dissolution or nullity order has been made final.

(2) If the court has made an order referred to in sub-paragraph (1)(f)(ii), this Part ceases to apply to the order on the death of the civil partners.

(3) The powers exercisable by the court under this Part in relation to an order are also exercisable in relation to any instrument executed in pursuance of the order.

Powers to vary, discharge, suspend or revive order

42. (1) If the court has made an order to which this Part applies, it may —

(a) vary or discharge the order,

(b) suspend any provision of it temporarily, or

(c) revive the operation of any provision so suspended.

(2) Sub-paragraph (1) is subject to the provisions of this Part and paragraph 38(5).

Power to remit arrears

43. (1) If the court has made an order referred to in paragraph 41(1)(a), (b), (c) or (d), it may remit the payment of any arrears due under the order or under any part of the order.

(2) Sub-paragraph (1) is subject to the provisions of this Part.

Additional powers on discharging or varying a periodical or secured periodical payments order after dissolution of civil partnership

44. (1) Sub-paragraph (2) applies if, after the dissolution of a civil partnership, the court —

(a) discharges a periodical payments order or secured periodical payments order made in favour of a civil partner, or

(b) varies such an order so that payments under the order are required to be made or secured only for such further period as is determined by the court.

(2) The court may make supplemental provision consisting of any of the following —

- (a) an order for the payment of a lump sum in favour of one of the civil partners; SCH. 5
- (b) one or more property adjustment orders in favour of one of the civil partners;
- (c) one or more pension sharing orders;
- (d) a direction that the civil partner in whose favour the original order discharged or varied was made is not entitled to make any further application for —
- (i) a periodical payments or secured periodical payments order, or
 - (ii) an extension of the period to which the original order is limited by any variation.
- (3) The power under sub-paragraph (2) is in addition to any power the court has apart from that sub-paragraph.

45. (1) An order for the payment of a lump sum under paragraph 44 may —

- (a) provide for the payment of it by instalments of such amount as may be specified, and
- (b) require the payment of the instalments to be secured to the satisfaction of the court.

(2) Sub-paragraphs (5) and (6) of paragraph 3 (interest on deferred instalments) apply where the court makes an order for the payment of a lump sum under paragraph 44 as they apply where it makes such an order under Part 1.

(3) If under paragraph 44 the court makes more than one property adjustment order in favour of the same civil partner, each of those orders must fall within a different paragraph of paragraph 6(1) (types of property adjustment orders).

(4) Part 3 (orders for the sale of property) and paragraph 67 (direction for settlement of instrument) apply where the court makes a property adjustment order under paragraph 44 as they apply where it makes any other property adjustment order.

(5) Paragraph 17 (restrictions on making of pension sharing order) applies in relation to a pension sharing order under paragraph 44 as it applies in relation to any other pension sharing order.

Variation etc. of periodical or secured periodical payments orders made in cases of failure to maintain

46. (1) An application for the variation under paragraph 42 of a periodical payments order or secured periodical payments order made under Part 8 in favour of a child may, if the child has reached 16, be made by that child.

(2) Sub-paragraph (3) applies if a periodical payments order made in favour of a child under Part 8 ceases to have effect —

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- (a) on the date on which the child reaches 16, or
 - (b) at any time after that date but before or on the date on which the child reaches 18.
- (3) If, on an application made to the court for an order under this sub-paragraph, it appears to the court that —
- (a) the child is, will be or, if an order were made under this sub-paragraph, would be —
 - (i) receiving instruction at an educational establishment, or
 - (ii) undergoing training for a trade, profession or vocation,
 whether or not the child also is, will be or would be in gainful employment, or
 - (b) there are special circumstances which justify the making of an order under this sub-paragraph,

the court may by order revive the order mentioned in sub-paragraph (2) from such date as it may specify.

(4) A date specified under sub-paragraph (3) must not be earlier than the date of the application under that sub-paragraph.

(5) If under sub-paragraph (3) the court revives an order it may exercise its power under paragraph 42 in relation to the revived order.

Variation etc. of property adjustment and pension sharing orders

47. The court must not exercise the powers conferred by this Part in relation to a property adjustment order falling within paragraph 7(1)(b), (c) or (d) (order for settlement or for variation of settlement) except on an application made in proceedings —

- (a) for the rescission of the separation order by reference to which the property adjustment order was made, or
- (b) for a dissolution order in relation to the civil partnership.

48. (1) In relation to a pension sharing order which is made at a time before the dissolution or nullity order has been made final —

- (a) the powers conferred by this Part (by virtue of paragraph 41(1)(i)) may be exercised —
 - (i) only on an application made before the pension sharing order has or, but for paragraph (b), would have taken effect, and
 - (ii) only if, at the time when the application is made, the dissolution or nullity order has not been made final, and

- (b) an application made in accordance with paragraph (a) prevents the pension sharing order from taking effect before the application has been dealt with. SCH. 5

(2) No variation of a pension sharing order is to be made so as to take effect before the order is made final.

(3) The variation of a pension sharing order prevents the order taking effect before the end of such period after the making of the variation as may be prescribed by regulations made by the Department of Health and Social Security.

49. (1) Sub-paragraphs (2) and (3) —

(a) are subject to paragraphs 44 and 45, and

(b) do not affect any power exercisable by virtue of paragraph 41(1)(e), (f), (g) or (i) or otherwise than by virtue of this Part.

(2) No property adjustment order or pension sharing order may be made on an application for the variation of a periodical payments or secured periodical payments order made (whether in favour of a civil partner or in favour of a child of the family) under Part 1.

(3) No order for the payment of a lump sum may be made on an application for the variation of a periodical payments or secured periodical payments order in favour of a civil partner (whether made under Part 1 or 8).

*Matters to which court is to have regard in
exercising powers under this Part*

50. (1) In exercising the powers conferred by this Part the court must have regard to all the circumstances of the case, giving first consideration to the welfare, while under 18, of any child of the family who has not reached 18.

(2) The circumstances of the case include, in particular, any change in any of the matters to which the court was required to have regard when making the order to which the application relates.

(3) Sub-paragraph (4) applies in the case of —

(a) a periodical payments order, or

(b) a secured periodical payments order,

made on or after the making of a dissolution or nullity order.

(4) The court must consider whether in all the circumstances, and after having regard to any such change, it would be appropriate to vary the order so that payments under the order are required —

(a) to be made, or

(b) to be secured,

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(5) In considering what further period will be sufficient, the court must, if the civil partnership has been dissolved, take into account any proposed exercise by it of its powers under paragraph 44.

(6) If the civil partner against whom the order was made has died, the circumstances of the case also include the changed circumstances resulting from that civil partner's death.

Variation of secured periodical payments order where person liable has died

51. (1) This paragraph applies if the person liable to make payments under a secured periodical payments order has died.

(2) Subject to sub-paragraph (3), an application under this Part relating to the order (and to any sale of property order which requires the proceeds of sale of property to be used for securing those payments) may be made by —

- (a) the person entitled to payments under the periodical payments order, or
- (b) the personal representatives of the deceased person.

(3) No such application may be made without the leave of the court after the end of 6 months from the date on which representation in regard to the estate of that person is first taken out.

(4) The personal representatives of the person who has died are not liable for having distributed any part of the estate of the deceased after the end of the 6 month period on the ground that they ought to have taken into account the possibility that the court might allow an application under this paragraph to be made after that period by the person entitled to payments under the order.

(5) Sub-paragraph (4) does not affect any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.

(6) In considering for the purposes of sub-paragraph (3) the question when representation was first taken out —

- (a) a grant limited to settled land or to trust property is to be disregarded, and
- (b) a grant limited to real estate or to personal estate is to be disregarded unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

Power to direct when variation etc. is to take effect

52. (1) If the court, in exercise of its powers under this Part, decides —

- (a) to vary, or

(b) to discharge,

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a periodical payments or secured periodical payments order, it may direct that the variation or discharge is not to take effect until the end of such period as may be specified in the order.

Payments to be made to Chief Registrar

53. (1) Where the court makes a periodical payments order, it shall order that the payments shall be made to the Chief Registrar unless, in the light of representations made by the person to whom the payments under the order fall to be made, it is satisfied that it is undesirable to do so.

(2) Section 58 and Part VIII of the Summary Jurisdiction Act 1989, so far as they relate to the enforcement of an order for, or for the recovery of, periodical payments applies to payments to be made to the Chief Registrar by virtue of an order under sub-paragraph (1) as it applies to payments to be so made by virtue of an order under section 54(1) of that Act. [c.15]

PART 11

ARREARS AND REPAYMENTS

Payment of certain arrears unenforceable without the leave of the court

54. (1) This paragraph applies if any arrears are due under —

- (a) an order under Part 1 (financial provision on dissolution etc.),
- (b) an order under Part 7 (maintenance pending outcome of dissolution, nullity or separation proceedings), or
- (c) an order under Part 8 (failure to maintain),

and the arrears became due more than 12 months before proceedings to enforce the payment of them are begun.

(2) A person is not entitled to enforce through the court the payment of the arrears without the leave of the court.

(3) The court hearing an application for the grant of leave under this paragraph may —

- (a) refuse leave,
- (b) grant leave subject to such restrictions and conditions (including conditions as to the allowing of time for payment or the making of payment by instalments) as the court thinks proper, or
- (c) remit the payment of the arrears or of any part of them.

(4) An application for the grant of leave under this paragraph must be made in such manner as may be prescribed by rules of court.

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Orders for repayment in certain cases of sums paid under certain orders

55. (1) This paragraph applies if —
- (a) a person (“R”) is entitled to receive payments under an order listed in sub-paragraph (2), and
 - (b) R’s circumstances or the circumstances of the person (“P”) liable to make payments under the order have changed since the order was made, or the circumstances have changed as a result of P’s death.
- (2) The orders are —
- (a) any order under Part 7 (maintenance pending outcome of dissolution, nullity or separation proceedings);
 - (b) any interim order under Part 8;
 - (c) any periodical payments order;
 - (d) any secured periodical payments order.
- (3) P or P’s personal representatives may (subject to sub-paragraph (7)) apply for an order under this paragraph against R or R’s personal representatives.
- (4) If it appears to the court that, because of the changed circumstances or P’s death, the amount received by R in respect of a relevant period exceeds the amount which P or P’s personal representatives should have been required to pay, it may order the respondent to the application to pay to the applicant such sum, not exceeding the amount of the excess, as it thinks just.
- (5) “Relevant period” means a period after the circumstances changed or (as the case may be) after P’s death.
- (6) An order under this paragraph for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.
- (7) An application under this paragraph may be made in proceedings in the court for —
- (a) the variation or discharge of the order listed in sub-paragraph (2), or
 - (b) leave to enforce, or the enforcement of, the payment of arrears under that order.

Orders for repayment after cessation of order because of subsequent civil partnership etc

56. (1) Sub-paragraphs (3) and (4) apply if —
- (a) a periodical payments or secured periodical payments order in favour of a civil partner (“R”) has ceased to have effect because of the formation of a subsequent civil partnership or marriage by R, and

- (b) the person liable to make payments under the order (“P”) (or P’s personal representatives) has made payments in accordance with it in respect of a relevant period in the mistaken belief that the order was still subsisting. SCH. 5

(2) “Relevant period” means a period after the date of the formation of the subsequent civil partnership or marriage.

(3) P (or P’s personal representatives) is not entitled to bring proceedings in respect of a cause of action arising out of the circumstances mentioned in sub-paragraph (1)(a) and (b) against R (or R’s personal representatives).

(4) But, on an application under this paragraph by P (or P’s personal representatives) against R (or R’s personal representatives), the court —

(a) may order the respondent to pay to the applicant a sum equal to the amount of the payments made in respect of the relevant period, or

(b) if it appears to the court that it would be unjust to make that order, may —

(i) order the respondent to pay to the applicant such lesser sum as it thinks fit, or

(ii) dismiss the application.

(5) An order under this paragraph for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.

(6) An application under this paragraph may be made in proceedings in the court for leave to enforce, or the enforcement of, payment of arrears under the order in question.

(7) Subject to sub-paragraph (8) —

(a) the person to whom any payments under a payments order are required to be made is not liable for any act done by him or her in pursuance of the payments order after the date on which that order ceased to have effect because of the formation of a subsequent civil partnership or marriage by the person entitled to payments under it, and

(b) the person to whom payments are made under an attachment of earnings order made to secure payments under a payments order is not liable for any act done by him or her after that date in accordance with any enactment or rule of court specifying how payments made in compliance with the attachment of earnings order are to be dealt with.

(8) Sub-paragraph (7) applies if (and only if) the act —

(a) was one which the payee would have been under a duty to do had the payments order not ceased to have effect, and

(b) was done before notice in writing of the formation of the subsequent civil partnership or marriage was given to him or her by or on behalf of —

(i) the person entitled to payments under the payments order,

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- (ii) the person liable to make payments under it, or
- (iii) the personal representatives of either of them.

(9) In sub-paragraphs (7) and (8) “payments order” means a periodical payments order or secured periodical payments order.

PART 12

CONSENT ORDERS AND MAINTENANCE AGREEMENTS

Consent orders for financial relief

57. (1) Regardless of anything in the preceding provisions of this Schedule, on an application for a consent order for financial relief, the court may, unless it has reason to think that there are other circumstances into which it ought to inquire, make an order in the terms agreed on the basis only of such information supplied with the application as is required by rules of court.

(2) Sub-paragraph (1) applies to an application for a consent order varying or discharging an order for financial relief as it applies to an application for an order for financial relief.

(3) In this paragraph —

“consent order”, in relation to an application for an order, means an order in the terms applied for to which the respondent agrees;

“order for financial relief” means an order under any of Parts 1, 2, 3, 4 and 8.

Meaning of “maintenance agreement” and “financial arrangements”

58. (1) In this Part “maintenance agreement” means any agreement in writing between the civil partners in a civil partnership which —

- (a) is made during the continuance or after the dissolution or annulment of the civil partnership and contains financial arrangements, or
- (b) is a separation agreement which contains no financial arrangements but is made in a case where no other agreement in writing between the civil partners contains financial arrangements.

(2) In this Part “financial arrangements” means provisions governing the rights and liabilities towards one another when living separately of the civil partners in a civil partnership (including a civil partnership which has been dissolved or annulled) in respect of —

- (a) the making or securing of payments, or
- (b) the disposition or use of any property,

including such rights and liabilities with respect to the maintenance or education of a child (whether or not a child of the family).

- (3) “Education” includes training.

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Validity of maintenance agreements

59. If a maintenance agreement includes a provision purporting to restrict any right to apply to a court for an order containing financial arrangements —

- (a) that provision is void, but
- (b) any other financial arrangements contained in the agreement —
 - (i) are not void or unenforceable as a result, and
 - (ii) unless void or unenforceable for any other reason, are (subject to paragraphs 60 and 64) binding on the parties to the agreement.

Alteration of agreements by court during lives of parties

60. (1) Either party to a maintenance agreement may apply to the court or, subject to sub-paragraph (6), to a court of summary jurisdiction for an order under this paragraph if —

- (a) the maintenance agreement is for the time being subsisting, and
- (b) each of the parties to the agreement is for the time being domiciled or resident in the Island.

(2) The court may make an order under this paragraph if it is satisfied that —

- (a) because of a change in the circumstances in the light of which —
 - (i) any financial arrangements contained in the agreement were made, or
 - (ii) financial arrangements were omitted from it,

the agreement should be altered so as to make different financial arrangements or so as to contain financial arrangements, or

- (b) that the agreement does not contain proper financial arrangements with respect to any child of the family.

(3) In sub-paragraph (2)(a) the reference to a change in the circumstances includes a change foreseen by the parties when making the agreement.

(4) An order under this paragraph may make such alterations in the agreement —

- (a) by varying or revoking any financial arrangements contained in it, or
- (b) by inserting in it financial arrangements for the benefit of one of the parties to the agreement or of a child of the family,

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(5) The effect of the order is that the agreement is to be treated as if any alteration made by the order had been made by agreement between the partners and for valuable consideration.

(6) The power to make an order under this paragraph is subject to paragraphs 61 and 62.

Restrictions on applications to and orders by a court of summary jurisdiction under paragraph 60

61. (1) A court of summary jurisdiction must not entertain an application under paragraph 60(1) unless both the parties to the agreement are resident in the Island.

(2) A court of summary jurisdiction must not make any order on such an application other than —

(a) if the agreement includes no provision for periodical payments by either of the parties, an order inserting provision for the making by one of the parties of periodical payments for the maintenance of —

(i) the other party, or

(ii) any child of the family;

(b) if the agreement includes provision for the making by one of the parties of periodical payments, an order increasing or reducing the rate of, or terminating, any of those payments.

62. (1) If a court decides to make an order under paragraph 60 altering an agreement —

(a) by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the other party, or

(b) by increasing the rate of the periodical payments which the agreement provides shall be made by one of the parties for the maintenance of the other,

it may specify such term as it thinks fit as the term for which the payments or, as the case may be, the additional payments attributable to the increase are to be made under the altered agreement, except that the term must not extend beyond the limits in sub-paragraphs (2) and (3).

(2) The limits if the payments are not to be secured are —

(a) the death of either of the parties to the agreement, or

(b) the formation of a subsequent civil partnership or marriage by the party to whom the payments are to be made.

