

Civil Partnerships Bill [HL]

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TO

Make provision for civil partnerships and with respect to the rights and obligations of civil partners; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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PART 1

FORMATION OF A CIVIL PARTNERSHIP

1 Civil partnerships

- (1) If the conditions for civil partnership are satisfied, any two persons may register their relationship with each other in accordance with the following provisions of this Part. 10
- (2) The conditions for civil partnership are specified in section 2.
- (3) In the following provisions of this Act—
 - (a) a relationship registered under this Part is referred to as a civil partnership; and 15
 - (b) the parties to the civil partnership are referred to as the partners.
- (4) References in any other enactment to a civil partnership are (except where provision is made to the contrary or the context otherwise requires) references to a civil partnership which is registered under this Part and in respect of which no cessation order has been made under Part 3. 20

2 Conditions for a civil partnership

- (1) The conditions for civil partnership are that—
 - (a) each of the partners is an eligible person within the meaning of subsection (2);
 - (b) at least one of the partners—
 - (i) is domiciled in England and Wales on the date of the application for registration of the civil partnership; or
 - (ii) has been habitually resident in England and Wales throughout the period of one year ending with that date;
 - (c) for the period of 6 months ending with the date of the application for registration of the civil partnership, the partners have lived in the same household (otherwise than merely by reason of one of them being the other's employee, tenant, lodger or boarder); and
 - (d) the partners are not close relatives of each other.
- (2) A partner is an eligible person only if—
 - (a) he is of or over the age of 18;
 - (b) he is not a party to a marriage; and
 - (c) he is not a partner in another civil partnership (excluding any civil partnership in respect of which a cessation order has been made under section 31).
- (3) “Close relative”, in relation to any person, means his grandparents, parents, children, step-children, uncles and aunts, nephews and nieces, brothers and sisters and step-brothers and step-sisters.

3 Application for registration

- (1) An application for registration of a civil partnership is to be made to the Registrar General.
- (2) The application must—
 - (a) be in the prescribed form and signed by each prospective partner;
 - (b) contain prescribed information;
 - (c) be accompanied by two independent civil partnership declarations made, respectively, by each prospective civil partner; and
 - (d) be accompanied by the prescribed fee.
- (3) A civil partnership declaration must be in writing and signed by the prospective partner in the presence of two witnesses who attest the signature (neither of the witnesses being the other prospective partner).
- (4) A civil partnership declaration must state that the partner signing it—
 - (a) believes that the conditions for civil partnership are satisfied;
 - (b) has read any information accompanying the prescribed form for making an application for registration of a civil partnership;
 - (c) understands the overall effect of registering a civil partnership (in particular with respect to the ownership of property); and
 - (d) is fully aware of the gravity of the financial and emotional responsibilities of supporting and caring for the other partner that he is undertaking by entering into the civil partnership.

- (5) If it appears to the Registrar General that there are circumstances suggesting that the conditions for civil partnership may not be satisfied in respect of an application, he may require either prospective partner to provide him with such further information as he reasonably considers necessary to enable him to resolve the matter. 5
- (6) The Registrar General may require either prospective partner to verify any information provided to him under subsection (2) or (5) in such a way as he may direct.
- (7) A person who applies to register a civil partnership in respect of which one or more of the conditions for civil partnership is not satisfied is guilty of an offence if, when he makes the application, he knows that the condition or conditions in question are not satisfied or is reckless as to that fact. 10
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding the statutory maximum.
- (9) “Prescribed” means prescribed by regulations made by the Lord Chancellor under section 7. 15

4 Registration

- (1) On receipt of a completed application for registration of a civil partnership, the Registrar General must register the partnership before the end of the period of one month unless subsection (2) applies. 20
- (2) This subsection applies if the Registrar General considers on reasonable grounds that one or more of the conditions for civil partnership is not satisfied.
- (3) If the Registrar General proposes to refuse an application for registration, he must give each of the applicants a written notice— 25
 - (a) stating why he proposes to refuse the application; and
 - (b) specifying a reasonable period (which may not be less than 28 days) within which the applicants may make representations to him.
- (4) Where, having considered any representations made by the applicants, the Registrar General makes a decision as to the application, he must give to each of the applicants written notice indicating whether or not the civil partnership has been registered and, if it has not been registered, indicating the Registrar General’s reasons for the decision. 30

5 The register of civil partnerships

- (1) The Registrar General must maintain a record of every civil partnership registered under section 4. 35
- (2) The record must contain in respect of each civil partnership—
 - (a) the name of each partner;
 - (b) the date of registration of the partnership;

- (c) in any case where the Registrar General has received notification (in accordance with section 11(2)) that a property agreement has been made between the partners, an indication that such an agreement exists and the date of the agreement;
 - (d) an indication whether the Registrar General has received notification that one or both of the partners has created, in favour of the other, a continuing power of attorney under section 13; and 5
 - (e) such other information as may be prescribed.
- (3) The Registrar General must—
- (a) make a copy of the record available for inspection by members of the public in legible form at prescribed times and in a prescribed place or places; and 10
 - (b) provide a certified copy of the record, or any part of it, to any person who asks for it—
 - (i) on payment of the prescribed fee; and 15
 - (ii) in a form (either written or electronic) in which it is legible to the person asking for it.
- (4) When he receives a notice in the prescribed form of any matter affecting the information appearing on the record in respect of a civil partnership, the Registrar General must make an appropriate entry on the record. 20
- (5) In particular, an entry under subsection (4) must be made where the Registrar General receives notice that —
- (a) the partnership has been annulled under section 6;
 - (b) a property agreement between the partners has been made under section 10 or has been revoked under section 11; 25
 - (c) a continuing power of attorney has been made or revoked under section 13 by one of the partners;
 - (d) a cessation order in respect of the partnership has been made under section 31.
- (6) The Registrar General must also keep (in any form he thinks fit) a record of the following documents— 30
- (a) the copy of any property agreement which is notified to him in accordance with section 11(2); and
 - (b) any instrument creating a continuing power of attorney under section 13 which is notified to him in accordance with any provision made by order under section 30. 35
- (7) Any document kept by virtue of subsection (6) is not available for public inspection.
- (8) “Prescribed” means prescribed by regulations made by the Lord Chancellor under section 7. 40

6 Non-compliance with conditions for civil partnership

- (1) This section applies in any case where a partnership is registered under section 3 notwithstanding that, on registration, one or more of the conditions for civil partnership was not satisfied.

