



Civil Partnership Act 2004

2004 CHAPTER 33

PART 4

CIVIL PARTNERSHIP: NORTHERN IRELAND

CHAPTER 2

DISSOLUTION, NULLITY AND OTHER PROCEEDINGS

Dissolution of civil partnership

168 Dissolution of civil partnership which has broken down irretrievably

- (1) Subject to section 165, 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;

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- (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.
- (6) The court must not make a dissolution order without considering the oral testimony of the applicant unless for special reasons it orders that such testimony be dispensed with.

169 Supplemental provisions as to facts raising presumption of breakdown

- (1) Subsection (2) applies if—
- (a) in any proceedings for a dissolution order the applicant alleges, in reliance on section 168(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 his 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.
- (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 168(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 168(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 to understand—
- (a) the consequences to him of consenting to the order, and
 - (b) the steps which he must take to indicate his consent.
- (5) For the purposes of section 168(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 he not been so incapable, the court would have inferred that the desertion continued at that time.
- (6) In considering for the purposes of section 168(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 together.
- (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.

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- (8) For the purposes of section 168(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.

Commencement Information

- II** S. 169 wholly in force at 5.12.2005; s. 169 not in force at Royal Assent see s. 263; s. 169(3)(4) in force at 5.9.2005 by [S.I. 2005/2399](#), [art. 2](#), [Sch.](#); s. 169 in force at 5.12.2005 insofar as not already in force by [S.I. 2005/3255](#), [art. 2\(1\)](#), [Sch.](#)

170 Dissolution order not precluded by previous separation order etc.

- (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 16 (financial relief in court of summary jurisdiction etc.);
 - (c) an occupation order under Article 11 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6) (occupation orders));
 - (d) an order under Article 15 of that Order (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 168(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 county court which excludes the respondent from the civil partnership home, or

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- (b) an order under Article 11 or 15 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6)) 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.

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

- (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 him, 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 his application on the fact of 5 years' separation and makes no such finding as to any other fact mentioned in section 168(5), and
 - (c) apart from this section, the court would make a dissolution order.
- (3) The court must—
 - (a) consider all the circumstances, including the conduct of the civil partners and the interests of the civil partners 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.

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

- (1) The court may, on an application made by the respondent, rescind a conditional 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 168(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 his 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 financial position after the dissolution of the civil partnership, and

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- (b) the court—
 - (i) has made a conditional dissolution order on the basis of a finding that the applicant was entitled to rely in support of his 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 168(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 has, by order, declared that it is satisfied that—
 - (a) the applicant should not be required to make any financial provision for the respondent,
 - (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, or
 - (c) there are circumstances making it desirable that the order should be made final without delay.
- (5) The court must not make an order declaring that it is satisfied as mentioned in subsection (4)(c) unless it has obtained a satisfactory undertaking from the applicant that he will bring the question of financial provision for the respondent before the court within a specified time.
- (6) Subsection (7) applies if, following an application under subsection (2) which is not withdrawn, the court makes the order final without making an order under subsection (4).
- (7) The final order is voidable at the instance of the respondent or of the court but no person is entitled to challenge the validity of the order after it is made final on the ground that subsections (4) and (5) were not satisfied.
- (8) If the court refuses to make an order under subsection (4), it must, on an application by the applicant, make an order declaring that it is not satisfied as mentioned in that subsection.

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

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

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