(3) The limits if the payments are to be secured are —

- (a) the death of the party to whom the payments are to be made, or SCH. 5
- (b) the formation of a subsequent civil partnership or marriage by that party.
- (4) Sub-paragraph (5) applies if a court decides to make an order under paragraph 60 altering an agreement by —
- (a) inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of a child of the family, or
- (b) increasing the rate of the periodical payments which the agreement provides shall be made or secured by one of the parties for the maintenance of such a child.
- (5) The court, in deciding the term for which under the agreement as altered by the order —
- (a) the payments are to be made or secured for the benefit of the child, or
- (b) the additional payments attributable to the increase are to be made or secured for the benefit of the child,

must apply paragraph 40(2) to (5) (age limits) as if the order in question were a periodical payments or secured periodical payments order in favour of the child.

Saving

- 63.** Nothing in paragraphs 60 to 62 affects —
- (a) any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other enactment (including a provision of this Schedule) to make an order containing financial arrangements, or
- (b) any right of either party to apply for such an order in such proceedings.

Alteration of agreements by court after death of one party

- 64.** (1) This paragraph applies if —
- (a) a maintenance agreement provides for the continuation of payments under the agreement after the death of one of the parties, and
- (b) that party (“A”) dies domiciled in the Island.
- (2) Subject to sub-paragraph (4), the surviving party or A’s personal representatives may apply to the court for an order under paragraph 60.
- (3) If a maintenance agreement is altered by a court on an application made under sub-paragraph (2), the same consequences follow as if the alteration had been made immediately before the death by agreement between the parties and for valuable consideration.

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(4) An application under this paragraph may not, without the leave of the court, be made after the end of 6 months from the date on which representation in regard to A's estate is first taken out.

(5) A's personal representatives are not liable for having distributed any part of A's estate after the end of the 6 month period on the ground that they ought to have taken into account the possibility that a court might allow an application by virtue of this paragraph to be made by the surviving party after that period.

(6) Sub-paragraph (5) does not affect any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.

(7) Paragraph 51(6) applies for the purposes of sub-paragraph (4) as it applies for the purposes of paragraph 51(3).

PART 13

MISCELLANEOUS AND SUPPLEMENTARY

Avoidance of transactions intended to prevent or reduce financial relief

65. (1) This paragraph applies if proceedings for relief ("financial relief") are brought by one person ("A") against another ("B") under Part 1, 2, 4, 7, 8, or 10 (other than paragraph 51(2)), or paragraph 60.

(2) If the court is satisfied, on an application by A, that B is, with the intention of defeating A's claim for financial relief, about to —

- (a) make any disposition, or
- (b) transfer out of the jurisdiction or otherwise deal with any property,

it may make such order as it thinks fit for restraining B from doing so or otherwise for protecting the claim.

(3) If the court is satisfied, on an application by A, that —

- (a) B has, with the intention of defeating A's claim for financial relief, made a reviewable disposition, and
- (b) if the disposition were set aside, financial relief or different financial relief would be granted to A,

it may make an order setting aside the disposition.

(4) If the court is satisfied, on an application by A in a case where an order has been obtained by A against B under any of the provisions mentioned in sub-paragraph (1), that B has, with the intention of defeating A's claim for financial relief, made a reviewable disposition, it may make an order setting aside the disposition.

(5) An application for the purposes of sub-paragraph (3) must be made in the proceedings for the financial relief in question.

(6) If the court makes an order under sub-paragraph (3) or (4) setting aside a disposition it must give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the making of any payments or the disposal of any property). SCH. 5

66. (1) Any reference in paragraph 65 to defeating A's claim for financial relief is to —

- (a) preventing financial relief from being granted to A, or to A for the benefit of a child of the family,
- (b) reducing the amount of any financial relief which might be so granted, or
- (c) frustrating or impeding the enforcement of any order which might be or has been made at A's instance under any of those provisions.

(2) In paragraph 65 and this paragraph "disposition" —

- (a) does not include any provision contained in a will or codicil, but
- (b) subject to paragraph (a), includes any conveyance, assurance or gift of property of any description (whether made by an instrument or otherwise).

(3) Any disposition made by B (whether before or after the commencement of the proceedings for financial relief) is a reviewable disposition for the purposes of paragraphs 65(3) and (4) unless it was made —

- (a) for valuable consideration (other than formation of a civil partnership), and
- (b) to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of any intention on B's part to defeat A's claim for financial relief.

(4) If an application is made under paragraph 65 with respect to a disposition which took place less than 3 years before the date of the application or with respect to a disposition or other dealing with property which is about to take place and the court is satisfied —

- (a) in a case falling within paragraph 65(2) or (3), that the disposition or other dealing would (apart from paragraph 65) have the consequence of defeating A's claim for financial relief, or
- (b) in a case falling within paragraph 65(4), that the disposition has had the consequence of defeating A's claim for financial relief,

it is presumed, unless the contrary is shown, that the person who disposed of or is about to dispose of or deal with the property did so or, as the case may be, is about to do so, with the intention of defeating A's claim for financial relief.

Settlement, etc., made in compliance with a property adjustment order may be avoided on bankruptcy of settler

67. The fact that —

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- (a) a settlement, or
- (b) a transfer of property,

[VI p.312]

had to be made in order to comply with a property adjustment order does not prevent the settlement from being a transaction in respect of which an order may be made under section 30(1) or 31 Bankruptcy Code 1892 (avoidance of certain settlements and preferences).

Settlement of instrument by court to secure payment or effect property adjustment

- 68.** (1) This paragraph applies if the court decides to make —
- (a) an order under Part 1 or 8 requiring any payments to be secured, or
 - (b) a property adjustment order.
- (2) The court may settle a proper instrument to be executed by all necessary parties.
- (3) If the order referred to in sub-paragraph (1) is to be made in proceedings for a dissolution, nullity or separation order, the court may, if it thinks fit, defer the making of the dissolution, nullity or separation order until the instrument has been duly executed.

Payments, etc., under order made in favour of person suffering from mental disorder

- 69.** (1) This paragraph applies if —
- (a) the court makes an order under this Schedule requiring —
 - (i) payments (including a lump sum payment) to be made, or
 - (ii) property to be transferred,
 to a civil partner, and
 - (b) the court is satisfied that the person in whose favour the order is made is incapable, because of mental disorder, of managing and administering his or her property and affairs.
- (2) “Mental disorder” has the same meaning as in the Mental Health Act 1998.
- (3) Subject to any order, direction or authority made or given in relation to that person under Part 7 of the 1998 Act, the court may order the payments to be made or, as the case may be, the property to be transferred to such persons having charge of that person as the court may direct.

[c. 3]

Appeals relating to pension sharing orders which have taken effect

- 70.** (1) Sub-paragraphs (2) and (3) apply if an appeal against a pension sharing order is begun on or after the day on which the order takes effect.

(2) If the pension sharing order relates to a person's rights under a pension arrangement, the appeal court may not set aside or vary the order if the person responsible for the pension arrangement has acted to his or her detriment in reliance on the order taking effect. SCH. 5

(3) If the pension sharing order relates to a person's shareable state scheme rights, the appeal court may not set aside or vary the order if the Department of Health and Social Security has acted to its detriment in reliance on the taking effect of the order.

(4) In determining for the purposes of sub-paragraph (2) or (3) whether a person has acted to its detriment in reliance on the taking effect of the order, the appeal court may disregard any detriment which in its opinion is insignificant.

(5) Where sub-paragraph (2) or (3) applies, the appeal court may make such further orders (including one or more pension sharing orders) as it thinks fit for the purpose of putting the parties in the position it considers appropriate.

(6) In sub-paragraph (2), the reference to the person responsible for the pension arrangement is to be read in accordance with section 26 of WRAPA 1999.

Interpretation

71. (1) References in this Schedule to —

- (a) periodical payments orders,
- (b) secured periodical payments orders, and
- (c) orders for the payment of a lump sum,

are references to such of the orders that may be made under Parts 1 and 8 (other than interim orders) as are relevant in the context of the reference in question.

(2) In this Schedule “the court” (except where the context otherwise requires) means the High Court.

(3) References in this Schedule to a subsequent civil partnership include a civil partnership which is by law void or voidable.

(4) References in this Schedule to a subsequent marriage include a marriage which is by law void or voidable.

Sections 44(1) and 70(3) SCHEDULE 6
 [2003/7/57 to 65,68 to 71,76]
 FINANCIAL RELIEF IN COURTS OF SUMMARY JURISDICTION

PART 1

FAILURE TO MAINTAIN ETC.: FINANCIAL PROVISION

Jurisdiction

1. (1) In this Schedule “court” means a court of summary jurisdiction.
- (2) A court has jurisdiction to hear an application for an order under this Schedule if at the date of the making of the application either the applicant or the respondent ordinarily resides in the Island.
- (3) Any jurisdiction conferred on a court by this Schedule is exercisable even if a party to the proceedings is not domiciled in the Island.

Refusal of order in case more suitable for High Court

2. (1) Where on hearing an application for a maintenance order, otherwise than under a direction under paragraph 35(5) of Schedule 5, a court is of the opinion that any of the matters in question between the parties would be more conveniently dealt with by the High Court, the court shall refuse to make any order on the application, and no appeal shall lie from that refusal.
- (2) If in any proceedings in the High Court relating to or comprising the same subject matter as that application the High Court so orders, the application shall be reheard and determined by a court of summary jurisdiction.

Circumstances in which orders under this Part may be made

3. (1) On an application to it by one of the civil partners, a court may make any one or more of the orders (a “maintenance order”) set out in paragraph 4 if it is satisfied that the respondent —
 - (a) has failed to provide reasonable maintenance for the applicant,
 - (b) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family,
 - (c) has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent, or
 - (d) has deserted the applicant.
- (2) The power of the court under sub-paragraph (1) is subject to the following provisions of this Schedule.

The orders: periodical and secured periodical payments and lump sums

4. (1) The orders are —

- (a) an order that the respondent must make to the applicant such periodical payments for such term as may be specified; SCH. 6
- (b) an order that the respondent must pay to the applicant such lump sum as may be specified;
- (c) an order that the respondent must make —
- (i) to the applicant for the benefit of a child of the family to whom the application relates, or
 - (ii) to a child of the family to whom the application relates;
- such periodical payments for such term as may be specified;
- (d) an order that the respondent must pay such lump sum as may be specified —
- (i) to the applicant for the benefit of a child of the family to whom the application relates, or
 - (ii) to such a child of the family to whom the application relates.
- (2) The amount of a lump sum required to be paid under sub-paragraph (1)(b) or (d) must not exceed —
- (a) £1,000, or
 - (b) such larger amount as the Treasury may from time to time by order fix for the purposes of this sub-paragraph.

Particular provision that may be made by lump sum orders

5. An order under this Part for the payment of a lump sum may be made for the purpose of enabling any liability or expenses reasonably incurred before the making of the order in maintaining the applicant, or any child of the family to whom the application relates, to be met.

This paragraph does not restrict the power to make the orders set out in paragraph 4(1)(b) and (d).

Matters to which court is to have regard in exercising its power under this Part — general

- 6.** If an application is made for an order under this Part, the court, in deciding —
- (a) whether to exercise its powers under this Part, and
 - (b) if so, in what way,

must have regard to all the circumstances of the case, giving first consideration to the welfare while under 18 of any child of the family who has not reached 18.

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Particular matters to be taken into account when exercising powers in relation to civil partners

7. (1) This paragraph applies in relation to the exercise by the court of its power to make an order by virtue of paragraph 4(1)(a) or (b).

(2) The court must in particular have regard to —

(a) the income, earning capacity, property and other financial resources which each civil partner —

(i) has, or

(ii) is likely to have in the foreseeable future,

including, in the case of earning capacity, any increase in that capacity which it would in the opinion of the court be reasonable to expect a civil partner in the civil partnership to take steps to acquire;

(b) the financial needs, obligations and responsibilities which each civil partner has or is likely to have in the foreseeable future;

(c) the standard of living enjoyed by the civil partners before the occurrence of the conduct which is alleged as the ground of the application;

(d) the age of each civil partner and the duration of the civil partnership;

(e) any physical or mental disability of either civil partner;

(f) the contributions which each civil partner has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;

(g) the conduct of each civil partner, if that conduct is such that it would in the opinion of the court be inequitable to disregard it.

Particular matters to be taken into account when exercising powers in relation to children

8. (1) This paragraph applies in relation to the exercise by the court of its power to make an order by virtue of paragraph 4(1)(c) or (d).

(2) The court must in particular have regard to —

(a) the financial needs of the child;

(b) the income, earning capacity (if any), property and other financial resources of the child;

(c) any physical or mental disability of the child;

(d) the standard of living enjoyed by the family before the occurrence of the conduct which is alleged as the ground of the application;

(e) the way in which the child was being and in which the civil partners expected the child to be educated or trained;

- (f) the considerations mentioned in relation to the civil partners in paragraph 7(2)(a) and (b). SCH. 6

(3) In relation to the exercise of its power to make an order in favour of a child of the family who is not the respondent's child, the court must also have regard to —

- (a) whether the respondent has assumed any responsibility for the child's maintenance;
- (b) if so, the extent to which, and the basis on which the respondent assumed that responsibility and the length of time during which the respondent discharged that responsibility;
- (c) whether in assuming and discharging that responsibility the respondent did so knowing that the child was not the respondent's child;
- (d) the liability of any other person to maintain the child.

Reconciliation

9. If at any stage of proceedings on an application under this Part it appears to the court that there is a reasonable possibility of 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. [1983/13/25]
[2003/7/67]

PART 2

ORDERS FOR AGREED FINANCIAL PROVISION

Orders for payments which have been agreed by the parties

10. (1) Either civil partner may apply to a court for an order under this Part on the ground that that civil partner or the other civil partner has agreed to make such financial provision as may be specified in the application.

(2) On such an application, the court may order that the applicant or the respondent (as the case may be) is to make the financial provision specified in the application, if —

- (a) it is satisfied that the applicant or the respondent (as the case may be) has agreed to make that provision, and
- (b) it has no reason to think that it would be contrary to the interests of justice to do so.
- (3) Sub-paragraph (2) is subject to paragraph 13.

Meaning of "financial provision" and of references to specified financial provision

11. (1) In this Part "financial provision" means any one or more of the following —

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- (a) the making of periodical payments by one civil partner to the other;
- (b) the payment of a lump sum by one civil partner to the other;
- (c) the making of periodical payments by one civil partner to a child of the family or to the other civil partner for the benefit of such a child;
- (d) the payment by one party of a lump sum to a child of the family or to the other civil partner for the benefit of such a child.

(2) Any reference in this Part to the financial provision specified in an application or specified by the court is a reference —

- (a) to the type of provision specified in the application or by the court,
- (b) to the amount so specified as the amount of any payment to be made under the application or order, and
- (c) in the case of periodical payments, to the term so specified as the term for which the payments are to be made.

Evidence to be produced where respondent not present etc.

12. (1) This paragraph applies if the respondent is not present or represented by an advocate at the hearing of an application for an order under this Part.

(2) The court must not make an order under this Part unless there is produced to it such evidence as may be prescribed by rules of court of —

- (a) the consent of the respondent to the making of the order,
- (b) the financial resources of the respondent, and
- (c) if the financial provision specified in the application includes or consists of provision in respect of a child of the family to be made by the applicant to the respondent for the benefit of the child or to the child, the financial resources of the child.

Exercise of powers in relation to children

13. (1) This paragraph applies if the financial provision specified in an application under this Part —

- (a) includes, or
- (b) consists of,

provision in respect of a child of the family.

(2) The court must not make an order under this Part unless it considers that the provision which the applicant or the respondent (as the case may be) has agreed to make in respect of the child provides for, or makes a proper contribution towards, the financial needs of the child.

Power to make alternative orders

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14. (1) This paragraph applies if on an application under this Part the court decides —

- (a) that it would be contrary to the interests of justice to make an order for the making of the financial provision specified in the application, or
 - (b) that any financial provision which the applicant or the respondent (as the case may be) has agreed to make in respect of a child of the family does not provide for, or make proper contribution towards, the financial needs of that child.
- (2) If the court is of the opinion —
- (a) that it would not be contrary to the interests of justice to make an order for the making of some other financial provision specified by the court, and
 - (b) that, in so far as that other financial provision contains any provision for a child of the family, it provides for, or makes a proper contribution towards, the financial needs of that child,

then, if both the civil partners agree, the court may order that the applicant or the respondent (as the case may be) is to make that other financial provision.

Relationship between this Part and Part 1

15. (1) A civil partner who has applied for an order under Part 1 is not precluded at any time before the determination of the application from applying for an order under this Part.

- (2) If —
- (a) an order is made under this Part on the application of either civil partner, and
 - (b) either of them has also made an application for a Part 1 order,

the application for the Part 1 order is to be treated as if it had been withdrawn.

PART 3

ORDERS OF COURT WHERE CIVIL PARTNERS LIVING APART BY AGREEMENT

Powers of court where civil partners are living apart by agreement

- 16.** (1) If —
- (a) the civil partners have been living apart for a continuous period exceeding 3 months, neither civil partner having deserted the other, and
 - (b) one of the civil partners has been making periodical payments for the benefit of the other civil partner or of a child of the family,

SCH. 6 the other civil partner may apply to the court for an order under this Part.

(2) An application made under sub-paragraph (1) must specify the total amount of the payments made by the respondent during the period of 3 months immediately preceding the date of the making of the application.

(3) If on an application for an order under this Part the court is satisfied that the respondent has made the payments specified in the application, the court may make one or both of the orders set out in paragraph 17.