- (2) Either partner may apply to the court for an order that the civil partnership be annulled.
- (3) Where the court makes an order under subsection (2) —
 - (a) the civil partnership is annulled only as respects any time after the order is made and is to be treated as if it had existed up to that time; and 5
 - (b) the court may, in connection with such an order, make any order it has power under sections 35 to 39 to make in connection with an application for a cessation order.

7 Procedure relating to registration

- (1) The Lord Chancellor may by regulations make provision as to— 10
 - (a) the making of an application under section 3 for the registration of a civil partnership; and
 - (b) the keeping of the record of civil partnerships under section 5.
- (2) Regulations under subsection (1)(a) may, in particular, contain provision— 15
 - (a) for applications for registration of a civil partnership to be determined on behalf of the Registrar General by a superintendent registrar of births, deaths and marriages or a registrar of births, deaths and marriages; 15
 - (b) as to the form and content of an application for registration;
 - (c) for the purpose of securing that no application is made without the prospective partners being provided with explanatory information as to the general effect of entering into a civil partnership (including information about the arrangements in respect of property for which Part 2 of this Act makes provision); 20
 - (d) as to any information that must accompany the application with a view to establishing that the conditions for civil partnership are met; 25
 - (e) for enabling notice of a property agreement made between the prospective partners under section 10 to be given in an application for registration;
 - (f) for an instrument made by a prospective partner creating a continuing power of attorney under section 13 in favour of the other prospective partner to be attached to an application for registration; 30
 - (g) requiring applications for registration (and any accompanying documents) to be copied to persons specified in the regulations in such circumstances as may be so specified; 35
 - (h) with respect to the procedure to be followed for the service of any notice required to be given by the Registrar General under section 4;
 - (i) requiring or allowing any notice or other information required in connection with an application to be sent electronically;
 - (j) as to the fees payable in making an application for registration of a civil partnership. 40
- (3) Regulations under subsection (1)(b) may, in particular, contain provision—
 - (a) specifying additional information to be contained in the record under section 5(2)(e);
 - (b) as to the form in which any information to be shown in the record is to be notified to the Registrar General; 45

- (c) as to the form in which any changes to the details shown in the record are to be notified to the Registrar General;
 - (d) requiring that a notice given by virtue of paragraph (b) or (c) is accompanied by such information as is specified in the regulations;
 - (e) requiring or allowing any notice required in relation to the record maintained under section 5 to be sent electronically; 5
 - (f) as to the fees payable for a copy of any part of the record.
- (4) “Superintendent registrar of births, deaths and marriages” and “registrar of births, death and marriages” have the same meaning as in the Registration Service Act 1953 (c. 37). 10

PART 2

EFFECT OF A CIVIL PARTNERSHIP

Preliminary

8 Introduction to Part 2

- This Part has effect for the purposes of establishing a framework for the mutual care and support of the partners to a civil partnership and includes provision— 15
- (a) with respect to the partners’ respective entitlements to the communal property belonging to them;
 - (b) to enable the partners to organise their affairs with a view to securing protection for their interests by means of an agreement as to their respective entitlements to property; 20
 - (c) to secure that a civil partner can, in the event of incapacity affecting the other partner, contribute to decisions affecting the well-being of the other partner;
 - (d) to treat partners in a civil partnership as a single economic unit for the purpose of assessing their entitlement to means-tested benefits; 25
 - (e) to provide the means for a civil partner to apply to the court for protection in the event that the other partner behaves in a manner that is threatening, violent or otherwise unreasonable;
 - (f) to secure a certain level of security for a civil partner in respect of housing and income in the event of the death of the other partner; 30
 - (g) to ensure that the benefit of the financial contributions made by a civil partner in respect of pensions and benefits can be made available to the surviving partner;
 - (h) to provide for the right of a surviving partner to bring an action for damages in respect of any wrongful act, neglect or omission causing his partner’s death. 35

Arrangements relating to property

9 Sharing of communal property

- (1) “Communal property”, in relation to the partners in a civil partnership, means any of the following property, regardless of whether it was acquired before or after the civil partnership was registered— 5
- (a) any dwelling-house which either or both of them are entitled to occupy by virtue of a beneficial estate or interest and which the partners occupy (or have at any time occupied) jointly as their principal or only home;
 - (b) any furniture or other functional domestic item which belongs to the partners and which they acquired (otherwise than by way of a gift to, or inheritance by, one of them separately) for the purpose of living together in the same household. 10
- (2) The communal property of the partners in a civil partnership is to be treated for all purposes as held jointly by the partners in equal shares.
- (3) Subsection (2) does not apply— 15
- (a) where the partners in the civil partnership have made a property agreement which has been noted in the register in accordance with section 11(2) (whether or not the property agreement covers some or all of the communal property);
 - (b) to the extent indicated, in relation to the ending of a civil partnership, in a final settlement arrangement under section 34 or in an intervention order made by the court under section 36; or 20
 - (c) in relation to any estate or interest (whether legal or beneficial) in the property concerned which is held by a person other than the civil partners. 25
- (4) “The register” means the record of civil partnerships maintained by the Registrar General under section 5.

