NATIONAL LEGISLATION: REPUBLIC OF IRELAND

1. CIVIL PARTNERSHIP AND CERTAIN RIGHTS AND OBLIGATIONS OF COHABITANTS ACT 2010

2. CHILDREN AND FAMILY RELATIONSHIPS ACT 2015
Number 24 of 2010

CIVIL PARTNERSHIP AND CERTAIN RIGHTS AND OBLIGATIONS OF COHABITANTS ACT 2010

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Number 24 of 2010

CIVIL PARTNERSHIP AND CERTAIN RIGHTS AND OBLIGATIONS OF COHABITANTS ACT 2010

AN ACT TO PROVIDE FOR THE REGISTRATION OF CIVIL PARTNERS AND FOR THE CONSEQUENCES OF THAT REGISTRATION, TO PROVIDE FOR THE RIGHTS AND OBLIGATIONS OF COHABITANTS AND TO PROVIDE FOR CONNECTED MATTERS. [19th July, 2010]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

(2) This Act, other than Part 3, shall come into operation on the day or days that the Minister may appoint by order either generally or with reference to a particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(3) Part 3 shall come into operation on the day or days that the Minister may, after consulting with the Minister for Social Protection, appoint by order either generally or with reference to a particular purpose or provision.

2.—In this Act—

“civil partnership registration” means registration of a civil partnership under section 59D (as inserted by section 16 of this Act) of the Civil Registration Act 2004;

“Land Registry” has the meaning assigned to it by the Registration of Title Act 1964;

“Minister” means the Minister for Justice and Law Reform;

“Property Registration Authority” has the meaning assigned to it by the Registration of Deeds and Title Act 2006;

“Registry of Deeds” has the meaning assigned to it by the Registration of Deeds and Title Act 2006.

Civil partnership

3.—For the purposes of this Act a civil partner is either of two persons of the same sex who are—

(a) parties to a civil partnership registration that has not been dissolved or the subject of a decree of nullity, or

(b) parties to a legal relationship of a class that is the subject of an order made under section 5 that has not been dissolved or the subject of a decree of nullity.

PART 2

Status of Civil Partnership

4.—(1) The court may, on application to it in that behalf by either of the civil partners or by any other person who, in the opinion of the court, has a sufficient interest in the matter, make one or more of the following orders in relation to a civil partnership:

(a) an order declaring that the civil partnership was at its inception a valid civil partnership;

(b) an order declaring that the civil partnership subsisted on a date specified in the application; and

(c) an order declaring that the civil partnership did not subsist on a date specified in the application other than the date of its inception.

(2) The court may only make an order under subsection (1) if one of the civil partners—

(a) is domiciled in the State on the date of the application,

(b) has been ordinarily resident in the State throughout the period of one year immediately preceding the date of the application, or

(c) died before the date of the application and—

(i) was at the time of death domiciled in the State, or

(ii) had been ordinarily resident in the State throughout the period of one year immediately preceding the date of death.

(3) The other civil partner, the civil partners concerned, or the personal representative within the meaning of the Succession Act 1965 of the civil partner or each civil partner shall be joined in proceedings under this section and the court may order that notice of the proceedings be given to any other person that the court may specify.

(4) Where notice of proceedings under this section is given to a person, the court may, of its own motion or on application to it in that behalf by the person or a party to the proceedings, order that the person be added as a party to the proceedings.
(5) Where a party to proceedings under this section alleges that the civil partnership concerned is void and should be the subject of a decree of nullity of civil partnership, the court may treat the application under subsection (1) as an application for a decree of nullity of civil partnership and proceed to determine the matter accordingly and postpone the determination of the application made under subsection (1).

(6) An order under subsection (1) is binding on the parties to the proceedings concerned and on a person claiming through such a party.

(7) An order under subsection (1) does not prejudice any person if it is subsequently proved to have been obtained by fraud or collusion.

(8) Rules of court may make provision as to the information to be given in an application for an order under subsection (1), including particulars of any previous or pending proceedings in relation to the civil partnership or to the civil partnership status of a civil partner.

(9) The registrar of the court shall notify an tArd-Chláraitheoir of an order under subsection (1).

(10) In this section a reference to a civil partner includes a reference to a person who was a civil partner until the dissolution of the civil partnership or until the civil partnership was annulled by decree of nullity.

5.—(1) The Minister may, by order, declare that a class of legal relationship entered into by two parties of the same sex is entitled to be recognised as a civil partnership if under the law of the jurisdiction in which the legal relationship was entered into—

(a) the relationship is exclusive in nature,

(b) the relationship is permanent unless the parties dissolve it through the courts,

(c) the relationship has been registered under the law of that jurisdiction, and

(d) the rights and obligations attendant on the relationship are, in the opinion of the Minister, sufficient to indicate that the relationship would be treated comparably to a civil partnership.

(2) An order under subsection (1) entitles and obliges the parties to the legal relationship to be treated as civil partners under the law of the State from the later of—

(a) the day which is 21 days after the date on which the order is made, and

(b) the day on which the relationship was registered under the law of the jurisdiction in which it was entered into.

(3) Notwithstanding subsections (1) and (2), an order made under subsection (1) shall not be construed as entitling parties to a legal relationship otherwise recognised by that order to be treated as civil partners under the law of the State if those parties are within the
prohibited degrees of relationship set out in the Third Schedule to the Civil Registration Act 2004 (inserted by section 26).

(4) Where an order is made under subsection (1), a dissolution of a legal relationship under the law of the jurisdiction in which it was entered into, or under the law of any other jurisdiction in respect of which a class of legal relationship has been declared by an order made under that subsection to be entitled to be recognised as a civil partnership, shall be recognised as a dissolution and deemed to be a dissolution under section 110, and any former parties to such a relationship shall not be treated as civil partners under the law of the State from the later of—

(a) the day which is 21 days after the date on which the order is made, and

(b) the day on which the dissolution became effective under the law of the relevant jurisdiction.

(5) Every order made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done under it.

PART 3

REGISTRATION OF CIVIL PARTNERSHIP

6.—In this Part, “Act of 2004” means the Civil Registration Act 2004.

7.—(1) Section 2(1) of the Act of 2004 is amended—

(a) by inserting the following definitions:

“‘Act of 2010’ means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘civil partner’ has the meaning assigned to it by the Act of 2010;

‘civil partnership registration’ means registration under section 59D;

‘civil status’ means being single, married, separated, divorced, widowed, in a civil partnership or being a former civil partner in a civil partnership that has ended by death or been dissolved;

‘dissolution’ means dissolution of a civil partnership under section 110 of the Act of 2010”;

(b) by substituting the following definition for the definition “decree of divorce”:;

“‘decree of divorce’ has the meaning assigned to it by the Family Law (Divorce) Act 1996;”,

(c) by substituting the following definition for the definition “decree of nullity”:

“‘decree of nullity’—

(a) in the case of a decree of nullity of marriage, has the meaning assigned to it by the Family Law (Divorce) Act 1996, and

(b) in the case of a decree of nullity of civil partnership, has the meaning assigned to it by the Act of 2010;”,

(d) in the definition of “event”, by substituting “divorce, decree of nullity, civil partnership registration or dissolution” for “divorce or decree of nullity”,

(e) in the definition of “registrar”—

(i) by inserting the following paragraph after paragraph (a):

“(aa) in relation to a civil partnership registration or intended civil partnership registration, or the register of civil partnerships, means a registrar within the meaning of section 17,”;

(ii) in paragraph (d), by substituting “,” for “,” and”, and

(iii) by substituting the following paragraphs for paragraph (e):

“(e) in relation to a decree of nullity of marriage or the register of decrees of nullity of marriage, means the Courts Service,

(f) in relation to a decree of dissolution, or the register of decrees of dissolution, means the Courts Service, and

(g) in relation to a decree of nullity of a civil partnership or the register of decrees of nullity of civil partnerships, means the Courts Service.”.

(2) Section 2(2) of the Act of 2004 is amended—

(a) in paragraph (d), by substituting “,” for “,” or”,

(b) in paragraph (e) by substituting “sex, or” for “sex,”, and

(c) by inserting the following paragraph after paragraph (e):

“(f) one of the parties to the marriage is, or both are, already party to a subsisting civil partnership.”.

(3) Section 2 of the Act of 2004 is amended by inserting the following subsection after subsection (2):
“(2A) For the purposes of this Act, there is an impediment to a civil partnership registration if—

(a) the civil partnership would be void by virtue of the Third Schedule,

(b) one of the parties to the intended civil partnership is, or both are, already party to a subsisting civil partnership,

(c) one or both of the parties to the intended civil partnership will be under the age of 18 years on the date of the intended civil partnership registration,

(d) one or both of the parties to the intended civil partnership does not give free and informed consent,

(e) the parties are not of the same sex, or

(f) one of the parties to the intended civil partnership is, or both are, married.”.

8.—Section 8(1) of the Act of 2004 is amended—

(a) in paragraph (b), by inserting “of marriage” after “nullity”,

(b) by inserting the following paragraphs after paragraph (b):

“(bb) to extend the Civil Registration Service to civil partnership registration, wherever occurring in the State,

(bbb) to extend the Civil Registration Service to decrees of dissolution and decrees of nullity of civil partnerships, wherever granted in the State,”,

(c) in paragraph (e), by inserting “of marriage” after “nullity”, and

(d) by inserting the following paragraphs after paragraph (e):

“(ee) to establish and maintain registers and indexes for the purposes of the registration of civil partnerships,

(eee) to establish and maintain registers and indexes for the purpose of the registration of decrees of dissolution of civil partnerships and of decrees of nullity of civil partnerships,”.

9.—Section 13(1) of the Act of 2004 is amended—

(a) in paragraph (f), by substituting “decrees of divorce),” for “decrees of divorce), and”, and

(b) by substituting the following paragraphs for paragraph (g):

“(g) a register of all decrees of nullity of marriage (which shall be known, and is referred to in

This Act, as the register of decrees of nullity of marriage),

(b) a register of all civil partnership registrations taking place in the State (which shall be known, and is referred to in this Act, as the register of civil partnerships),

(i) a register of all decrees of dissolution (which shall be known, and is referred to in this Act, as the register of decrees of dissolution), and

(j) a register of all decrees of nullity of civil partnerships (which shall be known, and is referred to in this Act, as the register of decrees of nullity of civil partnerships)."

10.—Section 17 of the Act of 2004 is amended—

(a) in paragraph (1)(b), by substituting “deaths, marriages and civil partnerships” for “deaths and marriages”; and

(b) in subsection (13), by substituting “, marriages and civil partnerships” for “and marriages”.

11.—Section 22(3)(b) of the Act of 2004 is amended by inserting “of marriage” after “nullity”.

12.—Section 23(3)(b) of the Act of 2004 is amended by inserting “of marriage” after “nullity”.

13.—Section 37 of the Act of 2004 is amended by inserting “or civil partner” after “relative” wherever it occurs.

14.—Section 46(7) of the Act of 2004 is amended by substituting “civil status” for “marital status”.

15.—Section 59(2) of the Act of 2004 is amended by inserting “of marriage” after “nullity” wherever it appears.

16.—The Act of 2004 is amended by inserting the following Part after section 59:

“PART 7A

REGISTRATION OF CIVIL PARTNERSHIPS

Definitions (Part 7A).

59A.—In this Part—

‘civil partnership registration form’ means a form prescribed under section 59C;
‘register’ means the register of civil partnerships.

Notification of civil partnerships.

59B.—(1) A civil partnership registered in the State, after the commencement of this section, between persons of any age shall not be valid in law unless the persons concerned—

(a) notify any registrar in writing in a form for the time being standing approved by an tArd-Chláráitheoir of their intention to enter into a civil partnership not less than 3 months prior to the date on which the civil partnership is to be registered, and

(b) attend at the office of that registrar, or at any other convenient place specified by that registrar, at any time during normal business hours not less than 5 days (or a lesser number of days that may be determined by that registrar) before that date and make and sign a declaration in his or her presence that there is no impediment to the registration of the civil partnership.

(2) Notwithstanding paragraph (a) of subsection (1), the Circuit Court or the High Court may, on application to it by the persons wishing to enter into a civil partnership, order that the registration be exempt from that paragraph if the Court is satisfied, after a hearing held otherwise than in public, that there are serious reasons for the exemption and that the exemption is in the interests of those persons.

(3) The jurisdiction conferred on the Circuit Court by this section shall be exercised by a judge of the circuit in which either of the parties to the intended civil partnership concerned ordinarily resides or carries on any profession, business or occupation or where the place at which the civil partnership concerned is intended to be registered is situate.

(4) A court fee shall not be charged in respect of an application under subsection (2).

(5) Except in the circumstances that may be prescribed, a notification referred to in paragraph (1)(a) shall be delivered by both of the parties to the intended civil partnership, in person, to the registrar.

(6) The notification shall be accompanied by the prescribed fee and any other documents and information that an tArd-Chláráitheoir may specify.