(4) Sub-paragraph (3) is subject to the provisions of this Schedule.

The orders that may be made under this Part

17. The orders are —

- (a) an order that the respondent is to make to the applicant such periodical payments for such term as may be specified;
- (b) an order that the respondent is to make —
 - (i) to the applicant for the benefit of a child of the family to whom the application relates, or
 - (ii) to a child of the family to whom the application relates,such periodical payments for such term as may be specified.

Restrictions on orders under this Part

18. The court in the exercise of its powers under this Part must not require —

- (a) the respondent to make payments whose total amount during any period of 3 months exceeds the total amount paid by the respondent for the benefit of —
 - (i) the applicant, or
 - (ii) a child of the family,during the period of 3 months immediately preceding the date of the making of the application;
- (b) the respondent to make payments to or for the benefit of any person which exceed in amount the payments which the court considers that it would have required the respondent to make to or for the benefit of that person on an application under Part 1;
- (c) payments to be made to or for the benefit of a child of the family who is not the respondent's child, unless the court considers that it would have made an order in favour of that child on an application under Part 1.

Relationship with powers under Part 1

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19. (1) Sub-paragraph (2) applies if on an application under this Part the court considers that the orders which it has the power to make under this Part —

- (a) would not provide reasonable maintenance for the applicant, or
 - (b) if the application relates to a child of the family, would not provide, or make a proper contribution towards, reasonable maintenance for that child.
- (2) The court —
- (a) must refuse to make an order under this Part, but
 - (b) may treat the application as if it were an application for an order under Part 1.

Matters to be taken into consideration

20. Paragraphs 6 to 8 apply in relation to an application for an order under this Part as they apply in relation to an application for an order under Part 1, subject to the modification that for the reference in paragraph 7(2)(c) to the occurrence of the conduct which is alleged as the ground of the application there shall be substituted a reference to the living apart of the civil partners.

PART 4

INTERIM ORDERS

Circumstances in which interim orders may be made

21. (1) This paragraph applies if an application has been made for an order under Part 1, 2 or 3.

- (2) A court may make an interim order —
 - (a) at any time before making a final order, or dismissing, the application, or
 - (b) on refusing (under paragraph 2) to make an order on the application.
- (3) The High Court may make an interim order on ordering the application to be reheard by a court (either after the refusal of an order under paragraph 2 or on an appeal made by virtue of paragraph 45).
- (4) Not more than one interim order may be made with respect to an application for an order under Part 1, 2 or 3.
- (5) Sub-paragraph (4) does not affect the power of a court to make an interim order on a further application under Part 1, 2 or 3.

Meaning of interim order

22. (1) An interim order is an order requiring the respondent to make such periodical payments as the court thinks reasonable —

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- (a) to the applicant,
- (b) to any child of the family who is under 18, or
- (c) to the applicant for the benefit of such a child.

(2) In relation to an interim order in respect of an application for an order under Part 2 by the civil partner who has agreed to make the financial provision specified in the application, sub-paragraph (1) applies as if —

- (a) the reference to the respondent were a reference to the applicant, and
- (b) the references to the applicant were references to the respondent.

When interim order may start

23. An interim order may provide for payments to be made from such date as the court may specify, except that the date must not be earlier than the date of the making of the application for an order under Part 1, 2 or 3.

Payments which can be treated as having been paid on account

24. (1) If an interim order made by the High Court on an appeal made by virtue of paragraph 45 provides for payments to be made from a date earlier than the date of the making of the order, the interim order may provide that payments made by the respondent under an order made by a court of summary jurisdiction are to be treated, to such extent and in such manner as may be provided by the interim order, as having been paid on account of any payment provided for by the interim order.

(2) In relation to an interim order in respect of an application for an order under Part 2 by the civil partner who has agreed to make the financial provision specified in the application, sub-paragraph (1) applies as if the reference to the respondent were a reference to the applicant.

When interim order ceases to have effect

25. (1) Subject to sub-paragraphs (2) and (3), an interim order made on an application for an order under Part 1, 2 or 3 ceases to have effect on the earliest of the following dates —

- (a) the date, if any, specified for the purpose in the interim order;
- (b) the date on which the period of 3 months beginning with the date of the making of the interim order ends;
- (c) the date on which a court either makes a final order on, or dismisses, the application.

(2) If an interim order made under this Part would, but for this sub-paragraph, cease to have effect under sub-paragraph (1)(a) or (b) —

- (a) the court which made the order, or

- (b) in the case of an interim order made by the High Court, the court by which the application for an order under Part 1, 2 or 3 is to be reheard, SCH. 6

may by order provide that the interim order is to continue in force for a further period.

(3) An order continued in force under sub-paragraph (2) ceases to have effect on the earliest of the following dates —

- (a) the date, if any, specified for the purpose in the order continuing it;
- (b) the date on which ends the period of 3 months beginning with —
 - (i) the date of the making of the order continuing it, or
 - (ii) if more than one such order has been made with respect to the application, the date of the making of the first such order;
- (c) the date on which the court either makes a final order on, or dismisses, the application.

Supplementary

26. (1) An interim order made by the High Court under paragraph 21(3) on ordering an application to be reheard by a court of summary jurisdiction is to be treated for the purposes of —

- (a) its enforcement, and
- (b) Part 6 (variation etc. of orders),

as if it were an order of that court (and not of the High Court).

(2) No appeal lies from the making of or refusal to make, the variation of or refusal to vary, or the revocation of or refusal to revoke, an interim order.

PART 5

COMMENCEMENT AND DURATION OF ORDERS UNDER PARTS 1, 2 AND 3

Duration of periodical payments order for a civil partner

27. (1) The court may specify in a periodical payments order made under paragraph 4(1)(a) or Part 3 in favour of a civil partner such term as it thinks fit, except that the term must not —

- (a) begin before the date of the making of the application for the order, or
- (b) extend beyond the death of either of the civil partners.

(2) If —

- (a) a periodical payments order is made under paragraph 4(1)(a) or Part 3 in favour of one of the civil partners; and

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- (b) the civil partnership is subsequently dissolved or annulled but the order continues in force,

the periodical payments order ceases to have effect (regardless of anything in it) on the formation of a subsequent civil partnership or marriage by that civil partner, except in relation to any arrears due under the order on the date of that event.

*Age limit on making orders for financial provision for children
and duration of such orders*

28. (1) Subject to sub-paragraph (5), no order is to be made under paragraph 4(1)(c) or (d) or Part 3 in favour of a child who has reached 18.

(2) The term to be specified in a periodical payments order made under paragraph 4(1)(c) or Part 3 in favour of a child may begin with the date of the making of an application for the order or a later date.

(3) The term to be specified in such an order —

(a) must not in the first instance extend beyond the date of the birthday of the child next following his or her reaching the upper limit of the compulsory school age unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date, and

(b) must not in any event, subject to sub-paragraph (5), extend beyond the date of the child's 18th birthday.

[c. 33]

(4) Sub-paragraph (3)(a) must be read with section 23 of the Education Act 2001 (which applies to determine for the purposes of any enactment whether a person is of compulsory school age).

(5) Sub-paragraphs (1) and (3)(b) do not apply in the case of a child if it appears to the court that —

(a) the child is, or will be, or, if such an order were made without complying with either or both of those provisions, would be —

(i) receiving instruction at an educational establishment, or

(ii) undergoing training for a trade, profession or vocation,

whether or not also the child is, will be or would be, in gainful employment, or

(b) there are special circumstances which justify the making of the order without complying with either or both of sub-paragraphs (1) and (3)(b).

(6) Any order made under paragraph 2(1)(c) or Part 3 in favour of a child, regardless of anything in the order, ceases to have effect on the death of the person liable to make payments under the order.

Application of paragraphs 27 and 28 to Part 2 orders

29. (1) Subject to sub-paragraph (3), paragraph 27 applies in relation to an order under Part 2 which requires periodical payments to be made to a civil partner for his or her own benefit as it applies in relation to an order under paragraph 4(1)(a).

(2) Subject to sub-paragraph (3), paragraph 28 applies in relation to an order under Part 2 for the making of financial provision in respect of a child of the family as it applies in relation to an order under paragraph 4(1)(c) or (d). SCH. 6

(3) If —

- (a) the court makes an order under Part 2 which contains provision for the making of periodical payments, and
- (b) by virtue of paragraph 15, an application for an order under Part 1 is treated as if it had been withdrawn,

the term which may be specified under Part 2 as the term for which the payments are to be made may begin with the date of the making of the application for the order under Part 1 or any later date.

Effect on certain orders of parties living together

30. (1) Sub-paragraph (2) applies if periodical payments are required to be made to a civil partner (whether for the civil partner's own benefit or for the benefit of a child of the family) —

- (a) by an order made under Part 1 or 2, or
- (b) by an interim order made under Part 4 (otherwise than on an application under Part 3).

(2) The order is enforceable even though —

- (a) the civil partners are living with each other at the date of the making of the order, or
- (b) if they are not living with each other at that date, they subsequently resume living with each other;

but the order ceases to have effect if after that date the parties continue to live with each other, or resume living with each other, for a continuous period exceeding 6 months.

(3) Sub-paragraph (4) applies if —

- (a) an order is made under Part 1 or 2 which requires periodical payments to be made to a child of the family, or
- (b) an interim order is made under Part 4 (otherwise than on an application under Part 3) which requires periodical payments to be made to a child of the family.

(4) Unless the court otherwise directs, the order continues to have effect and is enforceable even if —

- (a) the civil partners are living with each other at the date of the making of the order, or

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- (b) if they are not living with each other at that date, they subsequently resume living with each other.

(5) An order made under Part 3, and any interim order made on an application for an order under that Part, ceases to have effect if the civil partners resume living with each other.

- (6) If an order made under this Schedule ceases to have effect under —

- (a) sub-paragraph (2) or (5), or
 (b) a direction given under sub-paragraph (4),

a court may, on an application made by either civil partner, make an order declaring that the order ceased to have effect from such date as the court may specify.

PART 6

VARIATION ETC. OF ORDERS

Power to vary, revoke, suspend or revive order

31. (1) If a court has made an order for the making of periodical payments under Part 1, 2 or 3, the court may, on an application made under this Part —

- (a) vary or revoke the order,
 (b) suspend any provision of it temporarily, or
 (c) revive any provision so suspended.

(2) If a court has made an interim order under Part 4, the court may, on an application made under this Part —

- (a) vary or revoke the order,
 (b) suspend any provision of it temporarily, or
 (c) revive any provision so suspended,

except that it may not by virtue of this sub-paragraph extend the period for which the order is in force.

Power to order a lump sum or a variation

32. (1) If a court has made an order under paragraph 4(1)(a) or (c) for the making of periodical payments, the court may, on an application made under this Part, make an order for the payment of a lump sum under paragraph 4(1)(b) or (d).

(2) If a court has made an order under Part 2 for the making of periodical payments by a civil partner the court may, on an application made under this Part, make an order for the payment of a lump sum by that civil partner —

- (a) to the other civil partner, or

- (b) to a child of the family or to that other civil partner for the benefit of that child. SCH. 6

(3) Where the court has power by virtue of this paragraph to make an order for the payment of a lump sum —

- (a) the amount of the lump sum must not exceed the maximum amount that may at that time be required to be paid under Part 1, but
- (b) the court may make an order for the payment of a lump sum not exceeding that amount even if the person required to pay it was required to pay a lump sum by a previous order under this Schedule.

(4) Where —

- (a) the court has power by virtue of this paragraph to make an order for the payment of a lump sum, and
- (b) the respondent or the applicant (as the case may be) has agreed to pay a lump sum of an amount exceeding the maximum amount that may at that time be required to be paid under Part 1,

the court may, regardless of sub-paragraph (3), make an order for the payment of a lump sum of that amount.

Power to specify when order as varied is to take effect

33. (1) An order made under this Part which varies an order for the making of periodical payments may provide that the payments as so varied are to be made from such date as the court may specify.

(2) But the date so specified must not be earlier than the date of the making of the application under this Part.

(3) This paragraph is subject to paragraph 34.

34. (1) If —

- (a) there is in force an order (“the order”) —
- (i) under paragraph 4(1)(c),
- (ii) under Part 2 making provision of a kind set out in paragraph 11(1)(c) (regardless of whether it makes provision of any other kind mentioned in paragraph 11(1)(c)),
- (iii) under paragraph 17(1)(b), or
- (iv) which is an interim order under Part 4 under which the payments are to be made to a child or to the applicant for the benefit of a child, and
- (b) the order requires payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them,

SCH. 6 the court may, in exercise of its powers under this Part to vary or revoke the order, direct that the variation or revocation is to take effect from the date on which the calculation took effect or any later date.

Matters to which court is to have regard in exercising powers under this Part

35. (1) In exercising the powers conferred by this Part the court must, so far as it appears to the court just to do so, give effect to any agreement which has been reached between the civil partners in relation to the application.

(2) If —

- (a) there is no such agreement, or
- (b) the court decides not to give effect to the agreement,

the court must have regard to all the circumstances of the case, giving first consideration to the welfare while under 18 of any child of the family who has not reached 18.

(3) Those circumstances include any change in any of the matters —

- (a) to which the court was required to have regard when making the order to which the application relates, or
- (b) in the case of an application for the variation or revocation of an order made under Part 2 or on an appeal made by virtue of paragraph 45, to which the court would have been required to have regard if that order had been made under Part 1.

Variation of orders for periodical payments: further provisions

[c.15]

36. (1) The power of the court under paragraphs 31 to 35 to vary an order for the making of periodical payments includes power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under section 54(1) and (3) of the Summary Jurisdiction Act 1989 (which provide for payment to be made through either the Chief Registrar or a third party).

(2) Sub-paragraph (1) is subject to paragraph 37.

37. (1) Before varying the order by exercising one of its powers under section 54(1) and (3) of the 1989 Act, the court must have regard to any representations made by the parties to the application.

(2) If the court does not propose to exercise its power under section 54(3) of the 1989 Act, the court must, unless upon representations expressly made in that behalf by the person to whom payments under the order are required to be made it is satisfied that it is undesirable to do so, exercise its power under section 54(1).

Persons who may apply under this Part

38. An application under paragraph 31 or 32 may be made —

- (a) if it is for the variation or revocation of an order under Part 1, 2, 3 or 4 for periodical payments, by either civil partner, and SCH. 6
- (b) if it is for the variation of an order under paragraph 4(1)(c) or Part 2 or 3 for periodical payments to or in respect of a child, also by the child concerned if the child has reached 16.

Revival of orders for periodical payments

39. (1) If an order made by a court under this Schedule for the making of periodical payments to or in respect of a child (other than an interim order) ceases to have effect —

- (a) on the date on which the child reaches 16, or
- (b) at any time after that date but before or on the date on which he or she reaches 18,

the child may apply to the court which made the order for an order for its revival.

- (2) If on such an application it appears to the court that —
- (a) the child is, will be or (if an order were made under this sub-paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment, or
- (b) there are special circumstances which justify the making of an order under this sub-paragraph,

the court may by order revive the order from such date as the court may specify, not being earlier than the date of the making of the application.

(3) Any order revived under this paragraph may be varied or revoked under paragraphs 31 to 35 in the same way as it could have been varied or revoked had it continued in being.

Variation of instalments of lump sum

40. If in the exercise of its powers under section 92 of the 1989 Act a court orders that a lump sum required to be paid under this Schedule is to be paid by instalments, the court, on an application made by either the person liable to pay or the person entitled to receive that sum, may vary that order by varying —

- (a) the number of instalments payable,
- (b) the amount of any instalment payable, and
- (c) the date on which any instalment becomes payable.

Supplementary provisions with respect to variation and revocation of orders

41. None of the following powers apply in relation to an order made under this Schedule —

- SCH. 6
- (a) the powers of a court to revoke, revive or vary an order for the periodical payment of money under section 55 of the 1989 Act;
 - (b) the power of a court to suspend or revoke certain other orders under section 102(2) of the 1989 Act.

PART 7

ARREARS AND REPAYMENTS

Enforcement etc. of orders for payment of money

42. Section 54 of the 1989 Act applies in relation to orders under this Schedule as it applies in relation to orders described in that section.

Orders for repayment after cessation of order because of subsequent civil partnership etc.

- 43.** (1) Sub-paragraphs (3) and (4) apply if —
- (a) an order made under paragraph 4(1)(a) or Part 2 or 3 has, under paragraph 27(2), ceased to have effect because of the formation of a subsequent civil partnership or marriage by the party (“R”) in whose favour it was made, and
 - (b) the person liable to make payments under the order (“P”) made payments in accordance with it in respect of a relevant period in the mistaken belief that the order was still subsisting.
- (2) “Relevant period” means a period after the date of the formation of the subsequent civil partnership or marriage.
- (3) No proceedings in respect of a cause of action arising out of the circumstances mentioned in sub-paragraph (1)(a) and (b) is maintainable by P (or P’s personal representative) against R (or R’s personal representatives).
- (4) But on an application made under this paragraph by P (or P’s personal representatives) against R (or R’s personal representatives) the court —
- (a) may order the respondent to pay to the applicant a sum equal to the amount of the payments made in respect of the relevant period, or
 - (b) if it appears to the court that it would be unjust to make that order, may —
 - (i) order the respondent to pay to the applicant such lesser sum as it thinks fit, or
 - (ii) dismiss the application.
- (5) An order under this paragraph for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.