10 Property agreements

- (1) In this Act, “a property agreement” means an agreement made by the partners in a civil partnership which sets out their respective entitlements to such of the property belonging to either or both of them as is specified in the agreement. 30
- (2) Where, in accordance with section 11(2), a property agreement is noted in the register—
- (a) that agreement is conclusive evidence of the matters contained in it with effect from the date on which it is noted in the register; but 35
 - (b) if the property agreement has been amended in accordance with section 11(4), the agreement, as amended, is conclusive evidence of the matters contained in it.
- (3) Subsection (2) does not apply —
- (a) to the extent indicated, in relation to the ending of a civil partnership, in a final settlement arrangement under section 34 or in an intervention order made by the court under section 36; or 40

- (b) in relation to any estate or interest (whether legal or beneficial) in the property concerned which is held by a person other than the civil partners.
- (4) References to property belonging to the partners in a civil partnership are references to any property to which one or both of the partners are entitled (whether the property is real or personal or held in possession or reversion), without regard to whether the property was acquired before or after the civil partnership was registered. 5

11 Property agreements: supplemental

- (1) Any property agreement and any amendments to a property agreement must be dated and signed by each of the partners in a civil partnership in the presence of two witnesses who attest the signature (neither of the witnesses being the other partner). 10
- (2) The Registrar General may make an entry in the register noting that a property agreement has been made between the partners in a civil partnership only if he is provided with— 15
 - (a) a copy of the signed agreement; and
 - (b) a certificate complying with subsection (3) in respect of each of the partners.
- (3) A certificate complies with this subsection if it is signed by a solicitor acting on behalf of a partner (“A”) in the civil partnership and it certifies that the solicitor has advised A— 20
 - (a) as to the effect of the property agreement; and
 - (b) as to the merits of A entering into the agreement, having regard to A’s particular circumstances (including any reasonably foreseeable changes). 25
- (4) A property agreement may be amended if, in respect of each occasion on which the partners propose to amend the agreement, each of the partners is advised by a solicitor as to the effect of the amendment (or series of amendments) and obtains a certificate signed by the solicitor to the effect that advice has been given. 30
- (5) At any time before a cessation order is made in respect of the civil partnership, a property agreement may be revoked.
- (6) If a property agreement is revoked, section 10(2) continues to apply until such time as the register is amended to indicate that the agreement has been revoked. 35
- (7) The requirements of subsection (2) are additional to any requirements imposed by or under Part 1 of this Act relating to the notice required for the making of entries on the register.

Living together

12 Taxation on transfers of assets

If in any year of assessment either of the partners in a civil partnership disposes of an asset to the other partner, both are to be treated for the purposes of the Taxation of Chargeable Gains Act 1992 (c. 12) as if the asset was acquired from the partner making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the partner making the disposal. 5

13 Provision for health and welfare of partner without capacity to act

(1) One or both of the partners in a civil partnership may create in favour of the other partner a power of attorney which extends to the donor's personal welfare or health care. 10

(2) A power of attorney created under subsection (1) is referred to in this Act as a continuing power of attorney.

(3) The exercise of a continuing power of attorney is subject to— 15

(a) such conditions or restrictions as are specified in an order made by the Lord Chancellor under section 30 and which relate to the nature of the decisions that a donee of the power may take under the power or to the circumstances in which such a decision may be taken; and

(b) any conditions or restrictions specified by the donor in the instrument creating the power. 20

(4) The rule of law whereby a power of attorney is revoked by the subsequent mental incapacity of the donor does not apply to a continuing power of attorney and, accordingly, decisions which the donee of the authority has power to make and implement on behalf of the donor include decisions which the donor is without capacity to make. 25

(5) Subsection (6) applies where —

(a) a partner in a civil partnership (“A”) has created in favour of the other partner a continuing power of attorney; and

(b) that power is noted in the register. 30

(6) In any case where —

(a) it is lawful for a third party (such as a doctor or carer) to take any measure which relates to the personal welfare or health care of A; and

(b) A is (or is reasonably believed to be) without capacity in relation to the matter in question; 35

any such measure may not be taken in a way that is contrary to directions given, or inconsistent with a decision made, within the scope of his authority, by the other partner in the partnership.

(7) A continuing power of attorney may be revoked at any time by the partner who created it and is revoked with immediate effect on the making of a cessation order. 40

- (8) A person is without capacity if, at the material time—
- (a) he is unable to make a decision for himself on the matter in question, as a result of a disorder of mind or brain (whether permanent or temporary) which results in a disturbance or impairment of mental functioning; or
 - (b) he is unable to communicate his decision on a particular matter because he is unconscious or for any other reason. 5

14 Mental health

- (1) For the purposes of the Mental Health Act 1983 (c. 20) (“1983 Act”), a partner in a civil partnership—
- (a) is a relative of the other partner; and 10
 - (b) is to be treated as the nearest relative of the other partner in connection with the exercise of any relevant power under the 1983 Act.
- (2) But subsection (1)(b) is subject to section 26(4) of that Act (patient cared for by person other than nearest relative).
- (3) “Relevant power” means a power conferred by the 1983 Act on the nearest relative (for example, the power to object to an application under section 3 of the Act to admit a person to hospital for assessment or the power to make an application for guardianship under section 7 of the Act). 15