(7) The requirements specified in subsections (1) and (5) are declared to be substantive requirements for registering a civil partnership.
(8) When, in relation to an intended civil partnership, a registrar receives a notification under paragraph (1)(a) and any other documents or information specified under subsection (6), he or she shall, as soon as reasonably practicable, notify in writing each of the parties to the intended civil partnership and the registrar who is to register the civil partnership of the receipt.

(9) A notification under subsection (8) shall not be construed as indicating the registrar’s approval of the proposed civil partnership.

(10) The registrar may require each party to an intended civil partnership to provide him or her with the evidence relating to that party’s forename, surname, address, civil status, age and nationality that an tArd-Chláraitheoir may specify.

(11) An tArd-Chláraitheoir may, if so authorised by the Minister, publish, in the form and manner that the Minister may direct, notice of notifications of intended civil partnerships under subsection (1), but a notice under this subsection shall not contain the personal public service number of a party to the intended civil partnership.

59C.—(1) A registrar to whom a notification is given under section 59B, or who receives a copy of an exemption order under subsection (2) of that section, who is satisfied that that section has been complied with shall complete a civil partnership registration form for the intended civil partnership.

(2) Before the registration of a civil partnership, the registrar shall give a copy of the civil partnership registration form to one of the parties to the intended civil partnership.

(3) When the parties wish to register a civil partnership, one of them shall give the civil partnership registration form to the registrar who is to register the civil partnership for examination by him or her.

(4) A civil partnership registration form is valid only for a period of 6 months from the date on which it is completed. If the parties do not register the civil partnership during that period and wish to have their civil partnership registered, they shall again comply with section 59B.

(5) The Minister may prescribe the civil partnership registration form.

59D.—(1) The parties shall orally make the declarations referred to in subsection (3), and sign the civil partnership registration form in the presence of each other, the registrar and two witnesses
professing to be 18 years or over. The declarations shall be made and the signature of the civil partnership registration form shall be in a place that is open to the public, unless an tArd-Chláraitheoir or a superintendent registrar—

(a) is satisfied on the basis of a certificate of a registered medical practitioner that one or both of the parties is too ill to attend at a place that is open to the public, and

(b) gives approval to the registrar that signature of the form take place at another place chosen by the parties and agreed to by the registrar.

(2) The registrar shall be satisfied that the parties understand the nature of the civil partnership and the declarations specified in subsection (3).

(3) Each party to the civil partnership shall make the following declarations:

(a) a declaration that he or she does not know of any impediment to the civil partnership registration;

(b) a declaration of his or her intention to live with and support the other party; and

(c) a declaration that he or she accepts the other party as a civil partner in accordance with the law.

(4) The requirements of subsections (1) to (3) are declared to be substantive requirements for civil partnership registration.

(5) The parties may, before signing the civil partnership registration form, take part in a ceremony in a form approved by an tArd-Chláraitheoir in which the declarations are made in a place open to the public and in the presence of the registrar and the witnesses.

(6) (a) The witnesses shall sign the form after the parties to the civil partnership have done so, and the registrar shall countersign the form.

(b) The parties’ civil partnership shall be taken to be registered upon the counter-signature of the registrar.

(c) As soon as practicable after the signatures and counter-signature, the registrar shall give the parties a copy of the form referred to in paragraph (a), enter the particulars in relation to the civil partnership in the register and
register the civil partnership in a manner that an tArd-Chláraitheoir may direct.

(7) Where an tArd-Chláraitheoir is satisfied that a duly signed civil partnership registration form has been lost, destroyed or damaged, he or she may direct the appropriate registrar—

(a) to complete another civil partnership registration form and arrange, insofar as it is practicable to do so, for its signature by the persons referred to in subsection (1), and

(b) when it has been so signed, to enter the particulars in relation to the civil partnership specified in the form in the register and to register the civil partnership in a manner as an tArd-Chláraitheoir may direct.

(8) The Minister may provide by regulations for the correction of errors in entries in the register and for the causing of corrected entries to be entered in the register and for the retention of the original entries in the register.

(9) Where an tArd-Chláraitheoir is satisfied that an entry in the register relates to a civil partnership in relation to which section 59B(1) was not complied with (other than where there has been an exemption ordered under subsection (2) of that section)—

(a) an tArd-Chláraitheoir shall direct a registrar to cancel the entry,

(b) the registrar shall cancel the entry, and

(c) an tArd-Chláraitheoir shall notify the parties.

59E. — (1) A civil partnership may be registered only at a place and time chosen by the parties to the civil partnership with the agreement of the registrar and, if the place chosen is not the office of a registrar or a place referred to in section 59D(1)(b), the approval of the place by the Executive, and the question whether to give or withhold the approval, shall be determined by the Executive by reference to the matters that the Minister may specify.

(2) Where a registrar registers a civil partnership at a place other than the office of a registrar, the parties shall pay to the registrar a fee in the amount that the Executive may determine.

(3) When a registrar incurs travel or subsistence expenses in connection with registering a civil partnership at a place other than his or her office,
the parties shall pay to the registrar an amount in respect of the expenses, calculated by reference to a scale that the Executive may draw up.

(4) An amount payable under subsection (2) or (3) may be recovered by the registrar from the parties as a simple contract debt in any court of competent jurisdiction.

Objections. 59F.—(1) A person may, at any time before a civil partnership registration, lodge with any registrar an objection in writing that contains the grounds on which the objection is based.

(2) If the registrar who receives an objection under subsection (1) is not assigned to the same registration area as the registrar to whom the notification was given under section 59B (or, where there has been an exemption ordered under subsection (2) of that section, the registrar who is to register the civil partnership)—

(a) the receiving registrar shall refer the objection to the Superintendent Registrar of the registration area to which the other registrar is assigned,

(b) the Superintendent Registrar shall direct a registrar assigned to that area to perform the function conferred by this section on the receiving registrar,

(c) the registrar who receives the direction shall comply with it, and

(d) references in this section to the registrar who receives an objection shall be construed as references to the registrar who receives the direction and this section shall apply and have effect accordingly.

(3) If the registrar who receives an objection under subsection (1) is satisfied that the objection relates to a minor error or misdescription in the relevant notification under section 59B which would not constitute an impediment to the civil partnership, the registrar shall—

(a) notify the parties to the intended civil partnership registration of the objection,

(b) make the appropriate enquiries,

(c) if the civil partnership registration form has been given to one of the parties, request its return and correct it and the notification and make any necessary corrections to any other records relating to the civil partnership, and
(d) give the corrected civil partnership registration form to one of the parties to the civil partnership.

(4) If the registrar who receives an objection under subsection (1) believes that the possibility of the existence of an impediment to the intended civil partnership registration needs to be investigated, he or she shall refer the objection to an tArd-Chláraitheoir for consideration and, pending the decision of an tArd-Chláraitheoir, he or she shall—

(a) notify the parties to the intended civil partnership registration that—

(i) an objection has been lodged and the grounds on which it is based,

(ii) the objection is being investigated, and

(iii) the civil partnership registration will not proceed until the investigation is completed,

(b) if the civil partnership registration form has not been issued, suspend its issue,

(c) if the civil partnership registration form has been issued, request the party to the intended civil partnership registration to whom it was given to return it to the registrar, and

(d) notify the proposed registrar of the civil partnership, if a different registrar is intended to register the civil partnership, that an objection is being investigated, and direct him or her not to register the civil partnership until the investigation is completed.

(5) A registrar shall comply with a direction under paragraph (4)(d).

(6) Where an objection is referred to an tArd-Chláraitheoir pursuant to subsection (4), he or she shall make a decision on the objection as soon as practicable.

(7) In a case referred to in subsection (4), if an tArd-Chláraitheoir decides that no impediment to the intended civil partnership exists, he or she shall advise the registrar to that effect and the registrar shall—
(a) notify the parties to the civil partnership that no impediment to the civil partnership exists,

(b) issue or re-issue the civil partnership registration form to one of those parties, and

(c) notify the person who lodged the objection that no impediment to the civil partnership exists.

(8) In a case referred to in subsection (4), if an tArd-Chláráitheoir decides that there is an impediment to the intended civil partnership, he or she shall advise the registrar to that effect and of the reasons for the decision and the registrar shall—

(a) notify the parties to the civil partnership—

(i) that the registration of the civil partnership will not proceed, and

(ii) of the decision of an tArd-Chláráitheoir and of the reasons for it,

and

(b) take all reasonable steps to ensure that the registration does not proceed.

(9) If, notwithstanding the steps taken by the registrar pursuant to paragraph (8)(b), the civil registration proceeds, the entry in the register is invalid and any person who becomes aware of that entry into the register shall notify an tArd-Chláráitheoir of it.

(10) When an tArd-Chláráitheoir becomes aware of an entry referred to in subsection (9)—

(a) an tArd-Chláráitheoir shall direct a registrar to cancel the entry and notify the parties and the registrar who made the entry of the direction, and

(b) the registrar shall comply with the direction and cancel the entry and ensure that the cancelled entry is retained in the register.

(11) A party to a proposed civil partnership may appeal to the Circuit Court against the decision of an tArd-Chláráitheoir under subsection (8) in relation to the civil partnership.

(12) The jurisdiction conferred on the Circuit Court by subsection (11) may be exercised by a judge of the circuit in which either of the parties to the intended civil partnership ordinarily resides
or carries on any profession, business or occupation or the place at which civil partnership concerned had been intended to be registered is situate.

(13) A person who has lodged an objection under subsection (1) may withdraw the objection, but an tArd-Chláraitheoir may, if he or she considers it appropriate to do so, investigate or complete his or her investigation of the objection and issue any directions to the registrar concerned in relation to the matter that he or she considers necessary.

(14) An objection on the ground that the civil partnership would be void by virtue of the incapacity of one or both of the parties to give informed consent shall be accompanied by a certificate supporting the objection made by a registered medical practitioner.

Where interpretation required.

59G.—If a party or a witness to a civil partnership registration does not have sufficient knowledge of the language of the registration to understand the registration documents or the declarations, the parties shall have an interpreter present who shall—

(a) before the parties make the declarations, sign, in the presence of the registrar, a statement to the effect that the interpreter understands and is able to converse in the language in respect of which he or she is to act as interpreter and give the statement to the registrar, and

(b) immediately after those declarations are made, give the registrar a signed certificate written in the language of the registration, to the effect that the interpreter has faithfully acted as interpreter.

Effect of registration.

59H.—The parties to a registered civil partnership shall be taken to be civil partners of each other as soon as the registrar has countersigned the civil partnership form as required by section 59D(6)(a), regardless of whether the registrar has performed the actions required of him or her under section 59D(6)(c), and all duties and benefits that accrue to civil partners under the Act of 2010 or any other law accrue to them.

This Part shall have effect notwithstanding any statutory provision that conflicts with it.”.

The Act of 2004 is amended by inserting the following Part before section 60:
PART 7B

Registration of Decrees of Dissolution of Civil Partnership and Decrees of Nullity of Civil Partnership

59J.—(1) When a court grants a decree of dissolution, an officer of the Courts Service authorised in that behalf by the Courts Service shall, as soon as may be, enter or cause to be entered in the register of decrees of dissolution of civil partnership the particulars in relation to the matter set out in Part 6A of the First Schedule.

(2) When a court grants a decree of nullity of civil partnership, an officer of the Courts Service authorised in that behalf by the Courts Service shall, as soon as may be, enter or cause to be entered in the register of decrees of nullity of civil partnership the particulars in relation to the matter set out in Part 7A of the First Schedule.

(3) An officer of the Courts Service authorised in that behalf by the Courts Service may amend or cancel or cause to be amended or cancelled an entry in the register referred to in subsection (1) or (2).

(4) The Courts Service shall notify an tArd-Chláraitheoir of an amendment or cancellation under subsection (3).

(5) This section has effect notwithstanding any statutory provision that conflicts with it.

18.—Section 60(1) of the Act of 2004 is amended—

(a) in paragraph (a), by substituting “death, marriage or civil partnership” for “death or marriage”, and

(b) by inserting “, the parties to the civil partnership” before “or the person”.

19.—Section 64 of the Act of 2004 is amended by inserting the following subsections after subsection (7):

“(8) If an tArd-Chláraitheoir is satisfied that an entry in the register of civil partnerships relates to a civil partnership of a class referred to in subsection (9)—

(a) an tArd-Chláraitheoir shall direct a registrar to cancel the entry and notify the parties to the civil partnership and the registrar who registered it of the direction, and

(b) the registrar shall comply with the direction and ensure that the cancelled entry is retained in the register.

(9) The classes referred to in subsection (8) are:

(a) a civil partnership, as respects which one or more of the requirements specified in subsections (1) and (5) of section 59B were not complied with (other than where there has been an exemption ordered under subsection (2) of that section); and

(b) a civil partnership to which there was an impediment within the meaning of section 2(2A).

20.—Section 65(1)(a) of the Act of 2004 is amended by substituting “death, marriage or civil partnership”, for “death or marriage”.

21.—Section 66(1) of the Act of 2004 is amended by substituting “marriages, civil partnerships, decrees of divorce, decrees of nullity of marriage, decrees of dissolution or decrees of nullity of civil partnership” for “marriages, decrees of divorce, or decrees of nullity”.