(6) An application under this paragraph may be made in proceedings in the High Court or for leave to enforce, or the enforcement of, the payment of arrears under an order made under paragraph 4(1)(a) or Part 2 or 3. SCH. 6

(7) Subject to sub-paragraph (8), where any payments under an order made under paragraph 4(1)(a), or Part 2 or 3, are required to be made to the Chief Registrar, the Chief Registrar is not liable for any act done in pursuance of the order after the date on which that order ceased to have effect because of the formation of a subsequent civil partnership or marriage by the person entitled to payments under it.

(8) Sub-paragraph (7) applies if (but only if) the act —

- (a) was one which the Chief Registrar would have been under a duty to do had the order under paragraph 4(1)(a) or Part 2 or 3 not ceased to have effect, and
- (b) was done before notice in writing of the formation of the subsequent civil partnership or marriage was given to the Chief Registrar by or on behalf of —
 - (i) the person entitled to payments under the order,
 - (ii) the person liable to make payments under it, or
 - (iii) the personal representatives of either of them.

PART 8

SUPPLEMENTARY

Restrictions on making of orders under this Schedule: welfare of children

44. If —

- (a) an application is made by a civil partner for an order under Part 1, 2 or 3, and
- (b) there is a child of the family who is under 18,

the court must not dismiss or make a final order on the application until it has decided whether to exercise any of its powers under Part 2 of the Children and Young Persons Act 2001 with respect to the child.

[c. 20]

Constitution of courts and powers of High Court in relation to orders and appeals

45. The following provisions apply in relation to an order under this Schedule relating to a civil partnership as they apply in relation to an order under Part 3 of MPA 2003 relating to a marriage —

- (a) sections 74 and 75 of MPA 2003 (powers of the High Court in relation to certain orders and the constitution of courts), and
- (b) section 104 of the Summary Jurisdiction Act 1989 (appeals).

Sections 70(4) and 83(5) SCHEDULE 7
[2003/7/78 to 90]

FINANCIAL RELIEF AFTER DISSOLUTION ETC. OUTSIDE THE
ISLAND OF A CIVIL PARTNERSHIP

PART 1

FINANCIAL RELIEF

Part applies where civil partnership has been dissolved etc. outside the Island

1. (1) This Part of this Schedule applies where —
- (a) a civil partnership has been dissolved or annulled, or the civil partners have been legally separated, by means of judicial or other proceedings in any other part of the British Islands or an overseas country or territory, and
 - (b) the dissolution, annulment or legal separation is entitled to be recognised as valid in the Island.
- (2) This Part of this Schedule applies even if the date of the dissolution, annulment or legal separation is earlier than the date on which the Part comes into operation.
- (3) In this Schedule “overseas country” means a country or territory outside the British Islands.

Either civil partner may make application for financial relief

2. (1) Either of the civil partners may make an application to the court for an order under paragraph 9.
- (2) The rights conferred by sub-paragraph (1) are subject to —
- (a) paragraph 3 (civil partner may not apply after forming subsequent civil partnership etc.), and
 - (b) paragraph 4 (application may not be made until leave to make it has been granted).
- (3) An application for an order under paragraph 9 must be made in a manner prescribed by rules of court.

No application after formation of subsequent civil partnership or marriage

3. (1) If —
- (a) the civil partnership has been dissolved or annulled, and
 - (b) after the dissolution or annulment, one of the civil partners forms a subsequent civil partnership or marriage,

that civil partner shall not be entitled to make, in relation to the civil partnership, an application for an order under paragraph 9.

(2) The reference in sub-paragraph (1) to the forming of a subsequent civil partnership or marriage includes a reference to the forming of a civil partnership or marriage which is by law void or voidable. SCH. 7

Leave of court required for making of application

4. (1) No application for an order under paragraph 9 shall be made unless the leave of the court has been obtained in accordance with rules of court.

(2) The court shall not grant leave under this paragraph even though an order has been made by a court in a country or territory outside the Island requiring the other civil partner to make any payment, or transfer any property, to the applicant or to a child of the family unless it considers that there is substantial ground for the making of an application for such an order.

(3) The court may grant leave under this paragraph even though an order has been made by a court in a country or territory outside the Island requiring the other civil partner to make any payment, or transfer any property, to the applicant or to a child of the family.

(4) Leave under this paragraph may be granted subject to such conditions as the court thinks fit.

Interim orders for maintenance

5. (1) Where —

(a) leave is granted under paragraph 4, and

(b) it appears to the court that the civil partner who applied for leave, or any child of the family, is in immediate need of financial assistance,

the court may, subject to sub-paragraph (4), make an interim order for maintenance.

(2) An interim order for maintenance is one requiring the other civil partner to make —

(a) to the applicant, or

(b) to the child,

such periodical payments as the court thinks reasonable for such term as the court thinks reasonable.

(3) The term must be one —

(a) beginning not earlier than the date of the grant of leave, and

(b) ending with the date of the determination of the application made in accordance with the leave.

(4) If it appears to the court that the court will, in the event of an application being made in accordance with the leave, have jurisdiction to entertain the application only under paragraph 7(4), the court shall not make an interim order under this paragraph.

- SCH. 7 (5) An interim order under this paragraph may be made subject to such conditions as the court thinks fit.

Application of paragraphs 7 and 8

6. Paragraphs 7 and 8 apply where —
- (a) one of the civil partners has been granted leave under paragraph 4, and
 - (b) acting in accordance with the leave, that civil partner makes an application for an order under paragraph 9.

Jurisdiction of the court

7. (1) The court shall have jurisdiction to entertain the application only if one or more of the following jurisdictional requirements is satisfied.
- (2) The first requirement is that one of the civil partners —
 - (a) was domiciled in the Island on the date when the leave was applied for, or
 - (b) was domiciled in the Island on the date when the dissolution, annulment or legal separation took effect in the overseas country in which it was obtained.
 - (3) The second is that one of the civil partners —
 - (a) was habitually resident in the Island throughout the period of one year ending with the date when the leave was applied for, or
 - (b) was habitually resident in the Island throughout the period of one year ending with the date on which the dissolution, annulment or legal separation took effect in the overseas country in which it was obtained.
 - (4) The third is that either or both of the civil partners had, at the date when the application for leave was made, a beneficial interest in possession in a dwelling-house situated in the Island which was at some time during the civil partnership a civil partnership home of the civil partners.
 - (5) In sub-paragraph (4) “possession” includes receipt of, or the right to receive, rents and profits, but here “rent” does not include mortgage interest.

Duty of the court to consider whether the Island is appropriate venue for application

8. (1) Before deciding the application, the court must consider whether in all the circumstances of the case it would be appropriate for an order of the kind applied for to be made by a court in the Island.
- (2) If the court is not satisfied that it would be appropriate, the court shall dismiss the application.

(3) The court must, in particular, have regard to the following matters — SCH. 7

- (a) the connection which the civil partners have with the Island;
- (b) the connection which the civil partners have with the country in which the civil partnership was dissolved or annulled or in which they were legally separated;
- (c) the connection which the civil partners have with any other country or territory outside the Island;
- (d) any financial benefit which, in consequence of the dissolution, annulment or legal separation —
 - (i) the applicant, or
 - (ii) a child of the family,has received, or is likely to receive, by virtue of any agreement or the operation of the law of a country or territory outside the Island;
- (e) in a case where an order has been made by a court in a country or territory outside the Island requiring the other civil partner —
 - (i) to make any payment, or
 - (ii) to transfer any property,for the benefit of the applicant or a child of the family, the financial relief given by the order and the extent to which the order has been, or is likely to be, complied with;
- (f) any right which the applicant has, or has had, to apply for financial relief from the other civil partner under the law of any country or territory outside the Island and, if the applicant has omitted to exercise that right, the reason for that omission;
- (g) the availability in the Island of any property in respect of which an order under this Schedule in favour of the applicant could be made;
- (h) the extent to which any order made under this Schedule is likely to be enforceable;
- (i) the length of time which has elapsed since the date of the dissolution, annulment or legal separation.

Orders for financial provision, property adjustment and pension sharing

9. (1) Sub-paragraphs (2) and (3) apply where one of the civil partners has made an application for an order under this paragraph.

(2) If the civil partnership has been dissolved or annulled, the court may on the application make any one or more of the orders which it could make under Part 1, 2 or 4 of Schedule 5 (financial provision, property adjustment and pension sharing) if a dissolution order or nullity order had been made in respect of the civil partnership under Chapter 2 of Part 2 of this Act.

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(3) If the civil partners have been legally separated, the court may on the application make any one or more of the orders which it could make under Part 1 or 2 of Schedule 5 (financial provision and property adjustment) if a separation order had been made in respect of the civil partners under Chapter 2 of Part 2 of this Act.

- (4) Where under sub-paragraph (2) or (3) the court makes —
- (a) an order which, if made under Schedule 5, would be a secured periodical payments order,
 - (b) an order for the payment of a lump sum, or
 - (c) an order which, if made under that Schedule, would be a property adjustment order,

then, on making that order or at any time afterwards, the court may make any order which it could make under Part 3 of Schedule 5 (sale of property) if the order under sub-paragraph (2) or (3) had been made under that Schedule.

(5) The powers under sub-paragraphs (2) to (4) are subject to paragraph 11.

*Matters to which court is to have regard in exercising powers
under paragraph 9*

- 10.** (1) The court, in deciding —
- (a) whether to exercise its powers under paragraph 9, and
 - (b) if so, in what way,

must act in accordance with this paragraph.

(2) The court must have regard to all the circumstances of the case, giving first consideration to the welfare, while under 18, of any child of the family who has not reached 18.

(3) The court, in exercising its powers under paragraph 9 in relation to one of the civil partners —

- (a) must in particular have regard to the matters mentioned in paragraph 20(2) of Schedule 5, and
- (b) shall be under duties corresponding to those imposed by sub-paragraphs (2) and (3) of paragraph 22 of that Schedule (duties to consider termination of financial obligations) where it decides to exercise powers under paragraph 9 corresponding to the powers referred to in those sub-paragraphs.

(4) The matters to which the court is to have regard under sub-paragraph (3)(a), so far as relating to paragraph 20(2)(a) of Schedule 5 (regard to be had to financial resources), include any benefits under a pension arrangement which either of the civil partners has or is likely to have, whether or not in the foreseeable future.

(5) The matters to which the court is to have regard under sub-paragraph (3)(a), so far as relating to paragraph 20(2)(h) of Schedule 5 (regard to be had to benefits that cease to be acquirable), include any benefits under a pension arrangement which, because of the dissolution or annulment of the civil partnership, one of the civil partners will lose the chance of acquiring. SCH. 7

(6) The court, in exercising its powers under paragraph 9 in relation to a child of the family, must in particular have regard to the matters mentioned in paragraph 21(2) of Schedule 5.

(7) The court, in exercising its powers under paragraph 9 against a civil partner (“A”) in favour of a child of the family who is not A’s child, must also have regard to the matters mentioned in paragraph 21(3) of Schedule 5.

(8) Where an order has been made by a court outside the Island for —

- (a) the making of payments, or
- (b) the transfer of property,

by one of the civil partners, the court in considering in accordance with this paragraph the financial resources of the other civil partner, or of a child of the family, shall have regard to the extent to which that order has been complied with or is likely to be complied with.

(9) In this paragraph —

- (a) “pension arrangement” has the same meaning as in paragraph 15(4) of Schedule 5, and
- (b) references to benefits under a pension arrangement include any benefits by way of pension, whether under a pension arrangement or not.

Restriction of powers under paragraph 9 where jurisdiction depends on civil partnership home in the Island

11. (1) Sub-paragraphs (2) to (4) apply where the court has jurisdiction to entertain an application for an order under paragraph 9 only because a dwelling-house which was a civil partnership home of the civil partners is situated in the Island.

(2) The court may make under paragraph 9 any one or more of the following orders (but no other) —

- (a) an order that one of the civil partners shall pay to the other a specified lump sum;
- (b) an order that one of the civil partners shall pay to a child of the family, or to a specified person for the benefit of a child of the family, a specified lump sum;
- (c) an order that one of the civil partners shall transfer that civil partner’s interest in the dwelling-house, or a specified part of that interest —
 - (i) to the other,
 - (ii) to a child of the family, or

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- (iii) to a specified person for the benefit of a child of the family;
 - (d) an order that a settlement of the interest of one of the civil partners in the dwelling-house, or a specified part of that interest, be made to the satisfaction of the court for the benefit of any one or more of —
 - (i) the other civil partner and the children of the family, or
 - (ii) either or any of them;
 - (e) an order varying for the benefit of any one or more of —
 - (i) the civil partners and the children of the family, or
 - (ii) either or any of them,

a relevant settlement so far as that settlement relates to an interest in the dwelling-house;
 - (f) an order extinguishing or reducing the interest of either of the civil partners under a relevant settlement so far as that interest is an interest in the dwelling-house;
 - (g) an order for the sale of the interest of one of the civil partners in the dwelling-house.
- (3) Where under paragraph 9 the court makes just one order for the payment of a lump sum by one of the civil partners, the amount of the lump sum must not exceed the amount specified in sub-paragraph (5).
- (4) Where under paragraph 9 the court makes two or more orders each of which is an order for the payment of a lump sum by the same civil partner, the total of the amounts of the lump sums must not exceed the amount specified in sub-paragraph (5).
- (5) That amount is —
- (a) if the interest of the paying civil partner in the dwelling-house is sold in pursuance of an order made under sub-paragraph (2)(g), the amount of the proceeds of sale of that interest after deducting from those proceeds any costs incurred in the sale of that interest; or
 - (b) if that interest is not so sold, the amount which in the opinion of the court represents the value of that interest.
- (6) Where the interest of one of the civil partners in the dwelling-house is held jointly or in common with any other person or persons —
- (a) the reference in sub-paragraph (2)(g) to the interest of one of the civil partners shall be construed as including a reference to the interest of that other person, or the interest of those other persons, in the dwelling-house, and
 - (b) the reference in sub-paragraph (5)(a) to the amount of the proceeds of a sale ordered under sub-paragraph (2)(g) shall be construed as a reference to that part of those proceeds which is attributable to the interest of that civil partner in the dwelling-house.

(7) In sub-paragraph (2) —

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“relevant settlement” means a settlement made, during the subsistence of the civil partnership or in anticipation of its formation, on the civil partners, including one made by will or codicil;

“specified” means specified in the order.

Consent orders under paragraph 9

12. (1) On an application for a consent order under paragraph 9, the court may make an order in the terms agreed on the basis only of the prescribed information furnished with the application.

(2) Sub-paragraph (1) does not apply if the court has reason to think that there are other circumstances into which it ought to inquire.

(3) Sub-paragraph (1) applies to an application for a consent order varying or discharging an order under paragraph 9 as it applies to an application for such an order.

(4) Sub-paragraph (1) applies despite paragraph 10.

(5) In this paragraph —

“consent order”, in relation to an application for an order, means an order in the terms applied for to which the respondent agrees;

“prescribed” means prescribed by rules of court.

Application of provisions of Schedule 5 to orders under paragraphs 5 and 9

13. (1) The following provisions of Schedule 5 apply in relation to an order made under paragraph 5 or 9 of this Schedule as they apply in relation to a comparable order made under that Schedule —

(a) paragraph 3(1) to (3) (lump sums);

(b) paragraph 10(2) to (3), 11(2), 12 and 13 (orders for sale);

(c) paragraphs 16, 17 and 18(2) (pension sharing);

(d) paragraphs 24 and 25 (orders under Part 1 relating to pensions and pension lump sums);

(e) paragraphs 38(1) to (4) and (6) and 40 (duration of orders);

(f) paragraphs 41 to 45 and 48 to 52 except paragraph 41(1)(g) (variation etc. of orders);

(g) paragraphs 53 to 55 (arrears and repayments);

(h) paragraphs 67 to 70 (bankruptcy, settlement of instruments by the court, mental disorder, and pension-sharing appeals).

SCH. 7

(2) Sub-paragraph (1)(d) does not apply where the court has jurisdiction to entertain an application for an order under paragraph 9 only because a dwelling-house which was a civil partnership home of the civil partners is situated in the Island.

(3) Paragraph 26 of Schedule 5 (change of pension arrangement under which rights are shared) applies in relation to an order made under paragraph 9 of this Schedule by virtue of sub-paragraph (1)(d) as it applies to an order made under Part 1 of Schedule 5 by virtue of paragraph 24 or 25 of that Schedule.

(4) The Department of Health and Social Security may by regulations make for the purposes of this Schedule provision corresponding to any provision which may be made under paragraph 27(1) to (3) of Schedule 5 (supplementary provision about orders relating to pensions under Part 1 of that Schedule).

Avoidance of transactions designed to defeat claims under paragraphs 5 and 9

14. (1) Sub-paragraphs (2) and (3) apply where one of the civil partners (“A”) is granted leave under paragraph 4 to make an application for an order under paragraph 9.

(2) If the court is satisfied, on application by A, that the other civil partner (“B”) is, with the intention of defeating a claim by A, about to —

- (a) make any disposition, or
- (b) transfer out of the jurisdiction, or otherwise deal with, any property,

it may make such order as it thinks fit for restraining B from doing so or otherwise for protecting the claim.

(3) If the court is satisfied, on application by A —

- (a) that the other civil partner (“B”) has, with the intention of defeating a claim by A, made a reviewable disposition, and
- (b) that, if the disposition were set aside —
 - (i) financial relief under paragraph 5 or 9, or
 - (ii) different financial relief under paragraph 5 or 9,

would be granted to A,

it may make an order setting aside the disposition.