15 Income-based benefits

- (1) A partner in a civil partnership is not entitled to income-based jobseeker’s allowance if the other partner in the partnership—
- (a) is engaged in remunerative work; or 20
 - (b) is entitled to income support.
- (2) A partner in a civil partnership is not entitled to income support if the other partner in the partnership—
- (a) is engaged in remunerative work; or 25
 - (b) is entitled to income-based jobseeker’s allowance.
- (3) The amount (if any) payable to a partner in a civil partnership who is claiming any income-based benefit is to be calculated by treating the income and capital of the other partner in the partnership as if it were the income and capital of the claimant. 30
- (4) In calculating the amount of an income-based benefit that is payable to a partner in a civil partnership—
- (a) the liability of the other partner to make a payment is to be taken into account in specified circumstances; and 35
 - (b) specified portions of amounts (or descriptions of amounts) which would otherwise be included in respect of the other partner are to be disregarded in specified circumstances.
- (5) Except in specified circumstances, the entitlement of one partner in a civil partnership to any income-based benefit during any period excludes entitlement to that benefit for the other partner in the partnership for the same period. 40

- (6) References to income-based benefits are references to—
 - (a) income support, housing benefit or council tax benefit under Part 7 of the Social Security Contributions and Benefits Act 1992 (c. 4);
 - (b) income-based jobseeker’s allowance under the Jobseeker’s Act 1995 (c. 18). 5
- (7) “Specified” means specified in an order under section 30.

16 Working families’ tax credit and disabled person’s tax credit

- (1) Except in specified circumstances, a partner in a civil partnership is not entitled—
 - (a) to working families’ tax credit if the other partner in the partnership is entitled to disabled person’s tax credit; or 10
 - (b) to disabled person’s tax credit if the other partner in the partnership is entitled to working families’ tax credit.
- (2) The amount (if any) payable to a partner in a civil partnership who is claiming a relevant tax credit is to be calculated by treating the income and capital of the other partner to the partnership as if it were the income and capital of the claimant. 15
- (3) Except in specified circumstances, the entitlement of one partner in a civil partnership to any relevant tax credit during any period excludes entitlement to that tax credit for the other partner in the partnership for the same period. 20
- (4) “Relevant tax credit” means working families’ tax credit or disabled person’s tax credit under the Tax Credits Act 1999 (c. 10).
- (5) “Specified” means specified in an order under section 30.

17 Power of court to make occupation orders

- (1) Either partner in a civil partnership may apply to the court for an order under subsection (2) which relates to the occupation of the dwelling-house which the partners occupy (or have at any time occupied) jointly as their principal or only home. 25
- (2) If the court considers that it is just and reasonable to do so, the court may make an order which— 30
 - (a) enforces any entitlement of a partner to occupy the dwelling-house against the other partner;
 - (b) requires a partner in occupation to permit the other partner to enter and remain in the dwelling-house (or any part of it);
 - (c) regulates the occupation of the dwelling house by either or both partners; 35
 - (d) where a partner is entitled to occupy the dwelling-house by virtue of a relevant right—
 - (i) prohibits, suspends or restricts the exercise by that partner of his right to do so; 40
 - (ii) prohibits that partner from evicting or excluding the other partner;
 - (iii) gives the other partner the right not to be evicted or excluded;

- (e) requires any partner to leave the dwelling-house (or any part of it);
 - (f) excludes any partner from a defined area in which the dwelling-house is included.
- (3) In deciding whether to exercise its power under this section, the court is to have regard to— 5
- (a) the housing needs and housing resources—
 - (i) of each of the partners;
 - (ii) of any child who is living with (or might reasonably be expected to live with) either of the partners; and
 - (iii) of any other child whose interests the court considers relevant; 10
 - (b) the financial resources of each of the partners;
 - (c) the likely effect of any order (or of any decision of the court not to exercise its powers under subsection (2)) on the health, safety or well-being of the partners and of any child referred to in paragraph (a); and
 - (d) the conduct of the partners in relation to each other and otherwise. 15
- (4) If it appears to the court that the partner making the application (“A”) and any child falling within subsection (3)(a) is likely to suffer significant harm attributable to the conduct of the other partner (“B”) if an order under this section is not made, the court must make the order unless it appears to it— 20
- (a) that B or any child falling within subsection (3)(a) is likely to suffer significant harm if the order is made; and
 - (b) that the harm likely to be suffered by B or the child is as great as, or greater than, the harm attributable to the conduct of B which is likely to be suffered by A or the child if the order is not made.
- (5) “Partner” includes a former partner in a civil partnership. 25
- (6) “Relevant right”, in relation to an entitlement to occupy a dwelling-house, means— 30
- (a) a beneficial estate or interest in the dwelling-house;
 - (b) a right under a contract to occupy the dwelling-house; or
 - (c) a right which arises by virtue of any enactment giving a person the right to remain in occupation of the dwelling-house.

18 Power of court to make non-molestation orders

- (1) The court may, on an application made to it by one of the partners in a civil partnership, make an order prohibiting the other partner from molesting him (“a non-molestation order”). 35
- (2) An application under subsection (1) may be made by either of the partners in a civil partnership.
- (3) The court may also make a non-molestation order if, in any proceedings for an order under Part 3 of this Act, it considers that the order should be made for the benefit of the other party to the proceedings. 40
- (4) In deciding whether to exercise its powers to make a non-molestation order and, if so, in what manner to do so, the court is to have regard to all the circumstances including the need to secure the health, safety and well-being of—

- (a) the applicant under subsection (1);
 - (b) the person for whose benefit the order would be made under subsection (3);
 - (c) any child who is living with (or might reasonably be expected to live with) either of the partners; or 5
 - (d) any other child whose interests the court considers relevant.
- (5) A non-molestation order —
- (a) may be expressed so as to refer to molestation in general, to particular acts of molestation or to both;
 - (b) may be made for a specified period or until further order. 10
- (6) “Partner” includes a former partner in a civil partnership.