22.—Section 69 of the Act of 2004 is amended—

(a) in subsection (4), by inserting “, civil partnership” after “marriage”,

(b) by inserting the following subsection after subsection (9):

“(9A) A registrar who, without reasonable cause, fails or refuses to give a civil partnership registration form to one of the parties to an intended civil partnership in respect of which he or she has received a notification under section 59B(1)(a), or a copy of an exemption order under section 59B(2), commits an offence.”.

(c) in subsection (10)—

(i) by inserting the following paragraph after paragraph (j):

“(jfa) registers or is a party to a civil partnership in respect of which, to his or her knowledge, subsection (1) or (5) of section 59B is not complied with, (other than where there has been an exemption ordered under subsection (2) of that section).”,

(ii) by inserting in paragraph (h) “or 59F” after “58”,

(iii) by inserting in paragraph (i) “, or 59B(1)(b)” after “46(1)(b)”,

(iv) by substituting in paragraph (i), “false or misleading,” for “false or misleading, or”,

(v) by substituting in paragraph (i) “form, or” for “form,”, and

(vi) by inserting the following paragraph after paragraph (j):

“(k) not being a registrar, deletes or alters information in relation to the parties to a civil
Amendment of section 70 of Act of 2004.

23.—Section 70(2) of the Act of 2004 is amended by substituting (9), (9A),” for “(9),”.

Amendment of section 73 of Act of 2004.

24.—Section 73 of the Act of 2004 is amended—

(a) in subsection (1)—

(i) by inserting the following paragraph after paragraph (d):

“(dd) civil partnerships,”;

(ii) by inserting “of marriage” after “nullity” in paragraph (f);

(iii) by inserting the following paragraphs after paragraph (f):

“(ff) decrees of dissolution,

(fff) decrees of nullity of civil partnership,”,

(b) in paragraph (3)(a), by inserting “of marriage, civil partnership, decree of dissolution, decree of nullity of civil partnership,” after “nullity” wherever it appears, and

(c) in subsection (7), by inserting “of marriage, civil partnership, decree of dissolution, decree of nullity of civil partnership,” after “nullity”.

Amendment of First Schedule to Act of 2004.

25.—The First Schedule to the Act of 2004 is amended—

(a) by substituting “civil status” for “marital status” wherever it appears,

(b) in Part 5, by substituting “If deceased was married or a civil partner, the profession or occupation of spouse or civil partner.” for “If deceased was married, the profession or occupation of spouse.”,

(c) by inserting the following Part after Part 6:

“PART 6A

PARTICULARS TO BE ENTERED IN REGISTER OF DISSOLUTIONS

Court by which the decree was granted.

Year and record number of the proceedings.

Forenames, surnames and birth surnames of the parties to the proceedings.

Personal public service numbers of the parties to the proceedings.

Date and place of civil partnership registration.

Date of the decree.

Date of registration of the decree.

Forenames and surname of officer of Courts Service.

(d) by inserting “of Marriage” at the end of the title to Part 7, and

(e) by inserting the following Part after Part 7:

“PART 7A

Section 59D.

PARTICULARS TO BE ENTERED IN REGISTER OF DECREES OF NULLITY OF CIVIL PARTNERSHIP

Court by which the decree was granted.

Year and record number of the proceedings.

Forenames, surnames and birth surnames of the parties to the proceedings.

Personal public service numbers of the parties to the proceedings.

Date and place of civil partnership registration.

Declaration of court.

Date of the decree.

Date of registration.

Forenames and surname of officer of Courts Service.”.

26.—The Act of 2004 is amended by inserting the following Schedule after the Second Schedule:

“THIRD SCHEDULE

Section 2

PROHIBITED DEGREES OF RELATIONSHIP

A person may not enter a civil partnership with someone within the prohibited degrees of relationship, as set out in the table below. Relationships within that table should be construed as including relationships in the half-blood (e.g. sibling includes a sibling where there is only one parent in common, etc.), and all the relationships include relationships and former relationships by adoption.
Interpretation.

27.—In this Part—

“conduct” includes an act and a default or other omission;

“conveyance” includes a mortgage, lease, assent, transfer, disclaimer, release, another disposition of property otherwise than by a will or a \( donatio mortis causa \), and an enforceable agreement, whether conditional or unconditional, to make one of those conveyances;

“dwelling” means a building or part of a building occupied as a separate dwelling and includes—

(a) a garden or other land usually occupied with the building that is subsidiary and ancillary to it, is required for amenity or convenience and is not being used or developed primarily for commercial purposes,

(b) a structure that is not permanently attached to the ground, and

(c) a vehicle or vessel, whether mobile or not, occupied as a separate dwelling;

“interest” means any estate, right, title or other interest, legal or equitable;

“mortgage” includes an equitable mortgage, a charge on registered land and a chattel mortgage;

“rent” includes a conventional rent, a rentcharge within the meaning of section 2(1) of the Statute of Limitations 1957 and a terminable annuity payable in respect of a loan for the purchase of a shared home;

“shared home” means—

(a) subject to paragraph (b), a dwelling in which the civil partners ordinarily reside; and
(b) in relation to a civil partner whose protection is in issue, the dwelling in which that civil partner ordinarily resides or, if he or she has left the other civil partner, in which he or she ordinarily resided before leaving.

28.—(1) Where a civil partner, without the prior consent in writing of the other civil partner, purports to convey an interest in the shared home to a person except the other civil partner, then, subject to subsections (2), (3), and (8) to (14) and section 29, the purported conveyance is void.

(2) Subsection (1) does not apply to a conveyance if it is made by a civil partner in pursuance of an enforceable agreement made before the civil partners’ registration of their civil partnership.

(3) A conveyance is not void by reason only of subsection (1) if—

(a) it is made to a purchaser for full value,

(b) it is made by a person other than the civil partner to a purchaser for value, or

(c) its validity depends on the validity of a conveyance in respect of which a condition mentioned in subsection (2) or paragraph (a) or (b) is satisfied.

(4) If any question arises in any proceedings as to whether a conveyance is valid by reason of subsection (2) or (3), the burden of proving the validity is on the person alleging it.

(5) In subsection (3), “full value” means value that amounts or approximates to the value of that for which it is given.

(6) In this section, “purchaser” means a grantee, lessee, assignee, mortgagee, chargeant or other person who in good faith acquires an estate or interest in property.

(7) For the purposes of this section, section 3 of the Conveyancing Act 1882 shall be read as if the words “as such” wherever they appear in paragraph (ii) of subsection (1) of that section were omitted.

(8) Subject to subsection (9), proceedings may only be instituted to have a conveyance declared void by reason only of subsection (1) if they are instituted before the expiration of 6 years from the date of the conveyance.

(9) Proceedings referred to in subsection (8) may be instituted by a civil partner who was in actual occupation of the shared home during the whole period that begins with the date of the conveyance and ends immediately before the institution of the proceedings, even if 6 years have expired from the date of the conveyance.

(10) Subsection (8) is without prejudice to the rights of civil partners to seek redress for contraventions of subsection (1) otherwise than by proceedings referred to in that subsection.

(11) A conveyance is deemed not to be and never to have been void by reason of subsection (1) unless—

(1) Where the civil partner whose consent is required under section 28 omits or refuses to consent, the court may, subject to this section, dispense with the consent.

(2) The court shall not dispense with the consent unless the court considers that it is unreasonable for the civil partner to withhold consent, taking into account all the circumstances, including—

(a) the respective needs and resources of the civil partners, and

(b) in a case where the civil partner whose consent is required is offered alternative accommodation, the suitability of that accommodation having regard to the respective degrees of security of tenure in the shared home and the alternative accommodation.

(3) The court shall dispense with the consent of a civil partner whose consent is required if—

(a) the civil partner cannot be found after reasonable inquiries, and

(b) the court is of the opinion that it would be reasonable to do so.

(4) The court may give the consent on behalf of a civil partner whose consent is required if—

29.—(1) Where the civil partner whose consent is required under section 28 omits or refuses to consent, the court may, subject to this section, dispense with the consent.

(2) The court shall not dispense with the consent unless the court considers that it is unreasonable for the civil partner to withhold consent, taking into account all the circumstances, including—

(a) the respective needs and resources of the civil partners, and

(b) in a case where the civil partner whose consent is required is offered alternative accommodation, the suitability of that accommodation having regard to the respective degrees of security of tenure in the shared home and the alternative accommodation.

(3) The court shall dispense with the consent of a civil partner whose consent is required if—

(a) the civil partner cannot be found after reasonable inquiries, and

(b) the court is of the opinion that it would be reasonable to do so.

(4) The court may give the consent on behalf of a civil partner whose consent is required if—

(a) a consultant psychiatrist, within the meaning of the Mental Health Act 2001, certifies that the civil partner is incapable of giving consent, and

(b) the court is of the opinion that it would be reasonable to do so.

30.—(1) Where it appears to the court, on the application of a civil partner, that the other civil partner is engaging in conduct that might lead to the loss of any interest in the shared home or might render it unsuitable for habitation as a shared home, with the intention of depriving the applicant of his or her residence in the shared home, the court may make any order that it considers proper, directed to the other civil partner or to any other person, for the protection of the shared home in the interest of the applicant.

(2) Where it appears to the court, on the application of a civil partner, that the other civil partner has deprived the applicant of his or her residence in the shared home by conduct that resulted in the loss of any interest in it or rendered it unsuitable for habitation as a shared home, the court may order the other civil partner or any other person to pay to the applicant the amount that the court considers proper to compensate the applicant for their loss or make any other order directed to the other civil partner or to any other person that may appear to the court to be just and equitable.

31.—(1) Any payment or tender made or any other thing done by one civil partner in or towards satisfaction of any liability of the other civil partner in respect of rent, mortgage payments or other outgoings affecting the shared home shall be as good as if made or done by the other civil partner, and shall be treated by the person to whom the payment is made or the thing is done as though it were made or done by the other civil partner.

(2) Nothing in subsection (1) affects any claim by the first-mentioned civil partner against the other to an interest in the shared home by virtue of the payment made or thing done.

32.—(1) The court may adjourn proceedings in an action brought by a mortgagee or lessor in relation to non-payment against a civil partner and claiming possession or sale of the shared home if it appears to the court that—

(a) the other civil partner is capable of paying to the mortgagee or lessor the arrears (other than the arrears of principal or interest or rent that do not constitute part of the periodical payments due under the mortgage or lease) of money due under the mortgage or lease within a reasonable time, and future periodical payments falling due under the mortgage or lease, and that the other civil partner desires to pay the arrears and periodical payments, and

(b) it would be just and equitable to do so, in all the circumstances and having regard to the interests of the mortgagee or lessor, the respective interests of the civil partners and the terms of the mortgage or lease.
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(2) In considering whether to adjourn the proceedings under this section, and if so, for what period and on what terms, the court shall have regard in particular to whether the other civil partner has been informed, by or on behalf of the mortgagee or lessor or otherwise, of the non-payment of any of the sums in question.

33.—The court may by order declare, on application by a civil partner, that a term of a mortgage or lease by virtue of which a sum is due, other than periodical payments due under the mortgage or lease, is of no effect for the purpose of proceedings under section 32, if, after the proceedings have been adjourned under that section it appears to the court that—

(a) all arrears (other than the arrears of principal or interest or rent that do not constitute part of the periodical payments due under the mortgage or lease or money due under the mortgage or lease) and periodical payments due as of the date of the order have been paid off, and

(b) the periodical payments subsequently falling due will continue to be paid.

34.—(1) The court may, on the application of a civil partner, by order prohibit, on the terms it may see fit, the other civil partner from disposing of or removing household chattels, if the court is of the opinion that there are reasonable grounds to believe that the other civil partner intends to do so and that it would make it difficult for the applicant to reside in the shared home without undue hardship if the household chattels were disposed of or removed.

(2) Where proceedings for the dissolution of a civil partnership have been instituted by a civil partner, neither civil partner shall sell, lease, pledge, charge or otherwise dispose of or remove any of the household chattels in the shared home until the proceedings have been finally determined, unless—

(a) the other civil partner has consented to the disposition or removal, or

(b) the court before which the proceedings have been instituted, on application by the civil partner who desires to make the disposition or removal, permits the civil partner to do so, with or without conditions.

(3) Without prejudice to any other civil or criminal liability, a civil partner who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding €127 or to imprisonment for a term not exceeding 6 months or to both.

(4) The court may order, on the application of a civil partner, that the other civil partner provide household chattels or a sum of money to the applicant, so as to place the applicant as nearly as possible in the position that prevailed before—

(a) the other civil partner contravened an order under subsection (1) or (2), or

(b) the other civil partner sold, leased, pledged, charged or otherwise disposed of or removed the number or proportion of the household chattels in the shared home that
made or is likely to make it difficult for the applicant to reside in the shared home without undue hardship.

(5) In proceedings under this section, the court may make an order that appears to it to be proper in the circumstances, directed to a third person who has been informed in writing by a civil partner before the proceedings were taken, with respect to a proposed disposition to the third person by the other civil partner.