(4) If —

- (a) an order under paragraph 5 or 9 has been made by the court at the instance of one of the civil partners (“A”), and
- (b) the court is satisfied, on application by A, that the other civil partner (“B”) has, with the intention of defeating a claim by A, made a reviewable disposition,

the court may make an order setting aside the disposition.

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(5) Where the court has jurisdiction to entertain an application for an order under paragraph 9 only under paragraph 7(4), it shall not make any order under sub-paragraph (2), (3) or (4) in respect of any property other than the dwelling-house concerned.

(6) Where the court makes an order under sub-paragraph (3) or (4) setting aside a disposition, it shall give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the making of any payments or the disposal of any property).

(7) For the purposes of this paragraph a disposition made by B is “reviewable” (whether made before or after the commencement of A’s application under this paragraph) unless made for valuable consideration (other than the formation of a civil partnership) to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of any intention on the part of B to defeat A’s claim.

(8) A reference in this paragraph to defeating a claim by one of the civil partners is a reference to —

- (a) preventing financial relief being granted, or reducing the amount of financial relief which might be granted, under paragraph 5 or 9 at the instance of that civil partner, or
- (b) frustrating or impeding the enforcement of any order which might be, or has been, made under paragraph 5 or 9 at the instance of that civil partner.

Presumptions for the purposes of paragraph 14

15. (1) Sub-paragraph (3) applies where —

- (a) an application is made under paragraph 14(2) or (3) by one of the civil partners with respect to —
 - (i) a disposition which took place less than 3 years before the date of the application, or
 - (ii) a disposition or other dealing with property which is about to take place, and
- (b) the court is satisfied that the disposition or other dealing would (apart from paragraph 14 and this paragraph of this Schedule) have the consequence of defeating a claim by the applicant.

(2) Sub-paragraph (3) also applies where —

- (a) an application is made under paragraph 14(4) by one of the civil partners with respect to a disposition which took place less than 3 years before the date of the application, and
- (b) the court is satisfied that the disposition has had the consequence of defeating a claim by the applicant.

SCH. 7 (3) It shall be presumed, unless the contrary is shown, that the person who —

- (a) disposed of, or
- (b) is about to dispose of or deal with the property,

did so, or (as the case may be) is about to do so, with the intention of defeating the applicant's claim.

(4) In this paragraph a reference to defeating a claim by one of the civil partners has the same meaning as in paragraph 14(8).

PART 2

STEPS TO PREVENT AVOIDANCE PRIOR TO APPLICATION FOR LEAVE UNDER PARAGRAPH 4

Prevention of transactions intended to defeat prospective claims under paragraphs 5 and 9

16. (1) If it appears to the court, on application by one of the persons ("A") who formed a civil partnership —

- (a) that the civil partnership has been dissolved or annulled, or that the civil partners have been legally separated, by means of judicial or other proceedings in an overseas country,
- (b) that A intends to apply for leave to make an application for an order under paragraph 9 as soon as he or she has been habitually resident in the Island for the period of one year, and
- (c) that the other civil partner ("B") is, with the intention of defeating A's claim, about to —
 - (i) make any disposition, or
 - (ii) transfer out of the jurisdiction, or otherwise deal with, any property,

the court may make such order as it thinks fit for restraining B from taking such action as is mentioned in paragraph (c).

(2) Sub-paragraph (1) applies even if the date of the dissolution, annulment or legal separation is earlier than the date on which that sub-paragraph comes into force.

(3) Sub-paragraph (4) applies where —

- (a) an application is made under sub-paragraph (1) with respect to —
 - (i) a disposition which took place less than 3 years before the date of the application, or
 - (ii) a disposition or other dealing with property which is about to take place, and

- (b) the court is satisfied that the disposition or other dealing would (apart from this paragraph of this Schedule) have the consequence of defeating a claim by the applicant. SCH. 7

(4) It shall be presumed, unless the contrary is shown, that the person who —

- (a) disposed of, or
(b) is about to dispose or deal with the property,

did so, or (as the case may be) is about to do so, with the intention of defeating the applicant's claim.

(5) In this paragraph a reference in this paragraph to defeating a claim by one of the civil partners has the same meaning as in paragraph 14(8).

17. Nothing in this Part limits the power of the court to grant injunctions under section 42 of the High Court Act 1991. [c.12]

Paragraphs 14 to 16: meaning of “disposition” and saving

18. In this Part “disposition” does not include any provision contained in a will or codicil but, with that exception, includes any conveyance, assurance or gift of property of any description, whether made by an instrument or otherwise.

PART 3

INTERPRETATION

Interpretation of Schedule

19. In this Schedule —

“dwelling house” includes —

- (a) any building, or part of a building, which is occupied as a dwelling, and
(b) any yard, garden, garage or outhouse belonging to, and occupied with, the dwelling house;

“overseas country” has the meaning given by paragraph 1(3).

Section 73

SCHEDULE 8

AMENDMENTS RELATING TO CHILDREN

Adoption Act 1984 (c.14)

1. In section 1 (adoption orders), after subsection (5) insert —

“(5A) An adoption order may not be made in relation to a person who is or has been a civil partner.”.

2. For the expression “married couple” wherever it appears in sections 2 and 3, and in section 29(1), substitute “couple”.

3. For section 4(1) (adoption by one person) substitute —

“(1) An adoption order may be made on the application of one person where he has attained by the age of 21 years and —

(a) is not married or a civil partner, or

(b) is married or a civil partner and the court is satisfied that —

(i) the applicant’s spouse or civil partner cannot be found; or

(ii) the spouses or civil partners have separated and are living apart, and the separation is likely to be permanent; or

(iii) the applicant’s spouse or civil partner is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order.”.

4. In section 29(1) (status conferred by adoption) —

(a) after “marriage” wherever it appears, insert “or civil partnership”;

(b) in paragraph (a) after “solemnized” insert “or registered as the case may be”;

(c) in paragraph (b), for “had been born to the adopter in wedlock” substitute “were the legitimate child of the relationship in question”.

5. In section 35(1) (enactments for whose purposes section 29 does not apply), after “Schedule 1 to the Marriage Act 1984” insert “or Schedule 1 to the Civil Partnership Act 2011”.

6. In section 39 (disclosure of birth records of adopted children), in subsection (2) —

(a) after “intending to be married” insert “or form a civil partnership”;

- (b) for “the person whom he intends to marry” substitute “the intended spouse or civil partner”; and SCH. 8
- (c) after “the Marriage Act 1984” add “or Schedule 1 to the Civil Partnership Act 2011”.

7. In section 58(1) (interpretation) —

- (a) after the definition of “Convention country” insert —

““couple” means —

- (a) a married couple, or
- (b) two people who are civil partners of each other, or
- (c) two people (whether of different sexes or the same sex) living as partners in an enduring family relationship;”;
- (b) in the definition of “relative”, for “by affinity” substitute “by marriage or civil partnership”.

Children and Young Persons Act 2001 (c. 20)

8. In section 8 (guardians: termination of appointment) after subsection (4) insert —

“(4A) An appointment under section 7 (including one made in an unrevoked will or codicil) is revoked if the person appointed is the civil partner of the person who made the appointment and either —

- (a) an order of the court dissolves or annuls the civil partnership, or
- (b) the civil partnership is dissolved or annulled and the dissolution or annulment is entitled to recognition in the Island by virtue of Chapter 2 of Part 3 of the Civil Partnership Act 2011,

unless a contrary intention appears by the appointment.”.

9. In section 12(2) (persons entitled to apply for residence or contact order) after paragraph (a) insert —

“(aa) any civil partner in a civil partnership (whether or not subsisting) in relation to whom the child is a child of the family;”.

10. In section 102 (1) (interpretation) —

- (a) for the definition of “child of the family” (in relation to the parties to a marriage) substitute —

SCH. 8

““child of the family”, in relation to parties to a marriage, or to two people who are civil partners of each other, means —

- (a) a child of both of them, and
- (b) any other child, other than a child placed with them as foster parents by the Department, who has been treated by both of them as a child of their family;” and
- (c) in the definition of “relative” for “by affinity)” substitute “by marriage or civil partnership)”.

11. (1) Amend Schedule 1 (financial provision for children) as follows.

(2) In paragraph 13 (interpretation) for the definition of “parent” substitute —

““parent” includes —

- (a) any party to a marriage (whether or not subsisting) in relation to whom the child concerned is a child of the family, and
- (b) any civil partner in a civil partnership (whether or not subsisting) in relation to whom the child concerned is a child of the family;

and for this purpose any reference to either parent or both parents shall be read as a reference to any parent and to all parents of his or hers.”.

Section 75

SCHEDULE 9

LAND

Conveyancing Act 1908 (VIII p.241)

1. In section 27(1) (conveyance by a person to himself, etc) for “by a husband to a wife, and by a wife to her husband” substitute “by one spouse to the other or one civil partner to the other”.

Housing Improvement Act 1975 (c. 29)

2. In section 1(5) (assistance for improvements to, and provision of, dwellings) for “wife or husband” substitute “spouse or civil partner”.

Section 76

SCHEDULE 10

FAMILY HOMES AND DOMESTIC VIOLENCE

PART 1

AMENDMENTS OF MPA 2003

1. (1) Amend section 92 (rights concerning matrimonial home where one spouse has no estate, etc.) as follows.
 - (2) In subsection (1) —
 - (a) in paragraph (a) after “one spouse” insert “or civil partner (“A”)", and
 - (b) in paragraph (b), after “other spouse” insert “or civil partner (“B”)".
 - (3) In subsection (2) —
 - (a) for “the spouse not so entitled” substitute “B”,
 - (b) for “(“matrimonial home rights”)" substitute “(“home rights”)", and
 - (c) in paragraph (a), for “the other spouse” substitute “A”.
 - (4) In subsection (3) —
 - (a) for “a spouse” and for “that spouse” substitute “B”, and
 - (b) for “the other spouse” (in both places) substitute “A”.
 - (5) In subsection (4) —
 - (a) for “a spouse (“the first spouse”)" substitute “B”, and
 - (b) in paragraph (b), for “the other spouse (“the second spouse”)" substitute “A”,
 - (c) for “the first spouse against the second spouse” substitute “B against A”.
 - (6) In subsection (5) —
 - (a) for “a spouse” substitute “B”, and
 - (b) for “the other spouse” (in both places) substitute “A”.
 - (7) In subsection (6), for the words from the first “which” to the end substitute “which —
 - (a) in the case of spouses, has at no time been, and was at no time intended by them to be, a matrimonial home of theirs; and
 - (b) in the case of civil partners, has at no time been, and was at no time intended by them to be, a civil partnership home of theirs.”.

- (8) In subsection (7) — SCH. 10
- (a) for “A spouse’s matrimonial home rights” substitute “B’s home rights”,
 - (b) in paragraph (a), after “marriage” insert “or civil partnership”, and
 - (c) in paragraph (b), for “the other spouse” substitute “A”.
- (9) In subsection (8) —
- (a) for “a spouse” (in both places) substitute “a person”, and
 - (b) for “he has matrimonial home rights” substitute “he or she has home rights”.
- (10) In the marginal note to section 92, for “matrimonial home where one spouse” substitute “home where one spouse or civil partner” and, in the preceding cross-heading, after “matrimonial” insert “or civil partnership”.

2. (1) Amend section 93 (rights as charge on dwelling-house) as follows.
- (2) In subsection (1) —
- (a) for “ marriage, one spouse” substitute “marriage or civil partnership, A”,
 - (b) in paragraph (a) for “the other spouse’s matrimonial home rights” substitute “B’s home rights”, and
 - (c) in paragraph (b)—
 - (i) in sub-paragraph (i), for “the spouse so entitled” substitute “A”, and
 - (ii) in sub-paragraph (ii), after “marriage” insert “or of the formation of the civil partnership”.
- (3) In subsection (2) —
- (a) for “a spouse’s matrimonial home rights” substitute “B’s home rights”,
 - (b) for “the other spouse” substitute “A”,
 - (c) for “either of the spouses” substitute “A or B”,
 - (d) in paragraph (a) for “the other spouse” substitute “A”.
- (4) In subsection (3) for “the spouses” substitute “A and B”.
- (5) In subsection (4) —
- (a) for “a spouse’s matrimonial home rights” substitute “B’s home rights”,
 - (b) in paragraph (a), for “the other spouse” substitute “A”, and

SCH. 10

(c) in paragraph (b), after “marriage” insert “or civil partnership”.

(6) In subsection (5) —

(a) in paragraph (a), for “a spouse’s matrimonial home rights” substitute “B’s home rights”, and

(b) for “the other spouse” (in both places) substitute “A”.

(7) In subsection (6) —

(a) for “a spouse’s matrimonial home rights” substitute “B’s home rights”, and

(b) for “other spouse” (in each place) substitute “A”.

3. (1) In section 94 (registration of matrimonial home rights) for “matrimonial home rights” substitute “home rights”.

(2) The marginal note to that section accordingly becomes “Registration of home rights”.

4. (1) Amend section 95 (occupation orders where applicant has interest or rights) as follows.

(2) In subsection (1)(a)(ii), for “matrimonial home rights” substitute “home rights”.

(3) In subsection (2)(e), for “matrimonial home rights” substitute “home rights”.

(4) After subsection (2) insert —

“(2A) If a civil partnership agreement (as defined by section 71(3) of the Civil Partnership Act 2011) is terminated, no application under this section may be made by virtue of section 115(3)(ea) by reference to that agreement after the end of the period of 3 years beginning with the day on which it is terminated.”.

(5) In subsection (3), for “matrimonial home rights” substitute “home rights”.

(6) For subsection (4) substitute —

“(4) If the applicant has home rights and the respondent is the other spouse or civil partner, an order under this section made during the marriage or civil partnership may provide that those rights are not brought to an end by —

(a) the death of the other spouse or civil partner; or

(b) the termination (otherwise than by death) of the marriage or civil partnership.”.

5. In section 96 (effect of order where rights are charge on dwelling-house), in subsection (1) — SCH. 10

(a) for “a spouse’s matrimonial home rights” substitute “B’s home rights”,
and

(b) for “the other spouse” (in each place) substitute “A”.

6. (1) Amend section 97 (former spouse with no existing right to occupy) as follows.

(2) In subsection (1)(a) and (b), after “former spouse” insert “or former civil partner”.

(3) For subsection (1)(c) substitute —

“(c) the dwelling-house —

(i) in the case of former spouses, was at any time their matrimonial home or was at any time intended by them to be their matrimonial home, or

(ii) in the case of former civil partners, was at any time their civil partnership home or was at any time intended by them to be their civil partnership home.”.

(4) In subsection (2), after “former spouse” (in both places) insert “or former civil partner”.

(5) In subsection (6)(f), after “marriage” insert “or civil partnership”.

(6) After subsection (6)(g)(i), insert —

“(ia) for a property adjustment order under Part 2 of Schedule 5 to the Civil Partnership Act 2011;”.

(7) In the marginal note to the section, after “Former spouse” insert “or former civil partner”.

7. In section 98 (cohabitant or former cohabitant with no existing right to occupy), in subsection (1)(c) for “live together as husband and wife” substitute “live together as spouses or civil partners”.

8. (1) Amend section 99 (former spouses and cohabitants : supplemental) as follows.

(2) For subsection (5)(a) and (b) substitute —

“(a) as if the applicant were B (the person entitled to occupy the dwelling house by virtue of section 92); and

(b) as if the respondent were A (the person entitled as mentioned in subsection (1)(a) of that section).”.

SCH. 10

(3) In subsection (6) after “marriage” insert “or civil partnership”.

(4) In the marginal note to the section after “Former spouses” insert “or former civil partners”.

9. (1) Amend section 100 (neither spouse or former spouse entitled to occupy) as follows.

(2) In subsection (1)(a) for “one spouse or former spouse and the other spouse or former spouse” substitute “spouses or former spouses together”.

(3) After subsection (1) insert —

“(1A) This section also applies if —

(a) civil partners or former civil partners occupy a dwelling-house which is or was the civil partnership home; but

(b) neither of them is entitled to remain in occupation by virtue of a beneficial estate or interest or contract.”

(4) In subsection (3)(b), for “spouses” substitute “parties”.

10. After section 106 (agreements to marry) insert —

“Agreements to form a civil partnership **106A.** (1) This section applies where an application is made by virtue of section 115(3)(ea) (agreement to form civil partnership).

(2) If a civil partnership agreement (as defined by section 71(3) of the Civil Partnership Act 2011) is terminated, no application under this section may be made by virtue of section 115(3)(ea) by reference to that agreement after the end of the period of 3 years beginning with the day on which it is terminated.

(3) Subject to subsection (4), the court shall not make an order under section 95 or 106 by virtue of section 115(3)(ea) unless there is produced to it evidence in writing of the existence of the civil partnership agreement (as defined by section 71(3) of the Civil Partnership Act 2011).

(4) Subsection (3) does not apply if the court is satisfied that the civil partnership agreement was evidenced by —

(a) a gift by one party to the agreement to the other as a token of the agreement, or

(b) a ceremony entered into by the parties in the presence of one or more other persons assembled for the purpose of witnessing the ceremony.”

11. In section 112 (variation and revocation of orders), in subsection (3) —

(a) for “a spouse’s matrimonial home rights” substitute “B’s home rights are, under section 93,”, and

(b) for “the other spouse” (in each place) substitute “A”.