Provision in the event of death of one partner

19 Life assurance

A partner in a civil partnership has an insurable interest in the life of the other partner and may, accordingly, effect a policy of assurance on that life (notwithstanding the provisions of the Life Assurance Act 1774 (c. 48)). 15

20 Right to register death of partner

- (1) “Registrar”, in relation to any death, means—
- (a) the registrar of births and deaths for the sub-district (within the meaning of the Registration Service Act 1953 (c. 37)) in which the death takes place; or 20
 - (b) where a dead body is found and no information as to the place of death is available, the registrar of births and deaths for the sub-district in which the dead body is found.
- (2) For the purposes of Part 2 of the Births and Deaths Registration Act 1953 (c. 20), a partner in a civil partnership is qualified to give information concerning the death of the other partner in civil partnership. 25
- (3) When one partner (“B”) in a civil partnership dies, it is the duty of the other partner (“A”)—
- (a) to give to the registrar information to the best of A’s knowledge or belief of the particulars required to be registered concerning the death; and 30
 - (b) to sign the register in the presence of the registrar.
- (4) The duty imposed on A by subsection (3)—
- (a) must, unless subsection (5) applies, be discharged before the end of the period of five days beginning with the date of B’s death; 35
 - (b) is in substitution for the duty to register B’s death which would (under Part 2 of the Births and Deaths Registration Act 1953) otherwise be imposed on a relative of B; and
 - (c) is to be treated as discharged if any person who, under that Part, is qualified to register the death does so in accordance with that Part. 40

- (5) Subsection (3) does not apply if an inquest is to be held touching B's death.
- (6) If A registers the death in accordance with this section, the duty to register B's death that would otherwise be imposed by Part 2 of the Births and Deaths Registration Act 1953 on a relative of B is to be treated as discharged.

21 Succession to certain tenancies

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- (1) This section applies where one of the partners in a civil partnership ("the tenant") dies and, at the time of his death, he is entitled in his own right to occupy a dwelling-house by virtue of a relevant tenancy.
- (2) Unless the tenant was himself a successor to the relevant tenancy, the other partner in the civil partnership is entitled to succeed the tenant if, at the time of the tenant's death, he occupies the dwelling-house as his only or principal home. 10
- (3) "Relevant tenancy" means —
 - (a) a protected or statutory tenancy within the meaning of the Rent Act 1977 (c. 42); 15
 - (b) a statutory tenancy within the meaning of the Rent (Agriculture) Act 1976 (c. 80);
 - (c) a secure tenancy within the meaning of section 79 of the Housing Act 1985 (c. 68); or
 - (d) an assured tenancy or assured agricultural occupancy within the meaning of Part 1 of the Housing Act 1988 (c. 50). 20

22 Intestacy

- (1) This section applies where—
 - (a) a partner ("B") in a civil partnership dies domiciled in England and Wales; 25
 - (b) B does not leave a will which effectively disposes of the whole of his property; and
 - (c) the other partner ("A") survives B by a period of 28 days beginning with the day on which B died.
- (2) Where B dies leaving a will which effectively disposes of part of his property, the following provisions of this section have effect only as respects the part of B's property that is not effectively disposed of (and subject to the provisions contained in the will). 30
- (3) The residuary estate of B is to be distributed in accordance with subsections (4) and (5). 35
- (4) If B leaves no issue, the residuary estate is to be held on trust for A absolutely.
- (5) If B leaves issue —
 - (a) A takes the personal chattels absolutely;
 - (b) the residuary estate stands charged with the payment to A of a net sum of £125,000; and 40
 - (c) subject to providing for that sum, the residuary estate is to be held —

- (i) as to one half, upon trust for A during his life and, subject to that life interest, on the statutory trusts for the issue of B;
 - (ii) as to the other half, on the statutory trusts for the issue of B.
 - (6) The reference to statutory trusts is to be construed in accordance with subsection (1)(i) of section 47 of the Administration of Estates Act 1925 (c. 23); and the remaining provisions of subsections (1) and (2) of that section apply to the statutory trusts under this section as they apply to the statutory trusts under Part 4 of that Act. 5
 - (7) The Lord Chancellor may by order under section 30 —
 - (a) amend subsection (5)(b) by varying the amount of the net sum; and 10
 - (b) specify the rate of interest to be included in the net sum by virtue of subsection (8).
 - (8) “Net sum” means a sum free of death duties and costs and includes interest on the sum (payable primarily out of income) which is to be calculated from the date of B’s death until the date of payment. 15
 - (9) “Personal chattels” has the same meaning as in the Administration of Estates Act 1925 (c. 23).
- 23 Right of action under Inheritance (Provision for Family and Dependants) Act 1975**
- (1) “Relevant order” means an order under section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (c. 63) (“the 1975 Act”) or an interim order under section 5 of the Act. 20
 - (2) The court may make a relevant order if—
 - (a) one partner (“B”) in a civil partnership dies domiciled in England and Wales; 25
 - (b) an application is made to the court by the surviving partner (“A”); and
 - (c) the court considers that the disposition of B’s estate effected by B’s will, the law relating to intestacy or both does not make such provision as it would be reasonable in all the circumstances for A to receive for his maintenance. 30
 - (3) Where an application is made by A for an order under section 2 of the 1975 Act, the court is to have regard to the age of A, the duration of the civil partnership and the contribution by A to the welfare of B’s family, including any contribution made by looking after the home or caring for the family.
- 24 Inheritance tax on death** 35
- On the death of a partner in a civil partnership, a deemed transfer of value by that partner to the other partner is, for the purposes of Part 2 of the Inheritance Tax Act 1984 (c. 51) (exempt transfers), to be treated as an exempt transfer—
- (a) to the extent that the value transferred is attributable to property which becomes comprised in the estate of the transferor’s civil partner; or 40
 - (b) so far as the value transferred is not so attributable, to the extent that that estate is increased.

