

SCHEDULE 2

Regulation 6

Transitional provision in relation to opposite-sex overseas relationships

Interpretation

1. In this Schedule—

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

“the commencement date” means the date on which these Regulations come into force;

“a relevant pre-commencement relationship” means a relationship that is—

- (a) an overseas relationship treated as a civil partnership for the purposes of the 2004 Act as a result of the amendments made by these Regulations, and
- (b) registered (under the relevant law within the meaning of Chapter 2 of Part 5 of the 2004 Act) as having been entered into before the commencement date.

Requirements as to other relationships in order for pre-commencement relationships to be recognised as civil partnerships

2.—(1) Sub-paragraph (2) applies in relation to a relationship that would, disregarding this paragraph and section 212(1)(b)(ii) of the 2004 Act as it applies without this paragraph, be a relevant pre-commencement relationship.

(2) Section 212(1)(b) of the 2004 Act has effect as if, for sub-paragraph (ii), there were substituted—

“(ii) neither of whom was, when the relationship was registered—

(aa) lawfully married,

(bb) a civil partner, or

(cc) in another relationship registered as mentioned above, which continues to subsist at the time when the Civil Partnership (Opposite-sex Couples) Regulations 2019 come into force and is at that time an overseas relationship treated as a civil partnership for the purposes of this Act, and

(iii) neither of whom is, immediately before the Civil Partnership (Opposite-sex Couples) Regulations 2019 come into force, lawfully married or a civil partner.”

Treatment as civil partnership for certain purposes of relationships terminated before commencement

3. The following provisions are specified for the purposes of section 215(5D)(b) of the 2004 Act (as amended by these Regulations)—

- (a) in the case of a marriage celebrated on or after the commencement date, section 28B(1) of, and Schedule 1(2) to, the Marriage Act 1949;
- (b) in the case of a notice of marriage given on or after the commencement date, section 27 of that Act(3);
- (c) the Inheritance (Provision for Family and Dependants) Act 1975(4);

(1) 1949 c. 76. Section 28B was added by the Immigration Act 2014 (c. 22), paragraph 7 of Schedule 4.

(2) Schedule 1 was amended by the Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16), sections 1(4) and (6) and Schedule 1, paragraph 8; by the Civil Partnership Act 2004, Schedule 27, paragraph 17; and by S.I. 2007/438.

(3) Section 27(3) was amended by the Civil Partnership Act 2004, Schedule 27, paragraph 14. There are other amendments to the section, not relevant here.

(4) 1975 c. 63.

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- (d) the Fatal Accidents Act 1976⁽⁵⁾;
- (e) in the case of a bankruptcy where the bankruptcy order was made on or after the commencement date—
 - (i) sections 283A⁽⁶⁾, 313⁽⁷⁾, 313A⁽⁸⁾, 332⁽⁹⁾, 335A⁽¹⁰⁾ and 366⁽¹¹⁾ of the Insolvency Act 1986, and
 - (ii) rules 10.167, 10.168, 10.169 and 10.171 of the Insolvency (England and Wales) Rules 2016⁽¹²⁾;
- (f) Schedule 1 to the Children Act 1989⁽¹³⁾;
- (g) sections 33⁽¹⁴⁾, 35⁽¹⁵⁾ and 37⁽¹⁶⁾ of, and Schedule 7⁽¹⁷⁾ to, the Family Law Act 1996;
- (h) sections 9⁽¹⁸⁾, 65 and 68 of, and Schedule 1⁽¹⁹⁾ to, the 2004 Act.

Transitional modifications of the Civil Partnership Act 2004 to do with dissolution, financial matters etc.

4.—(1) Section 41 of the 2004 Act applies in relation to a relevant pre-commencement relationship as if, for “formation of the civil partnership”, there were substituted “registration of the relationship”.

(2) Section 65 of the 2004 Act applies to a contribution made by a party to a relevant pre-commencement relationship as if—

- (a) for “a civil partner” there were substituted “a party to the relationship”;
- (b) for “the civil partners”, in each place it occurs, there were substituted “the parties to the relationship”; and
- (c) for “the contributing partner” there were substituted “the contributing party”.