SCH. 10

12. In section 113(2) (proceedings by mortgagees) after “spouse, former spouse” insert “, civil partner, former civil partner”.

13. (1) Amend section 115 (meaning of “cohabitants”, “relevant child” and “associated persons”) as follows.

(2) In subsection (1) —

(a) in paragraph (a), for “a man and a woman, although not married to each other, are living together as husband and wife;” substitute “two persons who are neither married to each other nor civil partners of each other but are living together as husband and wife or as if they were civil partners;”, and

(b) in paragraph (b), after “have subsequently married each other” insert “or become civil partners of each other”.

(3) After subsection (3)(a) insert —

“(aa) they are or have been civil partners of each other;”.

(4) After subsection (3)(e) insert —

“(ea) they have entered into a civil partnership agreement (as defined by section 71(3) of the Civil Partnership Act 2011) (whether or not that agreement has been terminated);”.

14. (1) Amend section 116 (interpretation of Part 5) as follows.

(2) In subsection (1), after the definition of “health” insert —

““home rights” has the meaning given by section 92;”.

(3) In the definition of “relative”—

(a) in paragraphs (a) and (b), for “spouse or former spouse” substitute “spouse, former spouse, civil partner or former civil partner”,

(b) in paragraph (b), for “by affinity)” substitute “by marriage or civil partnership)”,

(c) for “is living or has lived with another person as husband and wife” substitute “is cohabiting or has cohabited with another person”, and

(d) after “were married to each other” insert “or were civil partners of each other”.

15. (1) Amend Schedule 2 (registration of matrimonial home rights) as follows.

(2) For the cross-heading substitute “Registration of home rights”.

SCH. 10

- (3) In paragraph 5 —
- (a) in sub-paragraph (1) for “spouse’s matrimonial home rights” substitute “spouse’s or civil partner’s home rights”, and
- (b) for sub-paragraphs (1)(a) to (c) substitute —
- “(a) in the case of a marriage by the production of—
- (i) a certificate or other sufficient evidence, that either spouse is dead,
- (ii) an official copy or a decree or order of a court, that the marriage has been terminated otherwise than by death, or
- (iii) an order of the court, that the spouse’s home rights constituting the charge have been terminated by the order, and
- (b) in the case of a civil partnership by the production of —
- (i) a certificate or other sufficient evidence, that either civil partner is dead,
- (ii) an official copy of an order or decree of a court, that the civil partnership has been terminated otherwise than by death, or
- (iii) an order of the court, that the civil partner’s home rights constituting the charge have been terminated by the order.”.
- (4) In paragraph 5(2)(a) after “marriage” insert “or civil partnership”.
- (5) In the marginal note to paragraph 5, after “marriage” insert “or civil partnership”.
- (6) In paragraph 7(1), for “spouse entitled to matrimonial home rights” substitute “spouse or civil partner entitled to home rights”.
- (7) In paragraph 7(2)(a) for “matrimonial home rights” substitute “home rights”.
- (8) In the marginal note to paragraph 7, for “matrimonial home rights” substitute “home rights”.

PART 2

TRANSITIONAL PROVISION

16. (1) Any reference (however expressed) in any enactment, instrument or document (whether passed or made before or after the passing of this Act) —

- (a) to rights of occupation under or within the meaning of the Matrimonial Homes Act 1971,

[c. 23]

- (b) to matrimonial home rights under, or within the meaning of, Part 5 of MPA 2003, SCH. 10

is to be construed, so far as is required for continuing the effect of the enactment, instrument or document, as being or as the case requires including a reference to home rights under, or within the meaning of, Part 5 of MPA 2003 as amended by this Schedule.

(2) Any reference (however expressed) in Part 5 of MPA 2003 or in any other enactment, instrument or document (including any enactment amended by this Schedule) to home rights under, or within the meaning of, Part 5 of MPA 2003 is to be construed as including, in relation to times, circumstances and purposes before the commencement of this Schedule, references to rights of occupation under, or within the meaning of, the 1971 Act and to matrimonial home rights under, or within the meaning of, Part 5 of MPA 2003 without the amendments made by this Schedule.

Section 81(1)

SCHEDULE 11

MEANING OF OVERSEAS RELATIONSHIP: SPECIFIED
RELATIONSHIPS

A relationship is specified for the purposes of section 79 (meaning of “overseas relationship”) if it is registered in a country or territory given in the first column of the table and fits the description given in relation to that country or territory in the second column —

<i>Country or territory</i>	<i>Description</i>
Andorra	uni-estable de parella
Australia: Tasmania	significant relationship
Belgium	the relationship referred to as cohabitation légale, wettelijke samenwoning or gesetzliches zusammenwohnen
Belgium	marriage
Canada	marriage
Canada: Nova Scotia	domestic partnership
Canada: Quebec	the relationship referred to as union civile or civil union
Denmark	registreret partnerskab
Finland	the relationship referred to as rekisteröity parisuhde or as registrerad partnerskap
France	pacte civil de solidarité
Germany	Lebenspartnerschaft
Iceland	staðfesta samvist
Luxembourg	the relationship referred to as partenariat enregistré or eígetragene partnerschaft
Netherlands	geregistreerd partnerschap
Netherlands	marriage
New Zealand	civil union
Norway	registrert partnerskap
Spain	marriage
Sweden	registrerat partnerskap
United States of America: California	domestic partnership

<i>Country or territory</i>	<i>Description</i>	SCH. 11
United States of America: Connecticut	civil union	
United States of America: Maine	domestic partnership	
United States of America: Massachusetts	marriage	
United States of America: New Jersey	domestic partnership	
United States of America: Vermont	civil union	

Section 99(1)(a)

SCHEDULE 12

REFERENCES TO STEPCHILDREN ETC. IN EXISTING ACTS

- [XIII p. 235] **1.** Section 342 of the Companies Act 1931 (members of a person's family).
- [XXI p. 260] **2.** Section 39D(6)(b) of the Income Tax Act 1970 (references to a child of the claimant).
- [c.28] **3.** Section 2(2)(a) of the Employers' Liability (Compulsory Insurance) Act 1976 (employees to be covered).
- [c.13] **4.** Section 1 of the Fatal Accidents Act 1981 (deduction of relationships).
- [c.24] **5.** Section 34 of the Insurance Act 1986 (definition of "associate").
- [c.9] **6.** Section 19(2)(a) of the Nursing and Residential Homes Act 1988 (meaning of relative).
- [c.16] **7.** Section 30(6)(d)(i) of the Financial Supervision Act 1988 (collective investment schemes : interpretation).
- [c.18] **8.** Section 15(2) of the Redundancy Payments Act 1990 (domestic servants).
- [c.18] **9.** Section 10(6) of the Investment Business Act 1991 (definition of "associate").
- [c.6] **10.** Section 7(1) of the Moneylenders Act 1991 (definition of "associate").
- [c.4] **11.** Section 6(6)(b)(ii) of the Companies Act 1992 (certain assistance for acquisition of shares prohibited).
- [c.4] **12.** Section 17(1) of the Insurance Intermediaries (General Business) Act 1996 (definition of "associate").
- [c.4] **13.** Section 33(1) of the Banking Act 1998 (definition of "associate").
- [c.13] **14.** Section 27(1) of the Corporate Service Providers Act 2000 (definition of "associate").
- 15.** Paragraph 12(1)(c) of Part 1 of Schedule 2 to the Corporate Service Providers Act 2000 (definition of "close family").

16. Section 102(1) of the Children and Young Persons Act 2001 (definition of “relative”). [c.20] SCH. 12

17. Section 116(1) of MPA 2003 (definition of “relative”). [c. 7]

Section 100

SCHEDULE 13

IMMIGRATION CONTROL AND FORMATION OF CIVIL
PARTNERSHIPS*Application of Schedule*

1. (1) This Schedule applies if —
 - (a) two people wish to register as civil partners of each other,
 - (b) one of them is subject to immigration control; and
 - (c) the civil partnership is to be formed in the Island by signing the civil partnership schedule.
- (2) For the purposes of this Schedule a person is subject to immigration control if —
 - (a) he or she is not an EEA national, and
 - [c.77] (b) under the Immigration Act 1971 (an Act of Parliament) as it has effect in the Island he or she requires leave to enter or remain in the Island (whether or not leave has been given).
- (3) “EEA national” means a national of a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time).

Procedure for giving notice of proposed civil partnership

2. Each notice of proposed civil partnership under Chapter 1 of Part 2 of this Act must be delivered to a registrar by the two proposed civil partners in person.

Supplementary

3. (1) Part 2 of this Act has effect in any case where this Schedule applies subject to any necessary modification.
 - (2) In particular section 50 has effect as if the matters proof of which is not necessary in support of the civil partnership included compliance with this Schedule.
 - (3) An expression used in this Schedule and in Chapter 1 of Part 2 of this Act has the same meaning as in that Chapter.

Section 105(1)

SCHEDULE 14

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

ADAPTATION OF REFERENCES TO HUSBANDS, WIVES AND SPOUSES

1. In the provisions specified in Table 1 after “spouse” insert “or civil partner”.

Table 1	
<i>Enactment</i>	<i>Provisions</i>
Perpetuities and Accumulations Act 1968 (XX p. 153)	Section 6.
Agricultural Holdings Act 1969 (XXI p. 134)	Sections 4(8) and 9(1) and (7)(b).
Civil Evidence Act 1973 (c.18)	Marginal note to section 14.
Housing (Miscellaneous Provisions) Act 1976 (c. 1)	Schedule 3, paragraph 1.
Acquisition of Land Act 1984 (c. 9)	Section 23A(6).
Wills Act 1985 (c. 11)	Sections 4(2) and 15.
Local Government Act 1985 (c.24)	Section 13(1) (in each place).
Child Custody Act 1987 (c. 11)	Sections 13(2) and 47(2).
Income Tax Act 1989 (c. 10)	Sections 6(2), (5) and (7) and 18(4)(a).
Moneylenders Act 1991 (c. 6)	Section 7(1) in paragraph (a) of the definition of “associate”.
Consumer Protection Act 1991 (c.11)	Section 62(2).
High Court Act 1991 (c. 12)	Section 52(1) and the marginal note to the section.
Credit Unions Act 1993 (c. 19)	Section 29(1) in the definition of “relative” (in each place).
Children and Young Persons Act 2001(c. 20)	Sections 8(4), 47(2) and 49(6).
Matrimonial Proceedings Act 2003 (c. 7)	Section 95(2)(e), the marginal note to section 100 and, in Schedule 2, paragraphs 2 to 4, 5(2)(a) and (b), 7(2)(a) and 8 (in each place).
Employment Act 2006 (c. 21)	Section 99(6)(a).

SCH. 14

2. In the provisions specified in Table 2 for “husband or wife” substitute “spouse or civil partner”.

Table 2	
<i>Enactment</i>	<i>Provisions</i>
Civil Evidence Act 1973 (c. 18)	Section 14(1) and (3) (in each place).
Land Registration Act 1982 (c. 7)	Section 74(3).
Administration of Estates Act 1990 (c. 17)	Sections 52, 54, 55 and 56(2).
Representation of the People Act 1995 (c. 13)	Schedule 3, paragraph 7(3) (in both places).

3. In the provisions specified in Table 3 for “wife or husband” substitute “spouse or civil partner”.

Table 3	
<i>Enactment</i>	<i>Provisions</i>
Legal Aid Act 1986 (c. 23)	Section 12(4).
Insurance Act 2008	Section 54(1) in the definition of “associate”.

PART 2

GENERAL

Ecclesiastical Persons Act 1843 (II p.149)

4. In section 2 (rent of glebe lands, and occupation of parsonage by widow) for “widow” substitute “surviving spouse or civil partner” and in the marginal note for “widow” substitute “surviving spouse or civil partner”.

Criminal Code 1872 (IV p.160)

5. (1) In section 277 (forging registers of births etc) —

(a) after “marriages,” insert “civil partnerships”; and

(b) after “marriage,” in each place insert “civil partnership,”.

(2) The marginal note accordingly becomes “Forging registers of births, baptisms, marriages, civil partnerships, deaths or burials”.

Bankruptcy Code 1892 (VI p.312)

SCH. 14

- 6.** Amend section 12 (fraudulent settlements) as follows —
- (a) in subsection (1) and (2) after “marriage” insert “or the formation of a civil partnership”,
 - (b) in subsection (2) —
 - (i) for “wife” in the first place substitute “spouse, civil partner”;
 - (ii) for “his wife” substitute “his or her spouse or civil partner”.
- 7.** In section 27(1) after “his spouse” insert “, his civil partner”.
- 8.** In section 30 (avoidance of voluntary settlements), in subsections (1) and (2) —
- (a) after “marriage” in each place except in the expression “at the date of his marriage” insert “or the formation of a civil partnership”,
 - (b) for “wife” substitute “spouse or civil partner”,
 - (c) after “at the date of his marriage” insert “or civil partnership”.

Industrial and Building Societies Act 1892 (VI p.405)

- 9.** (1) Amend section 17(5) (nomination to property in society) as follows.
- (2) In the proviso to paragraph (a), for “husband, wife,” substitute “spouse, civil partner,”.
- (3) After paragraph (d) insert —
- “(da) The formation of a civil partnership by a member of a society revokes any nomination made by the member before the formation of the civil partnership; but if any property of that member has been transferred by an officer of the society in pursuance of the nomination in ignorance of a civil partnership formed by the nominator after the date of the nomination —
- (i) the receipt of the nominee shall be a valid discharge to the society, and
 - (ii) the society shall be under no liability to any other person claiming the property.”.

Clergy Residence Act 1897 (VII p.179)

- 10.** In section 7 (exemption during occupation by predecessor’s widow) —

SCH. 14

- (a) for “widow” substitute “surviving spouse, surviving civil partner”,
- (b) in the marginal note for “widow” substitute “surviving spouse or surviving civil partner”.

11. In section 9(3) (licence for non-residence: dangerous illness of close relative) —

- (a) for “wife” substitute “spouse, civil partner”,
- (b) for “his family, and residing with him” substitute “that person’s family, and residing with him or her”.

Partnership Act 1909 (VIII p.327)

12. In section 5(3)(c) (rules for determining existence of partnership), in subsection (3)(c) for “widow” substitute “surviving spouse or surviving civil partner”.

Pensions (Penalties) Act 1923 (XI p.374)

13. In section 2 (interpretation) for “widow” substitute “surviving spouse or surviving civil partner”.

Census Act 1929 (XII p.626)

14. In paragraph 5 of the Schedule after “as to marriage” insert “or civil partnership”.

Companies Act 1931 (XIII p.235)

15. In section 302(3)(g) (effect of registration under Act) for “deceased contributories, to” substitute “deceased contributories and to”.

16. In section 308(2) (contributories in winding up of unregistered company) for “deceased contributories, to” substitute “deceased contributories and to”.

17. In section 342(6)(a) (interpretation: public offers) for “husband or wife, widow or widower” substitute “spouse or civil partner, surviving spouse or civil partner”.

Judicature (Reports of Judicial Proceedings) Act 1938 (XV p.107)

18. (1) Amend section 2(1) as follows.

(2) In paragraph (b) for “or for restitution of conjugal rights, or any proceedings under the Married Persons Protection Acts for the time being in force”

substitute “or for the dissolution or annulment of a civil partnership or for the separation of civil partners”. SCH. 14

(3) After paragraph (c) insert —

“(d) proceedings under Schedule 5 to the Civil Partnership Act 2011 (which relates to proceedings for financial provision in connection with civil partnership) and any proceedings for the discharge or variation of an order made under that Schedule or for the temporary suspension of any provision of any such order or the revival of the operation of any provision so suspended.”.

National Assistance (Isle of Man) Act 1951 (XVII p.1008)

19. (1) In section 33 for subsection (1) substitute —

“(1) For the purposes of this Act a person is liable to maintain —

- (a) that person’s spouse or civil partner; and
- (b) that person’s children.”.

(2) The marginal note to the section accordingly becomes “Liability to maintain spouse or civil partner and children”.

Children and Young Persons Act 1966 (XX p.89)

20. In section 118(1), for the definition of “relative” substitute —

““relative” means —

- (a) a grandparent, sibling, uncle or aunt, whether of the full or half blood or by marriage or civil partnership; and
- (b) where an adoption order has been made in relation to any person, any person who would be a relative of the adopted person if the adopted person were the legitimate child of the relationship in question;”.

Judgments (Reciprocal Enforcement) (Isle of Man) Act 1968 (XX p.452)

21. In section 10(2)(a) (definition of action in personam) for “matrimonial matters” substitute “proceedings relating to the subsistence or dissolution of a marriage or civil partnership, any ancillary proceedings in relation to those matters, the”.