25 Contributory benefits payable on death

- (1) This section applies to determine the entitlement of one partner in a civil partnership (“A”) to certain contributory benefits when the other partner (“B”) dies.
- (2) A is entitled to a bereavement payment if— 5
 - (a) either A was under pensionable age at the time when B died or B was then not entitled to a category A retirement pension under section 44 of the Social Security Contributions and Benefits Act 1992 (c. 4); and
 - (b) B satisfied the contribution condition for a bereavement payment specified in paragraph 4 of Schedule 3 to that Act. 10
- (3) A is entitled to a bereavement allowance if—
 - (a) A was over the age of 45 but under pensionable age at the time when B died; and
 - (b) B satisfied the contribution conditions for a bereavement allowance specified in paragraph 5 of Schedule 3 to the Social Security Contributions and Benefits Act 1992 (c. 4). 15
- (4) “Bereavement payment” and “bereavement allowance” are to be construed in accordance with Part 2 of the Social Security Contributions and Benefits Act 1992.
- (5) “Pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26). 20

26 Occupational pension schemes

- (1) Every occupational pension scheme which makes provision for payment of relevant benefits to a surviving spouse of a member of the scheme is to be taken to include a provision for payment of benefits, in respect of the death of any member of the scheme, to the person who is the partner in a civil partnership with the member at the time the member dies. 25
- (2) The trustees or managers of an occupational pension scheme may, if —
 - (a) they do not (apart from this subsection) have power to make such alterations to the scheme as may be required to provide benefits required by virtue of subsection (1); or 30
 - (b) they have such power but the procedure for exercising it —
 - (i) is liable to be unduly complex or protracted; or
 - (ii) involves the obtaining of consents which cannot be obtained or can only be obtained with undue delay or difficulty; 35by resolution make such alterations to the scheme.
- (3) But any power to make alterations to an occupational pension scheme may not be exercised on any occasion in a manner that would adversely affect any entitlement, or accrued right, of any member of the scheme acquired before the power is exercised. 40
- (4) Any terms included in an occupational pension scheme by virtue of subsection (1) (including any changes made to the scheme by the trustees or managers of the scheme) are to be disregarded by the Commissioners of the Inland Revenue

in making any determination as to whether or not the scheme satisfies (or continues to satisfy) the condition in section 590(2)(a) of the Income and Corporation Taxes Act 1988 (c. 1) (limit as to persons who may receive benefits under an approved retirement benefits scheme).

- (5) “Occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993 (c. 48). 5
- (6) “Relevant benefits” means any pension, lump sum, gratuity or other like benefit given or to be given on the death of a member of the scheme or (in connection with past service) after his death.
- (7) “Trustees or managers”, in relation to an occupational pension scheme, has the same meaning as in Part 1 of the Pensions Act 1995 (c. 26). 10

27 Personal pension schemes

- (1) Every personal pension scheme which makes provision for payment of relevant benefits to a surviving spouse of a member of the scheme is to be taken to include a provision for payment of benefits, in respect of the death of any member of the scheme, to the person who is the partner in a civil partnership with the member at the time the member dies. 15
- (2) Any terms included in a personal pension scheme by virtue of subsection (1) (including any changes made to the scheme by the trustees or managers of the scheme) are to be disregarded by the Commissioners of the Inland Revenue in making any determination as to whether or not the scheme satisfies (or continues to satisfy) the condition in section 636(2) of the Income and Corporation Taxes Act 1988 (c. 1) (annuity after death of member payable only to surviving spouse or dependant of deceased). 20
- (3) “Personal pension scheme” has the same meaning as in the Pension Schemes Act 1993 (c. 48). 25
- (4) “Relevant benefits” means benefits in the form of pensions or otherwise which are payable on the death of a member of the scheme.

28 Public sector pension schemes

- (1) The appropriate authority may make such provision for the modification of a public service pension scheme as appears to it necessary or expedient to secure the payment of benefits under the scheme, in respect of the death of any member of the scheme, to the person who is the partner in a civil partnership with the member at the time the member dies. 30
- (2) The powers of the appropriate authority under this section are exercisable by means of an order— 35
 - (a) directly modifying the scheme (without regard, in the case of a scheme contained in or made under powers conferred by an enactment, to the terms of the enactment or any of its restrictions); or
 - (b) modifying an enactment under which the scheme was made or by virtue of which it has effect. 40

- (3) “Appropriate authority”, in relation to a public sector pension scheme, means such Minister of the Crown or government department as may be designated by the Treasury as having responsibility for the particular scheme.
- (4) “Public sector pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993. 5

29 Right of action in respect of fatal accident

- (1) Where the death of a partner (“B”) in a civil partnership is caused by any wrongful act, neglect or default which is such as would (if death had not ensued) have entitled the partner injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued is liable to an action for damages (notwithstanding B’s death) for the benefit of the other partner in the civil partnership (“A”). 10
- (2) An action under subsection (1) —
 - (a) is for the benefit of A or of any person who was being wholly or partly maintained by B immediately before B’s death or who would, but for the death, have been so maintained at a time beginning after the death; and 15
 - (b) may consist of or include a claim for damages for bereavement for the benefit of A.