(3) Paragraph 21(2)(d) of Schedule 5 to the 2004 Act (including as it applies by virtue of paragraph 10(3)(a) of Schedule 7 to that Act) applies to an application made in relation to a relevant pre-commencement relationship under Part 1 of Schedule 5 or Part 1 of Schedule 7 to that Act as if, for “the duration of the civil partnership”, there were substituted “the duration of the relationship by virtue of which they are treated as having formed a civil partnership”.

(4) Paragraph 5(2)(d) of Schedule 6 to the 2004 Act applies to an application made in relation to a relevant pre-commencement relationship under Part 1 of that Schedule as if, for “the duration

⁽⁵⁾ 1976 c. 30.

⁽⁶⁾ Section 283A was added by the Enterprise Act 2002 (c. 40), section 261(1); and amended by the Civil Partnership Act 2004, Schedule 27, paragraph 113.

⁽⁷⁾ Section 313(1) was amended by the Civil Partnership Act 2004, Schedule 27, paragraph 114. There are other amendments to the section, not relevant here.

⁽⁸⁾ Section 313A was added by the Enterprise Act 2002, section 261(3); and amended by the Civil Partnership Act 2004, Schedule 27, paragraph 115.

⁽⁹⁾ Section 332(1)(a) was amended by the Civil Partnership Act 2004, Schedule 27, paragraph 117. There are other amendments to the section, not relevant here.

⁽¹⁰⁾ Section 335A was added by the Trusts of Land and Appointment of Trustees Act 1996 (c. 47), Schedule 3, paragraph 23; and amended by the Civil Partnership Act 2004, Schedule 27, paragraph 118.

⁽¹¹⁾ Section 366 was amended by the Civil Partnership Act 2004, Schedule 27, paragraph 120. There are other amendments to the section, not relevant here.

⁽¹²⁾ S.I. 2016/1024.

⁽¹³⁾ 1989 c. 41. Schedule 1, paragraph 16 was amended by the Civil Partnership Act, section 78(4). There are other amendments to the Schedule, not relevant here.

⁽¹⁴⁾ 1996 c. 27. Section 33 was amended by the Civil Partnership Act 2004, Schedule 9, paragraph 4.

⁽¹⁵⁾ Section 35 was amended by the Civil Partnership Act 2004, Schedule 9, paragraph 6.

⁽¹⁶⁾ Section 37 was amended by the Civil Partnership Act 2004, Schedule 9, paragraph 8.

⁽¹⁷⁾ Schedule 7 was amended by the Civil Partnership Act 2004, Schedule 9, paragraph 16. There are other amendments to the Schedule, not relevant here.

⁽¹⁸⁾ Section 9 was substituted by the Immigration Act 2014, Schedule 4, paragraph 21.

⁽¹⁹⁾ There are amendments to Schedule 1, not relevant here.

of the civil partnership”, there were substituted “the duration of the relationship by virtue of which they are treated as having formed a civil partnership”.

Pre-commencement wills not to be revoked by virtue of recognition of pre-commencement relationships as civil partnerships

5. The formation of a civil partnership treated as having occurred, in relation to a pre-commencement relationship, by section 215(5B) of the 2004 Act (as amended by these Regulations) does not have effect under section 18B of the Wills Act 1837⁽²⁰⁾ to revoke a will made before the commencement date.

Disapplication of earlier transitional provision

6.—(1) Article 3 of the Civil Partnership (Treatment of Overseas Relationships) Order 2005⁽²¹⁾ and article 2(1) of the Civil Partnership (Treatment of Overseas Relationships No. 2) Order 2005⁽²²⁾ do not apply in relation to a relevant pre-commencement relationship.

(2) Article 5 of the Civil Partnership (Treatment of Overseas Relationships) Order 2005 does not apply in relation to a relationship within paragraph 2(1).

⁽²⁰⁾ 1837 c. 26. Section 18B was added by the Civil Partnership Act 2004, Schedule 4, paragraph 2.

⁽²¹⁾ S.I. 2005/3042.

⁽²²⁾ S.I. 2005/3284.