Income Tax Act 1970 (XXI p.260)

22. In section 8(1) (voluntary pensions liable to tax) after “widow” insert “, surviving civil partner”.

- SCH. 14 **23.** In section 16 (armed forces' disablement pensions exempt from tax) after "widows" insert "and surviving civil partners".
- 24.** In section 21A(1) (interest on certain Government securities exempt from tax) —
- (a) for "a husband and wife" substitute "spouses or civil partners"; and
 - (b) for "the husband and wife" substitute "the spouses or civil partners".
- 25.** (1) Amend section 35 (personal allowance) as follows.
- (2) In subsection (1) for "a husband and a wife" substitute "two persons who are spouses or civil partners of each other".
 - (3) In subsection (2) for "wife" substitute "spouse or civil partner".
 - (4) In subsection (2A) —
 - (a) for paragraph (a) (and the word "or" following it) substitute —

“(a) two persons marry or form a civil partnership and (in either case) begin to live together; or”;
 - (b) in paragraph (b) for "a husband and wife" substitute "spouses or civil partners".
 - (5) In subsection (3) —
 - (a) after paragraph (b) insert —

“(ba) in the case of a civil partner who for that year of assessment is not living with his or her civil partner, to a deduction of £9,200 from total income;”;
 - (b) for paragraphs (c) and (d) substitute —

“(c) in the case of a spouse or civil partner who for that year of assessment is living with his or her spouse or civil partner, a deduction of £9,200 from total income.”.
 - (6) In subsection (4) for "married person" substitute "spouse or civil partner".
 - (7) After subsection (4) insert —

“(4A) Subject to subsections (5) and (6), if the allowance of the civil partner under subsection (3)(c) is not exhausted, the unused balance if that allowance may be transferred to that person's civil partner and shall be added to and form part of the allowance of the civil partner.”.
 - (9) In subsection (5) —
 - (a) for "Subsection (4)" substitute "Subsections (4) and (4A)"; and

(b) for “husband and wife” substitute “spouse or civil partner”.

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26. In section 35C(1) (personal allowance for non-residents) for “a married claimant” substitute “a claimant who is married or is a civil partner”.

27. (1) Amend section 39A (additional relief in respect of children: single persons) as follows.

(2) In subsection (1) —

(a) for paragraph (a) substitute —

“(a) is not for the whole of the year of assessment —

(i) married and living with his or her spouse; or

(ii) a civil partner and living with his or her civil partner;”;

(b) in paragraph (b) for “as husband and wife” substitute “as if they were spouses or civil partners”.

28. (1) Amend subsection 39B(1) (additional relief in respect of children: persons living together for the whole year) as follows.

(2) In subsection (1) for paragraphs (a) and (b) substitute —

“(a) is not —

(i) married and living with his or her spouse; or

(ii) a civil partner and living with his or her civil partner; but

(b) is living with another as if they were spouses or civil partners.”.

(3) In subsection (2)(c) for “the person” substitute “the other person”.

29. (1) Amend section 39C (additional relief in respect of children: persons living together for part of the year) as follows.

(2) In subsection (1) for paragraphs (a) and (b) substitute —

“(a) who is for any part of the year of assessment —

(i) married and living with his or her spouse; or

(ii) a civil partner and living with his or her civil partner; and

(b) who is not at any time in the year of assessment living with another as if they were spouses or civil partners.”.

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(3) In subsection (3), for the words following the formula substitute —

“Where N is the number of days in the year during which the person is —

(a) not married and living with his or her spouse; and

(b) not a civil partner and living with his or her civil partner.”.

30. (1) In section 44A (deduction for provision for widows and children) for “widow” substitute “surviving spouse or civil partner”.

(2) The marginal note accordingly becomes “Deduction for provision for surviving spouse, civil partner and children”.

31. In section 48C(2)(c) (medical insurance relief) for “are married to each other” substitute “are married to, or are civil partners of, each other”.

32. (1) Amend section 49 (retirement annuities (relief for premiums)) as follows.

(2) In subsection (2)(c) and (d) and subsection (3)(a) for “widow or widower” in each place substitute “surviving spouse or surviving civil partner”.

(3) In subsection (3)(d) for “marriage (or remarriage)” substitute “marriage, formation of a civil partnership (or remarriage or formation of another civil partnership)”.

(4) In subsection (8) for “husband or, as the case may be, wife” substitute “spouse or civil partner”.

33. In section 49A (contracts for dependants or life insurance) —

(a) in subsection (1)(a) for “wife or husband” substitute “spouse or civil partner”;

(b) in subsection (3) for “wife or husband” substitute “spouse or civil partner” .

34. In section 50(4)(b) (which concerns deductions allowable in computing net relevant earnings) for “wife or husband” substitute “spouse or civil partner”.

35. (1) Amend section 65 (husband and wife — separate treatment) as follows.

(2) In subsection (1) for “a husband and wife” substitute “spouses and civil partners”.

(3) In subsection (2) for “husband and wife” substitute “spouses or civil partners”.

(4) In subsection (3) after “married” insert “or civil partners”.

(5) In the marginal note for “Husband and wife” substitute “Spouses and civil partners”.

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36. (1) Amend section 65A (election for joint treatment) as follows.

(2) In subsection (1) for “a husband and wife” substitute “spouses or civil partners”.

(3) In subsections (2) and (3) for “the husband and wife” substitute “the spouses or civil partners”.

37. (1) Amend section 65B(2) (which prescribes the conditions for an election for joint treatment) as follows.

(2) In the words preceding paragraph (a) for “husband and wife” substitute “spouses or civil partners”.

(3) In paragraph (b)(i) after “married” insert “or civil partners”.

38. (1) Amend section 65C(2) (which prescribes the form of an election for joint treatment) as follows.

(2) In paragraph (a) for “both the husband and the wife” substitute “both spouses or civil partners”.

(3) In paragraph (b) —

(a) for “spouses’ name” substitute “spouse’s or civil partner’s name”;

(b) for “spouses’ names” substitute “spouses’ or civil partners’ names”;

(c) for “husband and the wife” substitute “spouses or civil partners”.

(4) In paragraph (c) —

(a) after “the spouse” insert “or civil partner”;

(b) after “spouses” insert “or civil partners”;

(c) after “that spouse” insert “or civil partner”;

(d) for “husband and the wife” substitute “spouses or civil partners”.

(5) In paragraph (d) after “spouse” in each place insert “or civil partner”.

39. (1) Amend section 65D (jointly held property) as follows.

(2) In subsection (1) for “a husband and wife” substitute “spouses or civil partners”.

(3) In subsection (2) for “the husband or the wife” substitute “of the spouses or civil partners”.

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- 40.** (1) Amend section 65E (meaning of “living together”) as follows.
- (2) In subsection (1) for “a husband and wife” substitute “spouses or civil partners”.
- (3) In subsection (2) for “a married woman is living with her husband” substitute “a spouse or civil partner is living with his or her spouse or civil partner”.
- (4) In subsection (3) —
- (a) for “A husband and wife” substitute “Spouses and civil partners”;
- (b) in paragraph (a) for “they marry” substitute “they marry or form a civil partnership”.
- (5) In subsection (4) for “a husband and wife” to the end substitute —
- “(a) a husband and wife who are resident in the Island when they marry, or
- (b) civil partners who are resident in the Island when they form a civil partnership,
- and does not limit the operation of section 65B(2)(b).” .
- 41.** (1) Amend section 65F (revocation of joint treatment election) as follows.
- (2) In subsection (2) for “the husband or the wife” substitute “of the spouses or civil partners”.
- (3) In subsections (6), (7) and (8) for “husband and wife” substitute “spouses or civil partners”.
- 42.** (1) Amend section 65G (cessation of joint treatment election) as follows.
- (2) In subsection (1) —
- (a) in paragraph (a) for “a husband and wife” substitute “spouses or civil partners”;
- (b) in paragraphs (b) and (c) after “one spouse” insert “or civil partner”.
- (3) In subsections (3),(4) and (5) for “husband and wife” substitute “spouses or civil partners”.
- 43.** In section 65H(2) (transfer of unused allowances in year of death) —
- (a) after “deceased spouse” insert “or civil partner”;
- (b) after “that spouse” insert “or civil partner”;
- (c) after “surviving spouse” insert “or civil partner”.

44. (1) Amend section 65I (transfer of unused allowances in year of marriage) as follows. SCH. 14

(2) In subsection (1)(a) for “a man and a woman are married” substitute “persons are married or form a civil partnership”.

(3) In subsection (2) for “the man and the woman” substitute “the persons making the election”.

(4) In subsection (3) for “either the man or the woman” substitute “one individual”.

(5) In the marginal note at the end add “or formation of civil partnership”.

45. (1) Amend section 76 (delivery of lists by persons receiving income for other persons) as follows.

(2) In subsection (1) for paragraph (c) substitute —

“(c) a declaration whether every such person is —

- (i) of full age;
- (ii) resident in the Isle of Man;
- (iii) an incapacitated person.”.

46. In section G108(2) (meaning of “relative” for the purposes of the definition of “associate”) for “husband, wife” substitute “spouse, civil partner”.

47. In section 119C(2) and (4) for “wife or husband” substitute “spouse or civil partner”.

Civil Evidence Act 1973 (c.18)

48. In section 14 (privilege against incrimination of self or spouse) —

- (a) in subsection (1)(b), for “husband or wife” substitute “spouse or civil partner”, and
- (b) in the marginal note, after “spouse” insert “or civil partner”.

Estate Agents Act 1975 (c. 6)

49. In section 12(1)(a) after “his surviving spouse” insert “, his surviving civil partner”.

Control of Employment Act 1975 (c.25)

50. (1) In section 1(1) (persons who are Isle of Man workers for the purposes of the Act) —

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- (a) in paragraph (d) for “is married to” substitute “is the spouse or civil partner of”;
 - (b) in paragraph (e) for “was formerly married to” substitute “was formerly the spouse or civil partner of”;
 - (c) in paragraph (f)(ii) for “was married to” substitute “was the spouse or civil partner of”.
- (2) In section 3A(3) (further provisions about work permits) for “is married to” substitute “is the spouse or civil partner of”.
- (3) In section 9(6) for the words following “himself” substitute “, his spouse or his civil partner”.

Housing Improvement Act 1975 (c.29)

- 51.** In section 1(4)(b) for “widow or widower” substitute “ surviving spouse or civil partner”.

Interpretation Act 1976 (c.20)

- 52.** At the appropriate place in section 3 (interpretation of certain terms) insert —
- ““civil partnership” means a civil partnership which exists under or by virtue of the Civil Partnership Act 2011;”.

Advocates Act 1976 (c.27)

- 53.** In section 15A(2) for “he or his spouse” substitute “that person, that person’s spouse or that person’s civil partner”.

Employers’ Liability (Compulsory Insurance) Act 1976 (c. 28)

- 54.** In section 2(2)(a) (persons whom employer is not required to insure) after “husband, wife,” insert “civil partner,”.

Income Tax (Retirement Benefit Schemes) Act 1978 (c. 9)

- 55.** (1) Amend section 1 (conditions for approval of retirement benefit schemes) as follows.
- (2) In subsection (2)(a) for “widow” substitute “surviving spouse or civil partner”.
 - (3) In subsection (3)(b) for “widow” in each place substitute “surviving spouse or civil partner”.
- 56.** In section 5(5)(extended definition of relevant benefits) for “wife or widow” substitute “spouse or civil partner, surviving spouse or civil partner”.

Merchant Shipping (Masters and Seamen) Act 1979 (c.14)

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57. In Schedule 1 (claims against seaman's wages for maintenance) in paragraph 2(a) (dependants for purpose of Schedule) after "his spouse" insert ", his civil partner".

Income Tax Act 1980 (c.16)

58. In section 2(2) for "widow, widower" substitute "surviving spouse or civil partner".

Administration of Justice Act 1981 (c. 8)

59. In Schedule 1 (sale and arrest of goods, etc.) in paragraph 1(d) —

- (a) for "execution debtor's spouse" substitute "execution debtor's spouse or civil partner"; and
- (b) for "his spouse" substitute "his spouse or civil partner".

60. In Schedule 4 (meaning of "maintenance order" in Parts II and III of the Act), after paragraph 1(q) insert —

"(r) An order for periodical or other payments made under Schedule 5, 6 or 7 to the Civil Partnership Act 2011 .".

Fatal Accidents Act 1981 (c. 13)

61. (1) In section 1(3) (meaning of "dependant" for purposes of right of action for wrongful act causing death) —

- (a) after paragraph (a) insert —

"(aa) the civil partner or former civil partner of the deceased;";

- (b) in paragraph (b)(iii) after "wife" insert "or civil partner";

- (c) after paragraph (f) insert —

"(fa) any person (not being a child of the deceased) who, in the case of any civil partnership in which the deceased was at any time a civil partner, was treated by the deceased as a child of the family in relation to that civil partnership;".

- (2) After section 1(4) insert —

"(4A) The reference to the former civil partner of the deceased in subsection (3)(aa) above includes a reference to a person whose civil partnership with the deceased has been annulled as well as a person whose civil partnership with the deceased has been dissolved.".

(3) In section 1(5)(a), for "by affinity" substitute "by marriage or civil partnership".

- SCH. 14 (4) In section 1A(2) (persons for whose benefit claim for bereavement damages may be made) —
- (a) in paragraph (a), after “wife or husband” insert “or civil partner”, and
 - (b) in paragraph (b), after “was never married” insert “or a civil partner”.
- (5) In section 3 (assessment of damages) —
- (a) for subsection (3) substitute —
 - “(3) In an action under this Act where there fall to be assessed damages payable to a surviving spouse or surviving civil partner, no account shall be taken of —
 - (a) the fact that the survivor has married or formed a civil partnership; or
 - (b) the prospects of the survivor marrying or forming a civil partnership.”;
 - (b) in subsection (4), for “husband or wife” substitute “spouse or civil partner”.

Criminal Damage Act 1981 (c. 19)

- 62.** In section 7 (evidence in connection with offences under the Act) —
- (a) for “wife or husband”, where it first occurs, substitute “spouse or civil partner”, and
 - (b) for “married after the making of the statement or admission) against the wife or husband” substitute “married or became civil partners after the making of the statement or admission) against the spouse or civil partner”.

Theft Act 1981 (c. 21)

- 63.** (1) Amend section 31 (husband and wife) as follows.
- (2) In subsections (4) and (5), after “wife or husband” in each place except subsection (5)(a)(ii) insert “or civil partner”.
 - (3) In subsection (5) at the end of paragraph (5)(a)(ii) omit “and” and insert “or
 - (iii) an order (wherever made) is in force providing for the separation of that person and his or her civil partner; and”.
 - (4) For the marginal note substitute “Spouses and civil partners”.

- 64.** In section 32 (effect on civil proceedings and rights), in subsection (1) —

- (a) for “married after the making of the statement or admission) against the wife or husband” substitute “married or became civil partners after the making of the statement or admission”, and SCH. 14
- (b) for “wife or husband” wherever occurring substitute “spouse or civil partner”.

Civil Registration Act 1984 (c. 12)

65. (1) In this paragraph a reference to a provision of the Act which is amended by the Marriage and Civil Registration (Amendment) Act 2011 is a reference to that provision as so amended.

(2) In section 1 for “marriages and deaths” substitute “deaths, marriages and civil partnerships.”.

(3) In section 2(2) at the end add —

“(d) civil partnerships”.

(4) On the coming into operation of this paragraph every person holding an appointment as a registrar of marriages under that section is deemed also to be appointed a registrar of civil partnerships.

66. In section 44 (interpretation), in the definition of “relative”, after “by marriage” insert “or civil partnership”.

Marriage Act 1984 (c. 13)

67. (1) Amend section 5A (as substituted by the Marriage and Civil Registration (Amendment) Act 2011) (marriage between certain persons) as follows.

(2) In subsection (3) —

(a) in paragraph (a) after “former marriage” insert “or civil partnership”;
and

(b) in paragraph (b) after “spouse” insert “or civil partner”.

(3) In subsection (4) after “spouse” (in both places) insert “or civil partner”.

68. In section 20(3) (notice of marriage) for paragraph (a) substitute —

“(a) the name and surname, occupation, place of residence and nationality of each of the persons to be married, whether either of them has previously been married or formed a civil partnership and, if so, how the marriage or civil partnership ended;”.

69. In section 21A(3)(c) (matters in respect of which evidence may be required) —

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- (a) after “been married” insert “or formed a civil partnership”;
- (b) after “the marriage” insert “or civil partnership”.

70. In Schedule 1 (kindred and affinity) —

- (a) at the appropriate points in the alphabetical list in Part 2 insert —
 - “Child of former civil partner”
 - “Former civil partner of grandparent”
 - “Former civil partner of parent”
 - “Grandchild of former civil partner.”.

Dental Act 1984 (c.29)

71. In section 4(4) and (5) (family or representatives may carry on deceased dentist’s business for three years) for “his widow” (in each place) substitute “his or her surviving spouse or surviving civil partner”.

Legitimacy Act 1985 (c.10)

72. In section 5(6) (construction of instruments as to succession by spouse etc. of illegitimate child adopted by natural parent) for “his spouse,” substitute “his spouse or his civil partner, his”.

73. In paragraph 5(3) of Schedule 2 (transitional provisions on succession) —

- (a) in paragraphs (a) and (b) after “spouse,” insert “civil partner,”;
- (b) in paragraph (e) for “spouse,” substitute “spouse or civil partner.”.

Local Government Act 1985 (c.24)

74. In section 12 (pecuniary interests for the purposes of section 11), after subsection (3) insert —

“(4) In the case of civil partners living together the interest of one civil partner, shall, if known to the other, be deemed for the purpose of section 11 to be also an interest of the other.”.

Human Tissue Act 1986 (c.13)

75. In section 1(2)(b) (persons whose consent is to be sought for removal of organs etc. for medical purposes) after “spouse” insert “, surviving civil partner”.

76. In section 3(2) (disposal of bodies) for “executor or surviving spouse” substitute “executor, surviving spouse, surviving civil partner”.