Power to make further provision relating to civil partners

30 Power to make further provision relating to civil partners

- (1) A Minister of the Crown may by order make such further provision as he considers necessary or expedient in relation to civil partnerships. 20
- (2) An order under subsection (1) may, in particular, contain provision—
 - (a) with a view to giving full effect to this Part;
 - (b) applying to civil partnerships any provision in another enactment with such modifications as the Minister sees fit; 25
 - (c) creating rights of, or imposing responsibilities on, partners in a civil partnership for purposes falling within section 8 but which are additional to those set out in this Part.
- (3) No order may be made under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House. 30
- (4) If it is proposed to lay before Parliament a draft of an order containing any provision made by virtue of subsection (2)(c), a Minister of the Crown must first —
 - (a) publish a draft of an order; and 35
 - (b) invite representations to be made to him about the draft by persons appearing to him appropriate to represent persons who are partners in a civil partnership, persons appearing to him appropriate to represent persons with experience of the subject matter to which the draft order relates and any other persons appearing to him appropriate to consult about the draft. 40

- (5) After the end of the period of three months beginning with the publication of the draft, he may lay before Parliament —
- (a) the draft as published; or
 - (b) that draft with any modifications he considers appropriate;
- together with a report about the consultation. 5

PART 3

ENDING OF A CIVIL PARTNERSHIP

Cessation orders

31 Application for order ending a civil partnership

- (1) The court may by making an order provide that a civil partnership is to cease to have effect. 10
- (2) An order under subsection (1) is referred to in this Act as a cessation order.
- (3) An application for a cessation order may be made by one partner in a civil partnership or by both of the partners jointly.
- (4) But no application may be considered before the end of the period of 12 months commencing with the registration of the civil partnership. 15
- (5) An application for a cessation order in respect of a civil partnership may be withdrawn at any time before the order is made.

32 Cessation order

- (1) The court must make a cessation order— 20
- (a) in a case falling within subsection (2), as soon as reasonably practicable after the end of the period of one month beginning with the date of receipt of the application for an order;
 - (b) in any other case, as soon as reasonably practicable after the end of the period of nine months beginning with the date of receipt of the application for an order. 25
- (2) A case falls within this subsection where the application for an order is made by both of the partners jointly and is submitted together with a final settlement arrangement made by the partners under section 34.
- (3) The court may make a cessation order at any time before the end of the period referred to in subsection (1)(b) if, at any time after the application is received, there is produced to the court a final settlement arrangement made by the partners under section 34. 30
- (4) But subsections (1) and (3) do not apply if, before a cessation order is made, either of the partners makes an application to the court under section 35(1). 35
- (5) A cessation order comes into force on being made.

33 Allocation of property between partners

- (1) Subsection (2) applies where a cessation order in respect of a civil partnership is made under section 32(1)(a) or (3) after production to the court of a final settlement arrangement.
- (2) All the property to which the final settlement arrangement relates is to be allocated between the partners in accordance with the final settlement arrangement. 5
- (3) Subsections (4) to (6) apply where a cessation order in respect of a civil partnership is made under section 32(1)(b).
- (4) If a property agreement is noted in the register in relation to the partnership, all the property to which the property agreement relates is to be allocated between the partners in accordance with that agreement. 10
- (5) If no property agreement is noted in the register in relation to the partnership, any communal property of the partners is to be allocated between them in accordance with section 9. 15
- (6) Any property other than the property referred to in subsection (4) or (5) is to remain in the ownership of the former partner to whom it belongs.

34 Final settlement arrangements

- (1) “Final settlement arrangement” means a statement as to the allocation of property belonging to the partners in a civil partnership which is agreed by the partners and submitted to the court in connection with an application for cessation order. 20
- (2) Any final settlement agreement must be dated and signed by each of the partners in the presence of two witnesses who attest the signature (neither of the witnesses being the other partner). 25
- (3) The Lord Chancellor may by regulations make provision as to the form and content of final settlement arrangements and the procedure for making them.
- (4) The regulations may, in particular, make provision—
 - (a) requiring certification by a solicitor that the partners making the agreement have been advised as to matters specified in the regulations; 30
 - (b) for the purpose of securing that explanatory information relating to final settlement arrangements is given to the partners;
 - (c) as to the matters to be addressed in a final settlement arrangement.

Intervention orders relating to property etc

35 Application for intervention order

- (1) Where an application is made for a cessation order in relation to a civil partnership, either partner may apply to the court for—
 - (a) an order under section 37 relating to entitlement to property;
 - (b) an order under section 38 relating to financial provision; or
 - (c) an order under section 39 relating to pension-sharing. 40

- (2) An application for any order referred to in subsection (1) (“an intervention order”) may be made at any time after the date on which the application for a cessation order is received by the court and before the making of the cessation order.

36 Intervention orders: general

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- (1) The court may make an intervention order in connection with an application for a cessation order in respect of a civil partnership if, having regard to the general principle specified in subsection (3) and the factors listed in subsection (4), it considers it is just and equitable to do so in all the circumstances of the case.
- (2) But no order may be made otherwise than in accordance with the terms of any property agreement made by the partners in a civil partnership which is noted in the register unless the court considers that financial or other hardship would otherwise result to one of the partners. 10
- (3) The general principle is that, so far as is reasonably practicable, the partners should not be reliant on each other financially after the cessation order is made. 15
- (4) The factors are—
- (a) the need to make provision for the welfare of any child who is living with (or might reasonably be expected to live with) either of the partners or for any other child whose interests the court considers relevant;
 - (b) any physical or mental disability of either of the partners; 20
 - (c) the duration of the relationship between the partners;
 - (d) the duration of the civil partnership;
 - (e) the age of each partner;
 - (f) the income, earning capacity, property and other financial resources which each partner has (or is likely to have in the foreseeable future); 25
 - (g) the financial needs, obligations and responsibilities which each of the partners has (or is likely to have in the foreseeable future);
 - (h) the value to each of the partners of any benefit (such as pension rights) which by reason of the ending of the civil partnership that party will lose the chance of acquiring; 30
 - (i) the standard of living enjoyed by the partners before the ending of the civil partnership.