(6) For the purposes of this section, “household chattels” means personal property ordinarily used in a household and includes garden effects and domestic animals, but does not include money or any chattels used by either civil partner for business or professional purposes.

35.—In any proceedings under or referred to in this Part, each of the civil partners as well as any third person who has or may have an interest in the proceedings may be joined—

(a) by service of a third-party notice by an existing party to the proceedings, or

(b) by direction of the court.

36.—(1) A civil partner may lodge with the Property Registration Authority a notice stating that he or she is the civil partner of a person having an interest in property or land.

(2) A notice under subsection (1) shall be registered in the Registry of Deeds or Land Registry, as appropriate.

(3) No stamp duty or fee shall be payable in respect of any such notice.

(4) The fact that notice of a civil partnership has not been registered under subsection (1) shall not give rise to any inference as to the non-existence of a civil partnership.

37.—Section 59(2) of the Registration of Title Act 1964 (which refers to noting upon the register provisions of any enactment restricting dealings in land) does not apply to this Part.

38.—No land registration fee, Registry of Deeds fee or court fee shall be payable on any transaction creating a joint tenancy between civil partners in respect of a shared home where the home was immediately prior to such transaction owned by either civil partner or by both civil partners otherwise than as joint tenants.

39.—(1) A person commits an offence if he or she—

(a) has an interest in premises,

(b) is required in writing by or on behalf of a person proposing to acquire the interest to give information necessary to establish if the conveyance of that interest requires a consent under section 28(1), and
Protection of certain tenancies.

Protection of certain tenancies.

Amendment of Civil Legal Aid Act 1995.

Interpretation.

Protection of certain tenancies.

40.—The Residential Tenancies Act 2004 is amended—

(a) in section 3(2)(h) and section 35(4) by inserting “, civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears, and

(b) in section 39(3)(a)(i), by inserting “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”.


(2) Section 9 of the Act of 1982 is amended in subsection (2) by inserting “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears.

(3) Section 16(1) of the Act of 1982 is amended by inserting “or the tenant or the tenant’s civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “dwelling” where it lastly occurs.

(4) Section 22 of the Act of 1982 is amended by inserting “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears.

42.—Section 28(9)(c)(i) of the Civil Legal Aid Act 1995 is amended by substituting “or proceedings arising out of a dispute between spouses as to the title to or possession of any property, proceedings under Part 4 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, or proceedings arising out of a dispute between civil partners within the meaning of that Act as to the title to or possession of any property;” for “or proceedings arising out of a dispute between spouses as to the title to or possession of any property;”.

PART 5

MAINTENANCE OF CIVIL PARTNER

43.—(1) In this Part—
“antecedent order” means—

(a) a maintenance order,

(b) a variation order,

(c) an interim order,

(d) an order under section 48 in so far as it is deemed under that section to be a maintenance order, or

(e) an order for maintenance pending suit under section 116 or a periodical payments order or secured periodical payments order under Part 12;

“attachment of earnings order” means an order under section 53;

“desertion” includes conduct on the part of one civil partner that results in the other civil partner, with just cause, leaving and living separately and apart from the first civil partner;

“earnings” means any sums payable to a person—

(a) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service), and

(b) by way of pension or other like benefit in respect of employment (including an annuity in respect of past services, whether or not rendered to the person paying the annuity, and including periodical payments by way of compensation for the loss, abolition or relinquishment, or diminution in the emoluments, of any office or employment);

“interim order” means an order under section 47;

“maintenance creditor”, in relation to an order under this Part, or to proceedings arising out of the order, means the civil partner who applied for the order;

“maintenance debtor” means a person who is required by an order referred to in any of paragraphs (a) to (e) of the definition “antecedent order” to make payments;

“maintenance order” means an order under section 45;

“normal deduction rate” and “protected earnings rate” have the meanings respectively assigned to them in section 53;

“variation order” means an order under section 46 varying a maintenance order.

(2) Subject to section 59, the relationship of employer and employee shall be regarded as subsisting between two persons if one of them as a principal and not as a servant or agent pays earnings to the other.

(3) References in this Part to a District Court clerk include references to his or her successor in the office of District Court clerk and to any person acting on his or her behalf.
Commencement of periodical payments.

44.—A periodical payment under an order under this Part shall commence on the date that is specified in the order, which may be before or after the date on which the order is made but not earlier than the date of the application for the order.

Maintenance order.

45.—(1) Subject to subsection (3), where it appears to the court, on application to it by a civil partner, that the other civil partner has failed to provide maintenance for the applicant that is proper in the circumstances, the court may make an order that the other civil partner make to the applicant periodical payments for the support of the applicant, for the period during the lifetime of the applicant, of the amount and at the times that the court may consider proper.

(2) The court shall not make a maintenance order for the support of an applicant where he or she has deserted and continues to desert the other civil partner unless, having regard to all the circumstances, including the conduct of the other civil partner, the court is of the opinion that it would be unjust in all the circumstances not to make a maintenance order.

(3) The court, in deciding whether to make a maintenance order and, if it decides to do so, in determining the amount of any payment, shall have regard to all the circumstances of the case including—

(a) the income, earning capacity, property and other financial resources of the civil partners, including income or benefits to which either civil partner is entitled by or under statute,

(b) the financial and other responsibilities of—

(i) the civil partners towards each other,

(ii) each civil partner as a parent towards any dependent children, and the needs of any dependent children, including the need for care and attention, and

(iii) each civil partner towards any former spouse or civil partner,

and

(c) the conduct of each of the civil partners, if that conduct is such that, in the opinion of the court, it would in all the circumstances be unjust to disregard it.

Discharge, variation and termination of maintenance order.

46.—(1) The court may discharge a maintenance order at any time after one year from the time it is made, on the application of the maintenance debtor, where it appears to the court that, having regard to the maintenance debtor’s record of payments pursuant to the order and to the other circumstances of the case, the maintenance creditor will not be prejudiced by the discharge.

(2) The court may discharge or vary a maintenance order at any time, on the application of either party, if it thinks it proper to do so having regard to any circumstances not existing when the order was made (including the conduct of each of the civil partners, if that conduct is conduct that the court believes is conduct that it would in all the circumstances be unjust to disregard), or, if it has been varied, when it was last varied, or to any evidence not available to that party
when the maintenance order was made or, if it has been varied, when it was last varied.

(3) Notwithstanding subsections (1) and (2), the court shall, on application to it, discharge the part of a maintenance order that provides for the support of a maintenance creditor where it appears to it that the maintenance creditor has deserted and continues to desert the maintenance debtor unless, having regard to all the circumstances (including the conduct of the maintenance debtor) the court is of the opinion that it would be unjust to do so.

47.—On an application to the court for a maintenance order, the court, before deciding whether to make or refuse to make the order, may make an order for the payment to the applicant by the maintenance debtor, for a definite period specified in the order or until the application is adjudicated upon by the court, of a periodical sum that, in the opinion of the court, is proper, if it appears to the court proper to do so having regard to the needs of the applicant and the other circumstances of the case.

48.—(1) On application by one or both of the civil partners, the court may make an order under this section if it is satisfied that to do so would adequately protect the interests of the civil partners.

(2) An order under this section may make a rule of court a provision in an agreement in writing entered into by the civil partners—

(a) by which one civil partner undertakes to make periodical payments towards the maintenance of the other civil partner, or

(b) governing the rights and liabilities of the civil partners towards one another in respect of the making or securing of payments (other than payments referred to in paragraph (a)) or the disposition or use of any property.

(3) An order under subsection (2)(a) is deemed to be a maintenance order for the purposes of section 50, Part 6 and section 140.

49.—(1) On application to it by either of the civil partners in an application under section 48, the court may make an order directing the trustees of a pension scheme of which either or both of the civil partners are members not to regard the separation of the civil partners as a ground for disqualifying either of them for the receipt of a benefit under the scheme that would normally require that the civil partners be residing together at the time when the benefit becomes payable.

(2) The applicant shall give notice of an application under subsection (1) to the trustees of the pension scheme and, in deciding whether to make an order under subsection (1), the court shall have regard to any order made, or proposed to be made, by it in relation to the application by the civil partner or civil partners under section 48 and any representations made by those trustees in relation to the matter.

(3) The court may determine the manner in which the costs incurred by the trustees under subsection (2) or in complying with an order under subsection (1) are to be borne, including by either of
(4) In this section, “pension scheme” has the meaning assigned to it by section 109.

(1) Where the court makes a maintenance order, a variation order or an interim order, the court shall—

(a) direct that payments under the order be made to the District Court clerk, unless the maintenance creditor requests the court not to do so and the court considers that it would be proper not to do so, and

(b) in a case in which the court has not given a direction under paragraph (a), direct, at any time after making the order and on the application of the maintenance creditor, that the payments be made to the District Court clerk.

(2) Where payments to the District Court clerk under this section are in arrear, the District Court clerk shall, if the maintenance creditor so requests in writing, take the steps that he or she considers reasonable in the circumstances to recover the sums in arrear whether by proceedings for an attachment of earnings order or otherwise.

(3) The court, on the application of the maintenance debtor and having afforded the maintenance creditor an opportunity to oppose the application, may discharge a direction under subsection (1), if satisfied that, having regard to the record of the payments made to the District Court clerk and all the other circumstances, it would be proper to do so.

(4) The District Court clerk shall transmit any payments made by virtue of this section to the maintenance creditor.

(5) Nothing in this section affects any right of a person to take proceedings in his or her own name for the recovery of a sum payable, but not paid, to the District Court clerk by virtue of this section.

(6) References in this section to the District Court clerk are references to the District Court clerk in the District Court district that may be determined from time to time by the court concerned.

(1) The court may, on making a maintenance order under section 45, order the maintenance debtor in addition to, or instead of such an order, to make a lump sum payment or lump sum payments to the maintenance creditor of such amount or amounts and at such time or times as may be specified in the order.

(2) The amount or aggregate amount of a lump sum payment or of lump sum payments to a maintenance creditor under an order under this section shall be—

(a) if the order is instead of an order for the making of periodical payments to the maintenance creditor, such amount as the court considers appropriate having regard to the amount of the periodical payments that would have been made, and the periods during which and the times

at which they would have been made, but for this section, and

(b) if the first-mentioned order is in addition to an order for the making of periodical payments to the maintenance creditor, such amount as the court considers appropriate having regard to the amount of the periodical payments and the periods during which and the times at which they will be made.

(3) The amount or aggregate amount of a lump sum payment or of lump sum payments provided for in an order of the District Court under this section shall not exceed €6,350.

52.—The court may, on making a maintenance order under section 45 or at any time after making such an order, on application to it by any person having an interest in the proceedings, order the maintenance debtor concerned to secure it to the maintenance creditor concerned.

PART 6

Attachment of Earnings

53.—(1) For the purposes of this Part—

“attachment of earnings order” means an order directing that an employer deduct from the maintenance debtor’s earnings, at the times specified in the order, periodical deductions of the appropriate amounts specified in the order, having regard to the normal deduction rate and the protected earnings rate;

“court” means—

(a) the High Court, in respect of an application under this Part made by a person on whose application the High Court has made an antecedent order;

(b) the relevant Circuit Court, in respect of an application under this Part made by a person on whose application that court has made an antecedent order, and

(c) the District Court, in respect of an application under this Part made by—

(i) a person on whose application the District Court has made an antecedent order, or

(ii) a District Court clerk to whom payments are required to be made under an antecedent order;

“employer” includes a trustee of a pension scheme under which the maintenance debtor is receiving periodical pension benefits;

“normal deduction rate” means the rate at which the court considers it reasonable that the earnings to which the attachment of earnings order relates should be applied in satisfying the antecedent order, not exceeding the rate that appears to the court to be necessary for—
Compliance with attachment of earnings order.

44 — (1) The court registrar or court clerk specified in the attachment of earnings order shall cause the order to be served on the person to whom it is directed and on any person who subsequently becomes the maintenance debtor’s employer and of whom the registrar or clerk becomes aware.
(2) The service may be effected by leaving the order or a copy of it at the person’s residence or place of business in the State, or by sending the order or a copy of it, by registered prepaid post, to that residence or place of business.

(3) A person to whom an attachment of earnings order is directed shall comply with it if it is served on him or her but is not liable for non-compliance before 10 days have elapsed since the service.

(4) If a person to whom an attachment of earnings order is directed is not the maintenance debtor’s employer or ceases to be the maintenance debtor’s employer, the person shall, within 10 days from the date of service or the date of cesser, give notice of that fact to the court.

(5) The person shall give to the maintenance debtor a statement in writing of the total amount of every deduction made from a maintenance debtor’s earnings in compliance with an attachment of earnings order.

55.—Payments made to a District Court clerk under an attachment of earnings order shall, when transmitted by the clerk to the maintenance creditor, be deemed to be payments made by the maintenance debtor so as to discharge—

(a) firstly, any sums payable under the antecedent order, and

(b) secondly, any costs in proceedings relating to the antecedent order payable by the maintenance debtor when the attachment of earnings order was made or last varied.