Legal Aid Act 1986 (c.23)

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77. In section 12(4) for “wife or husband” substitute “spouse, civil partner or person living with that person as if husband and wife or civil partner”.

Powers of Attorney Act 1987 (c. 5)

78. In section 3(5)(a) (scope of authority etc. of attorney under enduring power) for “or marriage” substitute “, marriage or the formation of a civil partnership”.

79. In Schedule 1 (notification prior to registration of instrument creating power of attorney), in paragraph 2(1) —

- (a) in paragraph (a), for “husband or wife” substitute “spouse or civil partner”, and
- (b) in paragraph (e), for “widow or widower” substitute “surviving spouse or surviving civil partner”.

80. Paragraphs 78 and 79 apply in relation to the exercise of powers under enduring powers of attorney created before the passing of this Act as well as in relation to those created on or after its passing.

Recognition of Divorce etc. Act 1987 (c. 9)

81. In section 7 (non-recognition of divorce or annulment in another jurisdiction no bar to remarriage), for the words from “re-marrying” to the end substitute “forming a subsequent marriage or civil partnership in the Island or cause the subsequent marriage or civil partnership of either party (wherever it takes place) to be treated as invalid in the Island.”.

Nursing and Residential Homes Act 1988 (c. 9)

82. In section 11(1) (effect of death on registration) for “or his widow” substitute “, his surviving spouse or civil partner”.

Criminal Justice (Exclusion of Non-Resident Offenders) Act 1998 (c. 10)

83. (1) For section 2(2) (cases in which exclusion orders shall not be made) substitute —

“(2) An exclusion order shall not be made in respect of a person who, when the offence occurred —

- (a) was ordinarily resident in the Island;
- (b) was an Isle of Man worker within the meaning of the Control of Employment Act 1975; or
- (c) had a child, parent, spouse or civil partner ordinarily resident in the Island.

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(2A) An exclusion order shall not be made in respect of an offender who has not attained the age of 17 years at the time of conviction, or in respect of whom that appears to the court to be the case on consideration of any available evidence.”.

(2) In subsections (3) and (4) for “subsection (2)” substitute “subsection (2) or (2A)”.

84. In section 3 (exclusion order: supplementary provisions) at the end add —

“(7) For the purposes of section 2(2) a marriage or a civil partnership which has been dissolved or annulled before the offender is sentenced is to be disregarded.”.

Gaming, Betting and Lotteries Act 1988 (c.17)

85. In paragraph 14(2)(a) of Schedule 1 (persons who may apply for the transfer of a public betting office licence) for “the widow or widower” substitute “the spouse or civil partner”.

Income Tax Act 1989 (c.10)

86. In section 4(5) (payments of annuity to member under personal pensions scheme) after paragraph (a) insert —

“(aa) the signing of a civil partnership schedule by the annuitant;”.

87. In section 6 —

(a) in subsection (6) (cessation of annuity after death of member) for “on the marriage of the annuitant” substitute —

“when the annuitant marries or forms a civil partnership”; and

(b) in subsection (9) —

(i) after paragraph (a) insert —

“(aa) the formation of a civil partnership by the annuitant;” and

(ii) in paragraphs (b) and (c) for “his” substitute “the annuitant”.

88. In section 17(6) (meaning of “relevant earnings”) for “husband or wife” substitute “spouse or civil partner”.

Summary Jurisdiction Act 1989 (c.15)

89. (1) Amend section 48 (meaning of domestic proceedings) as follows.

(2) After subsection (1)(h) insert —

“(ha) paragraphs 59 to 61 of Schedule 5 to the Civil Partnership Act 2011;” SCH. 14

90. For section 54(2) (periodical payment through Chief Registrar) substitute —

“(2) The court shall exercise its power under subsection (1) on making an order under —

- (a) Schedule 1 to the Children and Young Persons Act 2001;
- (b) Part 3 of the Matrimonial Proceedings Act 2003; or
- (c) Schedule 6 to the Civil Partnership Act 2011,

unless satisfied that it is undesirable to do so because of representations expressly made about the matter by the recipient of the periodical payments.”.

Redundancy Payments Act 1990 (c.18)

91. In Schedule 5, paragraph 2(1)(b) for “the widow, widower” substitute “the surviving spouse, surviving civil partner”.

High Court Act 1991 (c.12)

92. After section 9 (jurisdiction in matrimonial causes and matters) insert —

“Jurisdiction in civil partnership causes and matters **9A.** The High Court shall, in accordance with section 6(2), have the following jurisdiction in relation to civil partnerships —

- (a) all civil partnership causes and matters (at first instance and on appeal);
- (b) applications for consent to the formation of a civil partnership by a minor or for a declaration under paragraph 6 of Schedule 1 to the Civil Partnership Act 2011;
- (c) applications under section 56 of that Act (declarations relating to civil partnerships).”.

93. In section 19 (restriction on appeals to Court of Appeal), after subsection (2) insert —

“(3) No appeal shall lie to the Appeal Division from a dissolution order, nullity order or presumption of death order under Chapter 2 of Part 2 of the Civil Partnership Act 2011 that has been made final, by a party who, having had time and opportunity to appeal from the provisional order on which that final order was founded, has not appealed from the provisional order.”.

94. (1) Amend section 52 (withdrawal of privilege against incrimination of self or spouse in certain proceedings) as follows.

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(2) In subsection (3), for “married after the making of the statement or admission) against the spouse” substitute “married or became civil partners after the making of the statement or admission) against the spouse or civil partner”.

Investment Business Act 1991 (c.18)

95. In section 10(6) in the definition of “associate” in paragraph (a) for “wife, husband” substitute “spouse or civil partner”.

Criminal Justice Act 1991 (c. 25)

96. (1) Amend section 15 (compellability of accused’s spouse) as follows.

(2) In subsections (1), (2), (3) and (8), for “wife or husband” (in each place) substitute “spouse or civil partner”.

(3) In subsection (3)(aa) for “wife” substitute “spouse or civil partner”.

(4) In subsection (4) for “husband and wife” substitute “both spouses or civil partners” and for “neither spouse” substitute “neither of the spouses or civil partners” and after “that spouse” insert “or civil partner”.

(5) In subsection (5) —

(a) after “married to” insert “, or the civil partner of”; and

(b) for “never been married” substituted “never been spouses or civil partners of each other”.

(6) After subsection (5) insert—

“(5A) In any proceedings a person who is married to, or is a civil partner of, the accused, but was not the accused’s spouse or civil partner at the time of the commission of the offence, shall be competent and compellable to give evidence as if that person and the accused were not married or civil partners.”.

(7) In the marginal note to section 15, after “accused’s spouse” add “or civil partner”.

Companies Act 1992 (c. 4)

97. In section 6(6)(b)(ii) for “wives, husbands, widows, widowers” substitute “spouses, civil partners, surviving spouses, surviving civil partners”.

98. In section 8A(2)(c)(ii) —

(a) after “spouses” insert “or civil partners”; and

(b) after “widowers” insert “or surviving civil partners”.

Sexual Offences Act 1992 (c.6)

99. (1) Amend section 7(2) as follows.

(2) In subsection (2)(a) for “lawful wedlock” substitute “marriage or civil partnership”. SCH. 14

(3) After subsection (2)(c) insert —

“(ca) where two persons of the same sex (whether or not civil partners) are living together in the same household, the child of one shall be treated as the child of the other also;”.

Credit Unions Act 1993 (c.19)

100. (1) Amend section 29(1) (interpretation) as follows.

(2) After the definition of “authorised bank” insert —

““civil partner” includes former civil partner and reputed civil partner;”.

(3) In the definition of “relative” after “spouse” (in each place) insert “or civil partner”.

Representation of the People Act 1995 (c. 13)

101. In section 27(3) (proxy votes), for “husband, wife” substitute “spouse, civil partner”.

102. In section 43(1)(j) (voting offences) for “husband, wife” substitute “spouse, civil partner”.

103. (1) Amend Part 3 of Schedule 2 (contested elections) as follows.

(2) In paragraph 29(1)(d) for “wife or husband” substitute “spouse or civil partner”.

(3) In paragraph 29(2)(b) for “wife or husband” substitute “spouse or civil partner” and for “wives or husbands” substitute “spouses or civil partners”.

(4) In paragraph 33(2) for “husband [wife]” in both places substitute “spouse [civil partner]”.

Opticians Act 1996 (c. 6)

104. In section 6(1) (provision as to death or bankruptcy of registered optician), in paragraphs (b) and (d), for “his widow” substitute “the deceased’s surviving spouse or surviving civil partner”.

Food Act 1996 (c. 8)

105. In section 40(2) (continuance of registration or licence on death) for “his widow” substitute “the deceased’s surviving spouse or surviving civil partner”.

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*Mental Health Act 1998 (c. 3)***106.** In —

(a) section 12(5) (medical recommendations) in the words following paragraph (e), and

(b) section 30(10) (supervision applications),

after “husband, wife” insert “, civil partner”.

*Banking Act 1998 (c. 4)***107.** In section 33(1) (interpretation) in paragraph (a) of the definition of “associate” for “wife, husband” substitute “spouse, civil partner”.*Criminal Justice (Exclusion of Non-Resident Offenders) Act 1998 (c.10)***108.** In section 2(2)(d) (cases in which exclusion order not to be made) for “parent or spouse” substitute “parent, spouse or civil partner”.*Retirement Benefit Schemes Act 2000 (c.14)***109.** In section 3(8)(a) (qualification for authorised scheme status) for “the widow” substitute “the surviving spouse or surviving civil partner”.*Employment (Sex Discrimination) Act 2000 (c.16)***110.** (1) For section 4 (sex discrimination against women) substitute —“Sex
discrimination
against
women**4.** A person discriminates against a woman if —

(a) on the ground of her sex he treats her less favourably than he treats or would treat a man; or

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1(2) & (4)

(b) he applies to her a provision, criterion or practice which he applies or would apply equally to a man, but —

(i) which puts or would put women at a particular disadvantage when compared with men;

(ii) which puts her at that disadvantage; and

(iii) which he cannot show to be a proportionate means of achieving a legitimate aim.”.

(2) For section 5 (discrimination against married persons in employment field) substitute —

“Discrimination
against
married
persons
and civil
partners in
employment
field**5.** (1) In any circumstances relevant for the purposes of any provision of this Part, a person discriminates against a person (“A”) who fulfils the condition in subsection (2) if —

- (a) on the ground of the fulfilment of the condition, he or she treats A less favourably than he or she treats or would treat a person who does not fulfil the condition, or
- (b) he or she applies to A a provision, criterion or practice which he or she applies or would apply equally to a person who does not fulfil the condition, but —
- (i) which puts or would put persons fulfilling the condition at a particular disadvantage when compared with persons not fulfilling the condition, and
 - (ii) which puts A at that disadvantage, and
 - (iii) which he or she cannot show to be a proportionate means of achieving a legitimate aim.

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(2) The condition is that the person is —

- (a) married, or
- (b) a civil partner.

(3) For the purposes of subsection (1), a provision of this Part framed with reference to discrimination against women is to be treated as applying equally to the treatment of men, and for that purpose has effect with such modifications as are requisite.”.

(3) In section 7 (interpretation), for subsection (2) substitute —

“(2) Each of the following comparisons, that is —

- (a) a comparison of the cases of persons of different sex under section 4, and
- (b) a comparison of the cases of persons who do and who do not fulfil the condition in section 5(2),

must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.”.

(4) In section 9 (exception where sex is a genuine occupational qualification), in subsection (2)(h) for “by a married couple” substitute —

“—

- (i) by a married couple,
- (ii) by a couple who are civil partners of each other, or
- (iii) by a married couple or a couple who are civil partners of each other.”.

(5) In section 37(4) (compensation for unlawful acts of discrimination) —

- (a) for “4(1)(b)” substitute “4(b)”; and

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- (b) for “or marital status, as the case may be” substitute “or (as the case may be) fulfilment of the condition in section 5(2)”.

Rehabilitation of Offenders Act 2001 (c. 6)

111. In section 5(2)(b) (spent convictions: disclosure in criminal and civil proceedings), after “the marriage of any minor,” insert “or to the formation of a civil partnership by any minor,”.

Residence Act 2001 (c. 7)

112. In section 2(1) —

- (a) in paragraph (e) after “spouse” insert “or civil partner”; and
 (b) for paragraph (f) substitute —

“(f) a surviving spouse or civil partner, or former spouse or civil partner of an individual qualified under any of paragraphs (a) to (d);”.

Minimum Wage Act 2001 (c.20)

113. In section 10(2) (powers of officers), for “married, the person’s spouse” substitute “married or a civil partner, the person’s spouse or civil partner”.

CYPA 2001

114. In section 8(4) (termination of appointment) —

- (a) after paragraph (a) insert —

“(aa) an order of the High Court dissolves or annuls the civil partnership;” and

- (b) after paragraph (b) insert —

“or

“(ba) the civil partnership is dissolved or annulled and the dissolution or annulment is to be recognised in the Island by virtue of the Civil Partnership Act 2011;”.

115. In section 102(1) (interpretation) in the definition of “family proceedings” after paragraph (b)(iii) insert —

“(iv) Schedule 5 or 6 to the Civil Partnership Act 2011;”.

Medicines Act 2003 (c. 4)

116. In section 22(3) (rights of entry) for “married) the husband or wife” substitute “married or a civil partner) the spouse or civil partner”.

Income Tax Act 2003 (c.11)

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117. (1) Amend section 3 (qualification for personal allowance credit: joint assessment of married couples) as follows.

- (2) After “married couple” insert “or civil partners”.
- (3) For “husband and wife” substitute “spouses or civil partners”.
- (4) After “marriage” insert “or civil partnership”.
- (5) In the marginal note after “married couples” insert “and civil partners”.

118. (1) Amend section 4(2) (qualification for credit: supplementary) as follows.

- (2) In paragraph (a) —
 - (a) after “marry” insert “or form a civil partnership”; and
 - (b) after “and” insert “(in either case)”.
- (3) In paragraph (b) after “married couples” insert “or civil partners”.
- (4) In the words following paragraph (b) after “spouses” insert “or civil partners”.

119. (1) Amend section 6 (credit: married couples) as follows.

- (2) In subsection (1) after “married couples” insert “or civil partners”.
- (3) In subsection (2) after “married couple” insert “or two persons who have formed a civil partnership”.
- (4) In subsection (3) after “married couple” insert “or two persons who have formed a civil partnership” and for “that couple” substitute “that married couple or those civil partners”.
- (5) In the marginal note after “married couples” insert “and civil partners”.

120. (1) Amend section 7 (calculation of credit where obligation to submit return suspended) as follows.

- (2) In subsection (1) for “or couple” substitute, “married couple or civil partners”.
- (3) In subsection (2)(b) after “married couple” insert “or civil partners”.

Disability Discrimination Act 2006 (c.17)

121. (1) In section 8 (exemption for small dwellings), amend subsection (7) as follows.

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- (2) In the definition of “near relative” —
- (a) after “spouse” insert “or civil partner”, and
 - (b) for “by affinity)” substitute “by marriage or civil partnership)”.
- (3) For the definition of “partner” substitute —

““partner” means the other member of a couple consisting of —

- (a) a man and a woman who are not married to each other but are living together as husband and wife, or
- (b) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.”.

Employment Act 2006 (c.21)

122. In section 168(5)(b) (those who may be appointed to represent deceased employer in proceedings before the Tribunal) for “widow or widower” substitute “surviving spouse or surviving civil partner”.

Financial Services Act 2008 (c. 8)

123. In section 48(1) (interpretation) in paragraph (a)(i) of the definition of “associate” for “wife, husband” substitute “spouse, civil partner”.

Agricultural Tenancies Act 2008 (c.15)

124. In section 10(1) and (3)(a) (assignment on death of tenant) after “surviving spouse” insert “or civil partner”.

Endangered Species Act 2010 (c. 7)

125. In section 34(3) for the words following “incriminate that person or” substitute “(if that person is married or a civil partner) that person’s spouse or civil partner.”.

Section 105(2)

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REPEALS

<i>Reference</i>	<i>Short title</i>	<i>Extent of repeal</i>
XIII p. 235	Companies Act 1931	In section 302(3)(g) “or marriage of any female contributory,” and “and to the liabilities of husbands and wives respectively,”.
		In section 308(2) “or marriage of any female contributory,” and “and to the liabilities of husbands and wives respectively,”.
XX p. 1452.	Judgments (Reciprocal Enforcement) (Isle of Man) Act 1968	In 10(2)(a) in the definition of “action in personam” “any matrimonial cause or”.
XXI p. 260	Income Tax Act 1970	In section 35(4) “or, as the case may be, (3)(d)”.
c.21	Theft Act 1981	In section 31(5)(a) — (a) at the end of subparagraph (i) “or”.
c.8	Inheritance (Provision for Family and Dependants) Act 1982	In section 3(2) “and,” following paragraph (b). In section 3(3) and (4) “Without prejudice to the generality of subsection (1)(g),”.
		In section 19(2) “or” following paragraph (a).
c.20	CYPA 2001	At the end of section 8(4)(a) “or”.
c.7	Matrimonial Proceedings Act 2003	In section 116(1) the definition of “matrimonial home rights”.
c.21	Employment Act 2006	In section 149(8) in paragraph (b) of the definition of “money purchase scheme” the words “as defined in section 1 of the Civil Partnership Act 2004 (of Parliament).”.