37 Intervention order relating to property

- (1) An intervention order relating to property may—
- (a) require a partner in a civil partnership to transfer such of his property as may be specified in favour of the other partner; 35
 - (b) require a partner to make a settlement (to the satisfaction of the court) of such of his property as may be specified for the benefit of the other partner;
 - (c) vary for the benefit of the partners or either of them any property agreement made by the partners which is noted in the register; 40

- (d) direct that there shall (by virtue of the order and without further assurance) be transferred to, and vested in, a partner in a civil partnership any estate or interest which the other partner has under a relevant tenancy other than a tenancy falling within paragraph (e);
 - (e) direct that a partner who is entitled to occupy a dwelling house by virtue of a statutory tenancy within the meaning of the Rent Act 1977 (c. 42) or the Rent (Agriculture) Act 1976 (c. 80) is to cease to be entitled to do so and that the other partner is to be deemed to be the tenant or, as the case may be, sole tenant under the statutory tenancy. 5
- (2) References to the property of a partner are to be construed in accordance with section 10(4). 10
 - (3) “Relevant tenancy” has the same meaning as in section 21(3).
 - (4) “Specified” means specified in the intervention order.

38 Intervention order relating to financial provision

- (1) An intervention order relating to financial provision may — 15
 - (a) require a partner to make in favour of the other partner specified periodical payments for a specified term;
 - (b) require a partner to secure (to the satisfaction of the court) in favour of the other partner specified periodical payments for a specified term;
 - (c) require a partner to make a payment in favour of the other partner of a specified lump sum or sums. 20
- (2) An order under subsection (1)(a) or (b) may not require payments to be made by one partner to the other after the end of the period of 2 years beginning with the date on which the order is made.
- (3) “Specified” means specified in the intervention order. 25

39 Intervention order relating to pension sharing

- (1) An intervention order relating to pension sharing—
 - (a) may provide that one partner’s shareable rights under a pension arrangement specified in the order are subject to pension sharing for the benefit of the other partner; 30
 - (b) may provide that one partner’s shareable state scheme rights are subject to pension sharing for the benefit of the other partner; and
 - (c) in either case, must specify the percentage value to be transferred.
- (2) In this section—
 - (a) the reference to shareable rights under a pension arrangement are to rights in relation to which pension sharing is available under Chapter 1 of Part 4 of the Welfare Reform and Pensions Act 1999 (c. 30); 35
 - (b) the reference to shareable state scheme rights is to rights in relation to which pension sharing is available under Chapter 2 of Part 4 of the Welfare Reform and Pensions Act 1999. 40

PART 4

SUPPLEMENTAL

40 Interpretation

In this Act—

- “cessation order” has the meaning given in section 31; 5
- “child” means a person under the age of 18 years;
- “civil partnership” has the meaning given in section 1;
- “conditions for civil partnership” means the conditions for civil partnership specified in section 2;
- “continuing power of attorney” has the meaning given in section 13; 10
- “dwelling-house” includes any building or part of a building which is occupied as a dwelling and any yard, garden, garage or outhouse belonging to it and occupied with it;
- “final settlement arrangement” has the meaning given in section 34;
- “intervention order” has the meaning given in section 35(2); 15
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);
- “partner” means a person who is a party to a civil partnership;
- “property agreement” has the meaning given in section 10;
- “register” has the meaning given in section 9(4); 20
- “Registrar General” means the Registrar General of Births, Deaths and Marriages.

41 Rules of court

- (1) An authority having power to make rules of court may make such provision as appears to that authority to be necessary or expedient for the purpose of giving full effect to— 25
 - (a) this Act;
 - (b) the provisions of any statutory instrument made under this Act; and
 - (c) any amendment made by this Act in any other enactment.
- (2) The rules may, in particular, make provision— 30
 - (a) with respect to the procedure to be followed in making an application under section 6, 31 or 35 (including the manner in which an application is to be made);
 - (b) with respect to any documents or other information to be given in connection with such an application; 35
 - (c) to require an applicant for a cessation order in respect of a civil partnership to indicate whether either of the partners in the partnership has any child who is living with (or might reasonably be expected to live with) him;
 - (d) with respect to the procedure for withdrawing an application; 40
 - (e) requiring one or both of the partners making an application to attend in person at such place or places for such purposes as may be specified;

- (f) requiring a copy of an application for a cessation order which is made by one partner only to be served by the court on the other partner, together with notice of the right to apply to the court under section 35(1) for an intervention order;
- (g) requiring a copy of any cessation order made by the court to be served by it on the Registrar General. 5

42 Jurisdiction of the courts

- (1) For the purposes of this Act, the court means the High Court or a county court.
- (2) Subsection (1) is subject to the provision made by or under the following provisions of this section. 10
- (3) The Lord Chancellor may by order designate any county court as a county court with jurisdiction to hear and determine proceedings brought under any provision of this Act.
- (4) The Lord Chancellor may by order specify proceedings under this Act which may only be commenced in — 15
 - (a) the High Court or the county court; or
 - (b) a court which falls within a specified class of court.
- (5) “Specified” means specified by an order under this section.

43 Regulations and orders

- (1) Any power to make an order, regulations or rules which is conferred by this Act is exercisable by statutory instrument. 20
- (2) Any statutory instrument made under this Act —
 - (a) may make in any enactment such adaptations, amendments or repeals as the person making it considers appropriate in consequence of this Act or any provision made under it; 25
 - (b) may make different provision for different cases.
- (3) No order may be made under section 28 unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (4) The power to make an order under section 30 shall be exercisable as there mentioned. 30
- (5) Any other statutory instrument made under this Act shall, if made without a draft having been approved by resolution of each House of Parliament, be subject to annulment in pursuance of a resolution of either House of Parliament.

44 Extent

This Act extends to England and Wales only.

45 Commencement

- (1) The following provisions of this Act come into force on the passing of this Act—
 - (a) this section; 5
 - (b) section 43;
 - (c) section 44;
 - (d) section 46.
- (2) Sections 26 to 28 come into force three years after the passing of this Act.
- (3) The other provisions of this Act come into force one year after the passing of this Act. 10

46 Short title

This Act may be cited as the Civil Partnerships Act 2002.