56.—(1) In relation to an attachment of earnings order or an application for one, the court may, before or at the hearing or while the order is in force, order—

(a) the maintenance debtor to give to the court, within a specified period, a signed statement in writing specifying—

(i) the name and address of every employer of the maintenance debtor,

(ii) particulars as to the maintenance debtor’s earnings and expected earnings, and resources and needs, and

(iii) particulars for enabling the employers to identify the maintenance debtor,

(b) a person appearing to the court to be an employer of the maintenance debtor to give to the court, within a specified period, a statement signed by the person, or on his or her behalf, of specified particulars of the maintenance debtor’s earnings and expected earnings.

(2) Notice of an application for an attachment of earnings order served on a maintenance debtor may include a requirement that the maintenance debtor give to the court, within the period and in the manner specified in the notice, a statement in writing of the matters referred to in subsection (1)(a) and of any other matters which are or may be relevant to the determination of the normal deduction rate and the protected earnings rate to be specified in the order.
(3) In any proceedings in relation to an attachment of earnings order, a statement given to the court in compliance with an order under paragraph (a) or (b) of subsection (1) or with a requirement under subsection (2) is admissible as evidence of the facts stated in it and a document purporting to be such a statement is deemed, unless the contrary is shown, to be a statement so given.

57.—Where an attachment of earnings order is in force—

(a) the maintenance debtor shall notify in writing the court that made the order of every occasion on which he or she leaves employment, or becomes employed or re-employed, not later than 10 days after doing so,

(b) the maintenance debtor shall, on any occasion on which he or she becomes employed or re-employed, include in the notification particulars of his or her earnings and expected earnings, and

(c) any person who becomes an employer of the maintenance debtor and who knows that the order is in force and by which court it was made shall, within 10 days of the later of the date of becoming an employer and the date of acquiring the knowledge, notify the court in writing that he or she has become such an employer, and include in the notification a statement of the debtor’s earnings and expected earnings.

58.—(1) Where an attachment of earnings order is in force, the court that made the order shall, on the application of the maintenance debtor’s employer, the maintenance debtor or the person to whom payments are being made under the order, determine whether payments or portions of payments being made to the maintenance debtor that are of a class or description specified in the application are earnings for the purpose of the order.

(2) Where an application is made by the employer under subsection (1), the employer is not liable for non-compliance with the order as respects any payments or portions of payments of the class or description specified by the application that he or she makes while the application, a determination in relation to it or an appeal from the determination is pending.

(3) Subsection (2) does not apply if the employer subsequently withdraws the application or abandons the appeal.

59.—(1) This section applies when a maintenance debtor is in the service of the State, a local authority within the meaning of the Local Government Act 1941, a harbour authority within the meaning of the Harbours Acts 1946 to 2005, the Health Service Executive, a vocational education committee established by the Vocational Education Act 1930, a committee of agriculture established by the Agriculture Act 1931, or another body if his or her earnings are paid directly out of moneys paid by the Oireachtas or from the Central Fund, or is a member of either House of the Oireachtas.

(2) For the purposes of this Part, the following officers are regarded as being the employers of the maintenance debtor and the earnings paid to the maintenance debtor out of the Central Fund or
out of moneys provided by the Oireachtas are regarded as having been paid by them:

(a) in the case where the maintenance debtor is employed in a department, office, organisation, service, undertaking or other body, its chief officer, or any other officer that may be designated from time to time by the Minister of the Government by whom that body is administered;

(b) in the case where the maintenance debtor is in the service of an authority or body, its chief officer; and

(c) in any other case, where the maintenance debtor is paid out of the Central Fund or out of moneys provided by the Oireachtas, the Secretary of the Department of Finance or any other officer that may be designated from time to time by the Minister for Finance.

(3) A question that arises in proceedings for or arising out of an attachment of earnings order as to which body employs a maintenance debtor may be referred to and determined by the Minister for Finance, but he or she is not obliged to consider the reference unless it is made by the court.

(4) A document purporting to contain a determination by the Minister for Finance under subsection (3) and to be signed by an officer of that Minister shall, in any proceedings mentioned in that subsection, be admissible in evidence and be deemed, unless the contrary is shown, to contain an accurate statement of that determination.

60.—(1) The court that made an attachment of earnings order may, if it thinks fit, on the application of the maintenance creditor, the maintenance debtor or the District Court clerk on whose application the order was made, make an order discharging or varying that order.

(2) The employer on whom an order varying an attachment of earnings order is served shall comply with it but is not liable for non-compliance before 10 days have elapsed since the service.

(3) If an employer affected by an attachment of earnings order ceases to be the maintenance debtor's employer, the order lapses insofar as that employer is concerned, except as respects deductions from earnings paid by the employer after the cesser and payment to the maintenance creditor of deductions from earnings made at any time by that employer.

(4) The lapse of an order under subsection (3) does not prevent its remaining in force for other purposes.

61.—(1) An attachment of earnings order ceases to have effect upon the discharge of the relevant antecedent order, except as regards payments under the attachment of earnings order in respect of any time before the date of the discharge.

(2) The clerk or registrar of the court that made the attachment of earnings order shall give notice of a cesser to the employer.
62.—(1) Where an attachment of earnings order has been made, any proceedings commenced under section 8(1) of the Enforcement of Court Orders Act 1940 for the enforcement of the relevant antecedent order lapses and any warrant or order issued or made under that subsection ceases to have effect.

(2) An attachment of earnings order ceases to have effect on the making of an order under section 8(1) of the Enforcement of Court Orders Act 1940 for the enforcement of the relevant antecedent order.

63.—(1) A maintenance creditor who fails to obtain a sum of money due under an attachment of earnings order, or the District Court clerk to whom the sum falls to be paid, may sue for the sum as a simple contract debt in any court of competent jurisdiction, if the failure to obtain the sum is caused by—

(a) a person failing, without reasonable excuse, to comply with section 54(3) or (4), or 57, or an order under section 56 or 60(2), or

(b) a person, without reasonable excuse, giving a false or misleading statement under section 56(1) or notification under section 57.

(2) A person who gives to a court a statement pursuant to section 56 or a notification under section 57 that he or she knows to be false or misleading commits an offence and is liable on summary conviction to a fine not exceeding €254 or to imprisonment for a term not exceeding six months or to both.

(3) A person who contravenes section 54(5) commits an offence and is liable on summary conviction to a fine not exceeding €63.

PART 7

MISCELLANEOUS PROVISIONS RELATING TO PARTS 5 AND 6

64.—A periodical payment of money pursuant to a maintenance order, a variation order, an interim order, an order under section 48 (insofar as it is deemed to be a maintenance order) or an attachment of earnings order shall be made without deduction of income tax.

65.—The references in sections 8(1) and (7) of the Enforcement of Court Orders Act 1940 (as amended by section 29 of the Family Law (Maintenance of Spouses and Children) Act 1976, section 22 of the Family Law Act 1995 and section 30 of the Family Law (Divorce) Act 1996) to an order shall be construed as including references to an antecedent order.

66.—An allowance made by one civil partner to the other for the purpose of meeting household expenses, and any property or interest in property that was acquired out of the allowance, belong to the civil partners as joint owners, in the absence of any express or implied agreement between them to the contrary.
67.—An agreement between civil partners is void to the extent to which it would have the effect of excluding or limiting the operation of any provision in Part 5 or Part 6.

PART 8

Succession


69.—Section 3(1) of the Act of 1965 is amended—

(a) by inserting the following definition:

“‘civil partner’ has the meaning assigned to it by the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010”;

and

(b) by substituting the following for the definition of “legal right”:

“‘legal right’ means—

(a) the right of a spouse under section 111 to a share in the estate of a deceased person, and

(b) the right of a civil partner under section 111A to a share in the estate of a deceased person;”.

70.—Section 56 of the Act of 1965 is amended—

(a) by inserting “or civil partner” after “spouse” wherever it appears, and

(b) in subsections (9), (10) and (12) by replacing “the spouse’s” with “his or her” wherever it appears.

71.—Section 58(6) of the Act of 1965 is amended by inserting “or civil partner” after “spouse”.

72.—Section 67 of the Act of 1965 is amended—

(a) in subsection (2)(b), by substituting “section 67B(2)” for “subsection (4)”, and

(b) by repealing subsections (3) and (4).

73.—The Act of 1965 is amended by inserting the following after section 67:

“Shares of surviving civil partner and issue.

67A.—(1) If an intestate dies leaving a civil partner and no issue, the civil partner shall take the whole estate.”
(2) If an intestate dies leaving a civil partner and issue—

(a) subject to subsections (3) to (7), the civil partner shall take two-thirds of the estate; and

(b) the remainder shall be distributed among the issue in accordance with section 67B(2).

(3) The court may, on the application by or on behalf of a child of an intestate who dies leaving a civil partner and one or more children, order that provision be made for that child out of the intestate’s estate only if the court is of the opinion that it would be unjust not to make the order, after considering all the circumstances, including—

(a) the extent to which the intestate has made provision for that child during the intestate’s lifetime,

(b) the age and reasonable financial requirements of that child,

(c) the intestate’s financial situation, and

(d) the intestate’s obligations to the civil partner.

(4) The court, in ordering provision of an amount under subsection (3) shall ensure that—

(a) the amount to which any issue of the intestate is entitled shall not be less than that to which he or she would have been entitled had no such order been made, and

(b) the amount provided shall not be greater than the amount to which the applicant would have been entitled had the intestate died leaving neither spouse nor civil partner.

(5) Rules of court shall provide for the conduct of proceedings under this section in a summary manner.

(6) The costs in the proceedings shall be at the discretion of the court.

(7) An order under this section shall not be made except on an application made within 6 months from the first taking out of representation of the deceased’s estate.

Share of issue where no surviving spouse or surviving civil partner.

67B.—(1) If an intestate dies leaving issue and no spouse or civil partner, the estate shall be distributed among the issue in accordance with subsection (2).
(2) If all the issue are in equal degree of relationship to the deceased the distribution shall be in equal shares among them; if they are not, it shall be per stirpes.

74.—Section 68 of the Act of 1965 is amended by inserting “nor civil partner” after “spouse”.

75.—Section 69 of the Act of 1965 is amended by inserting “nor civil partner” after “spouse” wherever it appears.

76.—Section 70 of the Act of 1965 is amended by inserting “nor civil partner” after “spouse”.

77.—Section 82(1) of the Act of 1965 is amended by inserting “or civil partner” after “spouse” wherever it appears.

78.—Section 83 of the Act of 1965 is amended by inserting “or civil partner” after “spouse”.

79.—Section 85(1) of the Act of 1965 is amended by inserting “or entry into a civil partnership” after “marriage” wherever it appears.

80.—Section 109(1) of the Act of 1965 is amended by inserting “or civil partner” after “spouse” wherever it appears.

81.—The Act of 1965 is amended by inserting the following section after section 111:

"Right of surviving civil partner. 111A.—(1) If the testator leaves a civil partner and no children, the civil partner shall have a right to one-half of the estate.

(2) Subject to section 117(3A), if the testator leaves a civil partner and children, the civil partner shall have a right to one-third of the estate.”.

82.—Section 112 of the Act of 1965 is amended by inserting “or the right of a civil partner under section 111A” after “section 111”.

83.—The Act of 1965 is amended by inserting the following section after section 113:

"Renunciation of legal right. 113A.—The legal right of a civil partner may be renounced in an ante-civil-partnership-registration contract made in writing between the parties to an intended civil partnership or may be renounced in writing by the civil partner after registration and during the lifetime of the testator.”.

84.—Section 114 of the Act of 1965 is amended by inserting “or civil partner” after “spouse” wherever it appears.
85.—Section 115 of the Act of 1965 is amended—

(a) by inserting “or civil partner” after “spouse” wherever it appears, and

(b) in subsection (5), by inserting “or civil partner’s” after “spouse’s”.

86.—Section 117 of the Act of 1965 is amended by inserting the following subsection after subsection (3):

“(3A) An order under this section shall not affect the legal right of a surviving civil partner unless the court, after consideration of all the circumstances, including the testator’s financial circumstances and his or her obligations to the surviving civil partner, is of the opinion that it would be unjust not to make the order.”.

87.—Section 120 of the Act of 1965 is amended—

(a) by inserting the following subsection after subsection (2):

“(2A) A deceased’s civil partner who has deserted the deceased is precluded from taking any share in the deceased’s estate as a legal right or on intestacy if the desertion continued up to the death for two years or more.”,

(b) by inserting the following subsection after subsection (3):

“(3A) A civil partner who was guilty of conduct which justified the deceased in separating and living apart from him or her is deemed to be guilty of desertion within the meaning of subsection (2A).”,

(c) in subsection (4), by inserting “or civil partner” after “spouse”.

88.—Section 121 of the Act of 1965 is amended in subsections (2), (5) and (7) by inserting “or civil partner” after “spouse” wherever it appears.

89.—Section 45(1) of the Statute of Limitations 1957, as inserted by the Succession Act 1965, is amended by inserting “or section 111A” after “section 111”.

PART 9

DOMESTIC VIOLENCE

91.—Section 1(1) of the Act of 1996 is amended by inserting the following definitions:

“‘Act of 2010’ means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘civil partner’ has the meaning assigned to it by the Act of 2010 and includes a person who was a civil partner in a partnership that has been dissolved under that Act;”.

92.—The definition “the applicant” in section 2(1)(a) of the Act of 1996 is amended by inserting the following subparagraph after subparagraph (i):

“(ia) is the civil partner of the respondent, or a person who was a party to a civil partnership with the respondent that has been dissolved under the Act of 2010, or”.

93.—Section 3(1) of the Act of 1996 is amended by inserting the following paragraph after paragraph (a):

“(aa) is the civil partner of the respondent, or a person who was a party to a civil partnership with the respondent that has been dissolved under the Act of 2010, or”.

94.—The Act of 1996 is amended by inserting the following section after section 8:

“Application of orders restricting disposal or removal of household chattels.

8A.—(1) Section 34(2) (which restricts the right of a civil partner to dispose of or remove household chattels) of the Act of 2010 shall apply between the making of an application against the civil partner of the applicant for a barring order or a safety order and its determination, and if an order is made, while the order is in force, as it applies between the institution and final determination of dissolution proceedings to which that section relates.

(2) A court which is empowered under section 34(2)(b) of the Act of 2010 to grant permission for any disposal or removal of household chattels within the meaning of that section is, notwithstanding anything in section 140 of that Act, the court before which the proceedings (including any proceedings for a barring order or a safety order) have been instituted.”.

95.—Section 9(2) of the Act of 1996 is amended by inserting the following paragraph after paragraph (c):

“(cc) an order under section 30, 34 or 45 of the Act of 2010;”.

96.—Section 13(2) of the Act of 1996 is amended by inserting “or any annulment or dissolution proceedings under the Act of 2010,” after “matrimonial cause or matter.”
MISCELLANEOUS CONSEQUENCES OF CIVIL PARTNERSHIP REGISTRATION

97.—(1) For the purposes of determining matters concerning ethics and conflicts of interests under any rule of law or enactment—

(a) with respect to a person, a reference to a “connected person” or a “connected relative” of that person shall be construed as including the person’s civil partner and the child of the person’s civil partner who is ordinarily resident with the person and the civil partner, and

(b) a declaration that must be made in relation to a spouse of a person shall also be made in relation to a civil partner of a person.

(2) Without limiting the generality of subsection (1), the Acts specified in Part 1 of the Schedule are amended as indicated in that Schedule.

98.—(1) In this section, “Act of 2001” means the Mental Health Act 2001.

(2) Section 2(1) of the Act of 2001 is amended by inserting the following definition:

“‘civil partner’ means a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;”.

(3) Section 9 of the Act of 2001 is amended—

(a) in paragraph (1)(a), by inserting “or civil partner” after “spouse”,

(b) in paragraphs (2)(b) and (f), by inserting “or civil partner” after “spouse”; and

(c) in subsection (8), by inserting the following definition:

“‘civil partner’ in relation to a person, does not include a civil partner of the person who is living separately and apart from the person or in respect of whom an application or order has been made under the Domestic Violence Acts 1996 and 2002 as amended by the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;”.

(4) Section 10(3)(c) of the Act of 2001 is amended by inserting “, a civil partner” after “spouse”.

(5) Section 14(3)(a) of the Act of 2001 is amended by inserting “, a civil partner” after “spouse”.

(6) Section 24(1) of the Act of 2001 is amended by inserting “, civil partner” after “spouse”.

54
99.—(1) A benefit under a pension scheme that is provided for the spouse of a person is deemed to provide equally for the civil partner of a person.

(2) Without limiting the generality of subsection (1), the Acts specified in Part 2 of the Schedule are amended as indicated in that Schedule.

(3) In this section “pension scheme” has the meaning assigned to it by section 109.

100.—The Pensions Act 1990 is amended—

(a) in section 65(1) (substituted by section 22(1) of the Social Welfare (Miscellaneous Provisions) Act 2004), by deleting the definition of “marital status” and inserting the following definition:

“civil status’ means civil status within the meaning of the Civil Registration Act 2004 as amended by the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.”;

(b) in section 66(2)(a)(ii) (substituted by section 22(1) of the Social Welfare (Miscellaneous Provisions) Act 2004), by substituting “civil status” for “marital status” in subparagraph (a)(ii),

(c) in section 66(2)(b) (substituted by section 22(1) of the Social Welfare (Miscellaneous Provisions) Act 2004), by substituting “civil status” for “marital status” wherever it appears,

(d) in section 67(1)(b) (substituted by section 22(1) of the Social Welfare (Miscellaneous Provisions) Act 2004), by substituting “civil status” for “marital status” wherever it appears,

(e) in section 72 (substituted by section 22(1) of the Social Welfare (Miscellaneous Provisions) Act 2004), by substituting “civil status” for “marital status” wherever it appears, and

(f) in section 75(1) (substituted by section 22(1) of the Social Welfare (Miscellaneous Provisions) Act 2004), by substituting “civil status” for “marital status”.

101.—Section 1 of the Criminal Damage Act 1991 (as amended by the Family Law (Divorce) Act 1996) is amended by inserting the following subsection after subsection (3):

“(3A) A reference to any property belonging to another, however expressed, shall be construed as a reference to a shared home as respects an offence under section 2, 3(a) or 4(a) if—

(a) the property is either a shared home or a dwelling, within the meaning of section 27 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, in which a person who was a civil partner in a civil partnership that has been dissolved
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under that Act ordinarily resided with his or her former civil partner before the dissolution, and

(b) the person charged—

(i) is the civil partner, or was the civil partner until the dissolution of their civil partnership, of a person who resides, or is entitled to reside, in the home, and

(ii) is the subject of a protection order or barring order or is excluded from the home pursuant to an order under the Domestic Violence Act 1996 as amended by Part 9 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or another order of a court.”.


(2) Section 2(1) of the Act of 1998 is amended—

(a) by inserting the following definition:

“‘civil status’ means being single, married, separated, divorced, widowed, in a civil partnership within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or being a former civil partner in a civil partnership that has ended by death or been dissolved;”;

(b) by deleting the definition “marital status”; and

(c) by inserting, in paragraphs (a) and (b) of the definition “member of the family”, “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears.

(3) The Act of 1998 is amended by substituting “civil status” for “marital status” wherever it appears.


(2) Section 2(1) of the Act of 2000 is amended—

(a) by inserting the following definition:

“‘civil status’ means being single, married, separated, divorced, widowed, in a civil partnership within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or being a former civil partner in a civil partnership that has ended by death or been dissolved;”;

(b) by deleting the definition “marital status”, and

(3) The Act of 2000 is amended by substituting “civil status” for “marital status” wherever it appears.


(2) Section 5 of the Act of 1996 is amended—

(a) by inserting, in subsection (4)(b), “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”, and

(b) by inserting the following subsection after subsection (7):

“(7A) An enduring power in favour of a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 shall, unless the power provides otherwise, be invalidated or, as the case may be, cease to be in force if subsequently—

(a) a decree of nullity or a decree of dissolution of the civil partnership is granted or recognised under the law of the State,

(b) a written agreement to separate is entered into between the civil partners, or

(c) a protection order, interim barring order, barring order or safety order is made against the attorney on the application of the donor, or vice versa.”.

(3) Section 6(7)(b)(ii)(II) of the Act of 1996 is amended by inserting “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”.

(4) The First Schedule to the Act of 1996 is amended by inserting the following paragraph after paragraph 3(1)(a):

“(aa) the donor’s civil partner, within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;”.

(5) Part I of the Second Schedule to the Act of 1996 is amended by inserting the following paragraph after paragraph 2A (inserted by the Family Law (Divorce) Act 1996):

“This 2B. The expiry of an enduring power of attorney effected in the circumstances mentioned in section 5(7A) shall apply only so far as it relates to an attorney who is the civil partner of the donor.”.

(6) Part II of the Second Schedule to the Act of 1996 is amended by inserting the following paragraph after paragraph 3:
“4. The expiry of an enduring power of attorney effected in the circumstances mentioned in section 5(7A) shall apply only so far as it relates to an attorney who is the civil partner of the donor.”.

105.—Paragraph (a) of the definition “dependant” in section 47(1) (as amended by section 1(1) of the Civil Liability (Amendment) Act 1996) of the Civil Liability Act 1961 is amended by inserting “, civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”.

106.—(1) Either civil partner may apply to the court in a summary manner to determine a question arising between them as to the title to or possession of property.

(2) The court may, on application to it under subsection (1)—

(a) make the order it considers proper with respect to the property in dispute (including an order that the property be sold or partitioned), and as to the costs consequent on the application, and

(b) direct the inquiries, and give the other directions, it considers proper in relation to the application.

(3) A civil partner or a child of a deceased person who was a civil partner before death may make an application under subsection (1) when he or she is of the view that the conditions specified in subsection (4) are present.

(4) The conditions for an application under subsection (3) are:

(a) the applicant claims that the other civil partner has possessed or controlled—

(i) money to which, or a share of which, the applicant was beneficially entitled whether because it represented the proceeds of sale of property to which, or to an interest in which, the applicant was beneficially entitled or for any other reason, or

(ii) property other than money to which, or to an interest in which, the applicant was beneficially entitled;

and

(b) the money or the property has ceased to be in the possession or under the control of the other civil partner or the applicant does not know whether it is still in the possession or under the control of the other civil partner.

(5) If the court is satisfied on an application under subsections (1) and (3) of the matters specified in subsection (6), the court may make an order under subsection (2) in relation to the application and may, in addition to or in lieu of that order, make an order requiring the other civil partner to pay to the applicant—

(a) a sum in respect of the money to which the application relates, or the applicant’s proper share of it, or
(b) a sum in respect of the value of the property other than money, or the applicant’s proper share of it.

(6) For the purposes of subsection (5), the court must be satisfied that—

(a) the other civil partner possesses or controls, or has possessed or controlled, money or other property referred to in subsection (4)(a)(i) or (ii), and

(b) the other civil partner has not made to the applicant a payment or disposition other than a testamentary disposition that would have been appropriate in the circumstances.

(7) A person (other than the applicant or the other civil partner) who is a party to proceedings under this section shall be treated as a stakeholder only, for the purposes of costs or any other matter.

(8) In this section, references to a civil partner include references to—

(a) a personal representative of a deceased civil partner, and

(b) either of the parties to a void civil partnership, whether or not it has been the subject of a decree of nullity granted under section 107.

PART 11

NULLITY OF CIVIL PARTNERSHIP

107.—On application to it in that behalf by either of the civil partners or by another person who, in the opinion of the court, has sufficient standing in the matter, the court may grant a decree of nullity if satisfied that at the time the civil partners registered in a civil partnership—

(a) either or both of the parties lacked the capacity to become the civil partner of the other for any reason, including—

(i) either or both of the parties was under the age of eighteen years,

(ii) either or both of the parties was already a party to a valid marriage, and

(iii) either or both of the parties was already registered in a relationship with another person which was entitled to be recognised as a civil partnership in the State in accordance with section 5 and which had not been dissolved,

(b) the formalities for the registration of the civil partnership were not observed,

(c) either or both of the parties did not give free and informed consent to the civil partnership registration for any reason, including—
Effect of decree of nullity.

107.—(1) Where the court grants a decree of nullity, the civil partnership is declared not to have existed and either civil partner may register in a new civil partnership or marry.

(2) The rights of a person who relied on the existence of a civil partnership which is subsequently the subject of a decree of nullity are not prejudiced by that decree.

PART 12

Dissolution of Civil Partnership

Definitions, etc.

109.—(1) In this Part—

“court” shall be construed in accordance with section 140;

“decree of dissolution” means a decree under section 110;

“decree of nullity” means a decree granted by a court under section 107 declaring a civil partnership to be void;

“financial compensation order” means an order under section 120;

“lump sum order” means an order under section 117(1)(c);

“maintenance pending suit order” means an order under section 116;

“member” in relation to a pension scheme, means a person who, having been admitted to membership of the scheme under its rules, remains entitled to any benefit under the scheme;

“pension adjustment order” means an order under sections 121 to 126;

“pension scheme” means—

(a) an occupational pension scheme within the meaning of the Pensions Act 1990,

(b) an annuity contract approved by the Revenue Commissioners under section 784 of the Taxes Consolidation Act 1997, or a contract so approved under section 785 of that Act,

(c) a trust scheme, or part of a trust scheme, approved under section 784(4) or 785(5) of the Taxes Consolidation Act 1997,

(d) a policy or contract of assurance approved by the Revenue Commissioners under Chapter 1 of Part 30 of the Taxes Consolidation Act 1997, or

(e) another scheme or arrangement, including a personal pension plan and a scheme or arrangement established by or pursuant to statute or instrument made under statute other than under the Social Welfare Acts, that provides or is intended to provide either or both of the following:

(i) benefits for a person who is a member of the scheme or arrangement upon retirement at normal pensionable age or upon earlier or later retirement or upon leaving or upon the ceasing of the relevant employment, and

(ii) benefits for the widow, widower or dependants of the person referred to in subparagraph (i), for his or her civil partner or the person that was his or her civil partner until the death of the person referred to in subparagraph (i) or for any other persons, on the death of that person;

“periodical payments order” means an order under section 117(1)(a);

“property adjustment order” means an order under section 118;

“secured periodical payments order” means an order under section 117(1)(b);

“shared home” has the meaning assigned to it in Part 4, with the modification that the references to a civil partner in that Part shall be construed as references to a civil partner within the meaning of this Part;

“trustees”, in relation to a scheme that is established under a trust, means the trustees of the scheme and, in relation to a pension scheme not established under a trust, means the persons who administer the scheme.

(2) In this Part, where the context so requires—

(a) a reference to a civil partnership includes a reference to a civil partnership that has been dissolved under this Part,

(b) a reference to a registration in a new civil partnership includes a reference to a registration in a civil partnership that takes place after a civil partnership that has been dissolved under this Part, and

(c) a reference to a civil partner includes a reference to a person who was a civil partner in a civil partnership that has been dissolved under this Part.
Grant of decree of dissolution.

Subject to the provisions of this Part, the court may, on application to it in that behalf by either of the civil partners, grant a decree of dissolution in respect of a civil partnership if it is satisfied that—

(a) at the date of the institution of the proceedings, the civil partners have lived apart from one another for a period of, or periods amounting to, at least two years during the previous three years, and

(b) provision that the court considers proper having regard to the circumstances exists or will be made for the civil partners.

Adjournment of proceedings to assist reconciliation, mediation or agreements on terms of dissolution.

(1) The court may adjourn or further adjourn proceedings under section 110 at any time for the purpose of enabling the civil partners to attempt, if they both so wish, with or without the assistance of a third party—

(a) to reconcile, or

(b) to reach agreement on some or all of the terms of the proposed dissolution.

(2) Either or both of the civil partners may at any time request that the hearing of proceedings adjourned under subsection (1) be resumed as soon as may be and, if that request is made, the court shall, subject to any other power of the court to adjourn proceedings, resume the hearing.

(3) The powers conferred by this section are additional to any other power of the court to adjourn proceedings.

(4) The court may, at its discretion when adjourning proceedings under this section, advise the civil partners to seek the assistance of a mediator or other third party in relation to the civil partners’ proposed reconciliation or reaching of an agreement between them on some or all of the terms of the proposed dissolution.

Non-admissibility as evidence of certain communications.

The following are not admissible as evidence in any court:

(a) an oral or written communication between either of the civil partners and a third party, whether or not made in the presence or with the knowledge of the other civil partner, for the purpose of—

(i) seeking assistance to effect a reconciliation, or

(ii) reaching agreement between them on some or all of the terms of a dissolution;

and

(b) any record of such a communication, made or caused to be made by either of the civil partners concerned or the third party.
113.—Where the court grants a decree of dissolution, the civil partnership is thereby dissolved and either civil partner may register in a new civil partnership or marry.

114.—An order made under any of sections 115 to 128 that refers to a civil partner shall be construed as including a person who was a civil partner until the dissolution of the civil partnership under this Part.

115.—Where an application is made to the court for the grant of a decree of dissolution, the court, before deciding whether to grant or refuse to grant the decree may, in the same proceedings and without the institution of proceedings under any other Act, if it appears to the court to be proper to do so, make one or more of the following orders:

(a) a safety order, a barring order, an interim barring order or a protection order under the Domestic Violence Acts 1996 and 2002, as amended by Part 9 of this Act; and

(b) an order under section 30 or section 34.

116.—(1) Where an application is made to the court for the grant of a decree of dissolution, the court may make an order requiring either of the civil partners to make to the other periodical payments or lump sum payments for support that the court considers proper and specifies in the order.

(2) Periodical payments ordered under subsection (1) may be for the period beginning not earlier than the date of the application and ending not later than the date of its determination that the court specifies in the order.

117.—(1) On granting a decree of dissolution or at any other time after granting the decree, the court, on application to it in that behalf by either of the civil partners, make one or more of the following orders:

(a) an order that either of the civil partners make to the other the periodical payments in the amounts, during the period and at the times that may be specified in the order;

(b) an order that either of the civil partners secure to the other, to the satisfaction of the court, the periodical payments of the amounts, during the period and at the times that may be specified in the order; and

(c) an order that either of the civil partners make to the other a lump sum payment or lump sum payments of the amount or amounts and at the time or times that may be specified in the order.

(2) The court may order a civil partner to pay a lump sum to the other civil partner to meet any liabilities or expenses reasonably incurred by the other civil partner in maintaining himself or herself before the making of an application by the other civil partner for an order under subsection (1).
(3) An order under this section for the payment of a lump sum may provide for the payment of the lump sum by instalments of the amounts that may be specified in the order and may require the payment of the instalments to be secured to the satisfaction of the court.

(4) The period specified in an order under subsection (1)(a) or (b) shall begin not earlier than the date of the application for the order and shall end not later than the death of the first civil partner to die.

(5) An order made under subsection (1)(a) or (b) ceases to have effect on the date of entry into a new civil partnership or marriage of the civil partner in whose favour the order was made, except as respects payments due under it on that date.

(6) The court shall not make an order under this section in favour of a civil partner who has entered into a new civil partnership or has married.

(7) The court that makes an order under subsection (1)(a) shall, in the same proceedings, make an attachment of earnings order under Part 6 to secure payments under the order if it is satisfied, after taking into consideration any representations on the matter made to it by the civil partner ordered to make payments under that subsection, that—

(a) the order is desirable to secure payments under an order under subsection (1)(a) and any variations and affirmations of that order, and

(b) the person against whom the attachment of earnings order is made is a person to whom earnings fall to be paid.

118.—(1) On granting a decree of dissolution or at any other time after the decree is granted, the court, on application to it in that behalf by either of the civil partners may, during the lifetime of either of the civil partners, make one or more of the following orders:

(a) an order transferring specified property in which a civil partner has an interest either in possession or reversion from that civil partner to the other;

(b) an order settling specified property in which a civil partner has an interest either in possession or reversion for the benefit of the other, to the satisfaction of the court;

(c) an order varying an ante-registration or post-registration settlement made by the civil partners, including one made by will or codicil, for the benefit of one of the civil partners; and

(d) an order extinguishing or reducing the interest of either of the civil partners under such a settlement.

(2) An order under subsection (1)(b), (c) or (d) may restrict to a specified extent or may exclude the application of section 132 in relation to the order.

(3) If, after the grant of the decree of dissolution, either of the civil partners registers in a new civil partnership or marries, the court
shall not make an order under subsection (1) in favour of that civil partner.

(4) The registrar or clerk of the court that makes an order under subsection (1) in relation to land shall lodge with the Property Registration Authority a copy of the order certified to be a true copy for registration in the Registry of Deeds or Land Registry, as appropriate.

(5) Where a property adjustment order lodged under subsection (4) and registered pursuant to section 69(1)(h) of the Registration of Title Act 1964 or in the Registry of Deeds has been complied with, the Property Registration Authority shall, on being satisfied that the order has been complied with—

(a) cancel the entry made in the register under the Registration of Title Act 1964, or

(b) note compliance with the order in the Registry of Deeds.

(6) The court may order a person other than the person directed by an order under subsection (1) to execute a deed or instrument in the name of the person who had been directed to do so if—

(a) that person refuses or neglects to comply with the direction, or

(b) the court considers it necessary to do so for another reason.

(7) A deed executed by a person in the name of another person pursuant to an order under subsection (6) is as valid as if it had been executed by the person who had been originally directed to do so.

(8) The court may determine the manner in which the costs incurred in complying with an order under this section are to be borne, including by one or the other of the civil partners or by both of them in the proportions that the court may determine.

(9) This section does not apply in relation to a shared or family home in which, following the grant of a decree of dissolution, either of the civil partners resides with a new civil partner or spouse.

119.—(1) On granting a decree of dissolution or at any other time after it is granted, the court, on application to it in that behalf by either of the civil partners may, during the lifetime of either of the civil partners, make one or more of the following orders:

(a) an order providing for the conferral on one civil partner, either for life or for another specified definite or contingent period that the court may specify, of the right to occupy the shared home to the exclusion of the other civil partner;

(b) an order directing the sale of the shared home subject to the conditions that the court considers proper and providing for the disposition of the proceeds of the sale between the civil partners and any other person with an interest in it;

(c) an order under section 30, 33, 34 or 106;

(d) an order under the Domestic Violence Acts 1996 and 2002 as amended by Part 9; and

(e) an order for the partition of property or under the Partition Act 1868 and the Partition Act 1876.

(2) The court, in exercising its jurisdiction under subsection (1)(a) or (b) shall have regard to the welfare of the civil partners and, in particular, shall take into consideration—

(a) that, where a decree of dissolution is granted, it is not possible for the civil partners to reside together, and

(b) that proper and secure accommodation should, where practicable, be provided for a civil partner who is wholly or mainly dependent on the other civil partner.

(3) Subsections (1)(a) and (b) do not apply in relation to a shared or family home in which, following the grant of a decree of dissolution, either of the civil partners resides with a new civil partner or spouse.

§ 120.—(1) If the court is of the view that one of the reasons set out in subsection (2) exists, the court, on application to it in that behalf by either of the civil partners, during the lifetime of either of the civil partners, may make, on granting a decree of dissolution or at any time after granting it, one or more of the following orders:

(a) an order requiring the other civil partner to effect a policy of life insurance for the benefit of the applicant civil partner;

(b) an order requiring the other civil partner to assign to the applicant the whole or a specified part of the interest in a policy of life insurance that he or she has effected or that both of the civil partners have effected; and

(c) an order requiring the other civil partner to make or to continue to make to the person by whom a policy of life insurance is or was issued the payments which he or she or both of the civil partners is or are required to make under the terms of the policy.

(2) The reasons referred to in subsection (1) are:

(a) the financial security of the applicant can be provided for if the order is made; and

(b) the forfeiture by the applicant of the opportunity of acquiring a benefit (for example a benefit under a pension scheme) by reason of the decree of dissolution can be compensated wholly or partly by making the order.

(3) The court may make an order under subsection (1) in addition to or in substitution in whole or in part for orders under sections 117, 118, 119 or 121 and, in deciding whether or not to make the order, the court shall have regard to whether proper provision, having regard to the circumstances, exists, or can be made, for the civil partner concerned by orders under those sections.
(4) An order made under subsection (1) ceases to have effect on the entry into a new civil partnership, marriage or death of the applicant.

(5) The court shall not make an order under this section in favour of a civil partner who has entered into a new civil partnership or has married.

(6) An order under section 131 in relation to an order made under subsection (1)(a) or (b) may make the provision that the court considers appropriate in relation to the disposal of—

(a) an amount representing any accumulated value of the insurance policy effected pursuant to the order under subsection (1)(a), or

(b) the interest or part of the interest to which the order under subsection (1)(b) relates.

121.—(1) In this section and sections 122 to 126—

“Act of 1990” means the Pensions Act 1990;

“active member” in relation to a scheme, means a member of the scheme who is in reckonable service;

“actuarial value” means the equivalent cash value of a benefit (including, where appropriate, provision for any revaluation of the benefit) under a scheme calculated by reference to appropriate financial assumptions and making due allowance for the probability of survival to normal pensionable age and beyond in accordance with normal life expectancy on the assumption that the member, at the effective date of calculation, is in a normal state of health having regard to his or her age;

“approved arrangement”, in relation to the trustees of a scheme, means an arrangement whereby the trustees, on behalf of the person for whom the arrangement is made, effect policies or contracts of insurance that are approved of by the Revenue Commissioners with, and make the appropriate payments under the policies or contracts to, one or more undertakings;

“contingent benefit” means a benefit payable under a scheme, other than a payment under section 123(4), to or for the benefit of the surviving civil partner, any dependants of the member civil partner or the personal representative of the member civil partner, if the member civil partner dies while in relevant employment and before attaining any normal pensionable age provided for under the rules of the scheme;

“defined contribution scheme” has the meaning assigned to it by section 2(1) (as amended by section 29(1)(a)(ii) of the Social Welfare and Pensions Act 2008) of the Act of 1990;

“designated benefit” in relation to a pension adjustment order, means an amount determined by the trustees of a scheme, in accordance with relevant guidelines and by reference to the period and the percentage of the retirement benefit specified in an order under subsection (2);
“member civil partner” in relation to a scheme, means a civil partner who is a member of the scheme;

“normal pensionable age” means the earliest age at which a member of a scheme is entitled to receive benefits under the rules of the scheme on retirement from relevant employment, disregarding any rules providing for early retirement on grounds of ill health or otherwise;

“occupational pension scheme” has the meaning assigned to it by section 2(1) of the Act of 1990;

“reckonable service” means service in relevant employment during membership in any scheme;

“relevant guidelines” means any relevant guidelines for the time being in force under section 10(1)(c) or (cc) (as amended by section 5 of the Pensions (Amendment) Act 1998, section 47(c) of the Family Law (Divorce) Act 1996, section 37 of the Social Welfare and Pensions Act 2007) of the Act of 1990;

“relevant employment” in relation to a scheme, means any employment, or any period treated as employment, or any period of self-employment to which a scheme applies;

“retirement benefit”, in relation to a scheme, means all benefits, other than contingent benefits, payable under the scheme;

“rules”, in relation to a scheme, means the provisions of the scheme by whatever name called;

“scheme” means a pension scheme;

“transfer amount” shall be construed in accordance with subsection (4);

“undertaking” has the same meaning as “insurance undertaking’ or ‘undertaking’ ” in section 2(1) (as inserted by section 3(1) of the Insurance Act 2000) of the Insurance Act 1989.

(2) On granting a decree of dissolution or at any other time after it is granted, the court, on application to it in that behalf by either of the civil partners, may, during the lifetime of a member civil partner, make an order providing for the payment, in accordance with this section and sections 122 to 126, to the other civil partner of a benefit consisting of the part of the benefit that is payable (or that, but for the making of the decree, would have been payable) under the scheme and has accrued at the time of the making of the decree, or of the part of that part that the court considers appropriate.

(3) The order under subsection (2) shall specify—

(a) the period of reckonable service of the member civil partner prior to the granting of the decree to be taken into account, and

(b) the percentage of the retirement benefit accrued during the period to be paid to the other civil partner.
(4) Where the court makes an order under subsection (2) in favour of a civil partner and payment of the designated benefit concerned has not commenced, the civil partner is entitled to the application in accordance with section 123(1) of an amount of money from the scheme (in this subsection referred to as a “transfer amount”) equal to the value of the designated benefit as determined by the trustees of the scheme in accordance with relevant guidelines.

(5) On granting a decree of dissolution or at any time within one year after it is granted, the court, on application to it in that behalf by either of the civil partners, may make an order providing for the payment, on the death of the member civil partner, to the other civil partner of that part of a contingent benefit that is payable (or that, but for the making of the decree, would have been payable) under the scheme, or of the part of that part, that the court considers appropriate.

(6) The court shall not make an order under this section in favour of a civil partner who has registered in a new civil partnership or has married.

(7) The court may make an order under this section in addition to or in substitution in whole or in part for an order under section 117, 118, 119 or 120 and, in deciding whether or not to make a pension adjustment order, the court shall have regard to the question whether proper provision, having regard to the circumstances, exists or can be made for the civil partner who is not a member under those sections.

(8) An order under this section may restrict to a specified extent or exclude the application of section 131 in relation to the order.

122.—(1) A person who makes an application under section 121(2) or (5) or an application for an order under section 131(2) in relation to an order under section 121(2) shall give notice of the application to the trustees of the scheme. The court shall, in deciding whether to make the order and in determining the provisions of the order, have regard to representations made by the persons to whom notice has been given under this section or section 141.

(2) An order referred to in subsection (1) ceases to have effect on the entry into a new civil partnership, marriage or death of the applicant.

(3) The court may, in making an order referred to in subsection (1), give to the trustees of the scheme any directions that it considers appropriate, including a direction that would require the trustees not to comply with the rules of the scheme or the Act of 1990.

(4) The registrar or clerk of the court that makes an order referred to in subsection (1) shall cause a copy of the order to be served on the trustees of the scheme.

123.—(1) Subject to section 124(d), the trustees of a scheme in respect of which an order has been made under section 121(2) shall, where the conditions set out in subsection (2) are present, apply, in accordance with relevant guidelines, the transfer amount calculated in accordance with those guidelines—
(a) if the trustees and the civil partner so agree, in providing a benefit for or in respect of the civil partner that is of the same actuarial value as the transfer amount, or

(b) in making a payment, at the option of the civil partner—

(i) to another occupational pension scheme whose trustees agree to accept the payment, or

(ii) to discharge another payment falling to be made by the trustees under any such other approved arrangement.

(2) The conditions referred to in subsection (1) are:

(a) the court has made an order under section 121(2) in favour of the civil partner;

(b) payment of the designated benefit has not commenced;

(c) the civil partner has applied to the trustees in that behalf; and

(d) the civil partner furnishes the information that the trustees require.

(3) Subject to section 124(4), trustees of a defined contribution scheme in respect of which an order has been made under section 121(2) may, if the civil partner has not made an application under subsections (1) and (2), apply in accordance with relevant guidelines the transfer amount calculated in accordance with those guidelines to make a payment, at their option—

(a) to another occupational pension scheme whose trustees agree to accept the payment, or

(b) to discharge another payment falling to be made by the trustees under any such other approved arrangement.

(4) Subject to section 124(4), the trustees of a scheme in respect of which an order has been made under section 121(2) shall, within 3 months of the death of a member civil partner who dies before the payment of the designated benefit has commenced, provide for the payment to the other civil partner of an amount that is equal to the transfer amount calculated in accordance with relevant guidelines.

(5) Subject to section 124(4), the trustees of a scheme in respect of which an order has been made under section 121(2) may, if the member civil partner ceases to be a member otherwise than on death, apply, in accordance with relevant guidelines, the transfer amount under the scheme, at their option—

(a) if the trustees and the other civil partner so agree, in providing a benefit for or in respect of that civil partner that is of the same actuarial value as the transfer amount, or

(b) in making a payment, either—

(i) to another occupational pension scheme whose trustees agree to accept the payment, or
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(ii) to discharge another payment falling to be made by the trustees under any such other approved arrangement.

(6) Subject to section 124(4), the trustees of a scheme in respect of which an order has been made under section 121(2) shall, within 3 months of the death of the civil partner who is not the member and who dies before payment of the designated benefit has commenced, provide for the payment to the personal representative of that civil partner of an amount that is equal to the transfer amount calculated in accordance with relevant guidelines.

(7) Subject to section 124(4), the trustees of a scheme in respect of which an order has been made under section 121(2) shall, within 3 months of the death of the civil partner who is not the member and who dies after payment of the designated benefit has commenced, provide for the payment to the personal representative of that civil partner of an amount that is equal to the actuarial value, calculated in accordance with relevant guidelines, of the part of the designated benefit that, but for the death of that civil partner, would have been payable to him or her during his or her lifetime.

(8) The trustees of a scheme in respect of which an order has been made under section 121(2) or (5) shall, within 12 months of the member civil partner’s ceasing to be a member, notify the registrar or clerk of the court and the other civil partner of the cessation, if the trustees have not applied the transfer amount in accordance with any of subsections (1) to (6).

(9) The trustees of a scheme who apply a transfer amount under subsection (3) or (5) shall notify the civil partner who is not the member and the registrar or clerk of the court, giving particulars to that civil partner of the scheme and the transfer amount.

124—(1) A benefit payable pursuant to an order made under section 121(2), or a contingent benefit payable pursuant to an order made under section 121(5), is payable out of the resources of the scheme and, unless the order or relevant guidelines provide otherwise, in accordance with the rules of the scheme and those guidelines.

(2) The amount of retirement benefit payable to the member civil partner, or the amount of contingent benefit payable to or in respect of the member civil partner, in accordance with the rules of the relevant scheme shall be reduced by the designated benefit or contingent benefit payable pursuant to an order made under section 121(2) or (5), as the case may be, to the other civil partner.

(3) The amount of contingent benefit payable in accordance with the rules of the scheme in respect of a member civil partner who dies before the payment of the designated benefit payable pursuant to an order under section 121(2) has commenced shall be reduced by the amount of the payment made under section 123(4).

(4) Trustees who make a payment or apply a transfer amount under any of subsections (1) to (7) of section 123 are discharged from any obligation to make further payment or apply another transfer amount under any of those subsections in respect of the benefit payable pursuant to the order made under section 121(2).
Costs.

125.—(1) The court may determine the manner in which the costs incurred by the trustees of a scheme further to an order under section 121 are to be borne, including by one or the other of the civil partners or by both of them in the proportions that the court may determine, and in default of a determination, the civil partners shall bear those costs equally.

(2) The court may, on application to it by the trustees, order that an amount ordered to be paid by a civil partner under subsection (1) that has not been paid be deducted from any benefits payable to the civil partner—

(a) pursuant to an order made under section 121, if the civil partner is the beneficiary of the order; and

(b) pursuant to the scheme, if the civil partner is the member civil partner.

Other provisions for orders under section 121.

126.—(1) Section 54 of the Act of 1990 and regulations made under that section apply with any necessary modifications to a scheme if proceedings for the grant of a decree of dissolution to which a member civil partner is a party have been instituted, and continue to apply notwithstanding the grant of the decree of dissolution.

(2) For the purposes of this section and sections 121 to 125, the court may, of its own motion, and shall, if so requested by either of the civil partners or another concerned person, direct the trustees of the scheme to provide the civil partners or the other person and the court, within a specified period—

(a) with a calculation of the value and amount, determined in accordance with relevant guidelines, of the retirement benefit or contingent benefit that is payable or that, but for the making of the order for the decree of dissolution, would have been payable under the scheme and has accrued at the time of making the order, and

(b) with a calculation of the amount of the contingent benefit that is payable or that, but for the making of the order for the decree of dissolution concerned, would have been payable, under the scheme.

Applications for provision from estate of deceased civil partner.

127.—(1) A civil partner may, after the death of his or her civil partner but not more than 6 months after representation is first granted under the Succession Act 1965 in respect of that civil partner’s estate, apply for an order under this section for provision out of the estate.

(2) The court may by order make the provision for the applicant that the court considers appropriate having regard to the rights of any other person having an interest in the matter, if the court is satisfied that proper provision in the circumstances was not made for the applicant during the lifetime of the deceased for any reason other
than conduct by the applicant that, in the opinion of the court, it would in all the circumstances be unjust to disregard.

(3) The court shall not make an order under this section in favour of a civil partner who has registered in a new civil partnership, or has married, since the granting of the decree of dissolution.

(4) In considering whether to make an order under this section, the court shall have regard to all the circumstances of the case, including—

(a) any order made under section 117(1)(c) or a property adjustment order made under section 118 in favour of the applicant, and

(b) any devise or bequest made by the deceased in favour of the applicant.

(5) The total value for the applicant of the provision made by an order referred to in subsection (4)(a) on the date on which that order was made and an order made under this section shall not exceed any share of the applicant in the estate of the deceased civil partner to which the applicant was entitled or, if the deceased civil partner died intestate as to the whole or part of his or her estate, would have been entitled, if the civil partnership had not been dissolved, under the Succession Act 1965 as amended by Part 8.

(6) The applicant shall give notice of an application under this section to any spouse or other civil partner of the deceased and to any other persons that the court may direct and, in deciding whether to make the order and in determining the provisions of the order, the court shall have regard to any representations made by any of those persons.

(7) The personal representative of a deceased civil partner in respect of whom a decree of dissolution has been granted shall make a reasonable attempt to ensure that notice of the death is brought to the attention of the other civil partner concerned and, where an application is made under this section, that personal representative shall not, without leave of the court, distribute any of the estate of the deceased civil partner until the court makes or refuses to make an order under this section.

(8) A civil partner shall notify the personal representative of the deceased civil partner not later than one month after receipt of the notice referred to in subsection (7) if the other civil partner—

(a) intends to apply for an order under this section,

(b) has applied for an order under this section and the application is pending, or

(c) has successfully obtained an order under this section.

(9) If the civil partner does not notify the personal representative as required by subsection (8), the personal representative may distribute the assets of the deceased civil partner or any part of them amongst the persons entitled to them and is not liable to the civil partner for that distribution.
(10) Nothing in this section prejudices the rights of the civil partner to follow assets into the hands of a person who has received them.

(11) On granting a decree of dissolution or at any other time after it is granted, the court, on application to it in that behalf by either of the civil partners, may make an order that either or both of them, may not, on the death of either of them, apply for an order under this section, if the court considers it just to do so.

(12) In this section, “civil partner” means a civil partner whose civil partnership has been dissolved.

Orders for sale of property.

128.—(1) The court may make an order directing the sale of property specified in the order if—

(a) the property is property in which, or in the proceeds of sale of which, either or both of the civil partners has a beneficial interest, either in possession or reversion, and

(b) the court makes or has made a secured periodical payments order, a lump sum order or a property adjustment order.

(2) The court shall not exercise its jurisdiction under subsection (1) in a way that would affect a civil partner’s right to occupy the shared home by virtue of an order under this Act.

(3) An order under subsection (1) may contain the consequential and supplementary provisions that the court considers appropriate, including provisions—

(a) specifying the manner of sale and some or all of the conditions applying to the sale of the property,

(b) requiring the property to be offered for sale to a person or class of persons specified in the order,

(c) directing that the order, or a specified part of it, not take effect until the occurrence of a specified event or the expiration of a specified period,

(d) requiring the making of a payment or payments, whether periodically or in a lump sum, to a specified person out of the proceeds of the sale of the property, and

(e) specifying the manner in which the proceeds of the sale of the property are to be disposed of between the civil partners and other persons.

(4) A provision in an order under subsection (1) requiring the making of periodic payments to one of the civil partners out of the proceeds of the sale ceases to have effect on the registration in a new civil partnership, marriage or death of that civil partner, except as respects payments due under it on the date of the registration, marriage or death.

(5) The court shall, in considering whether to make an order under this section or section 116 or 119 with respect to a property in which a civil partner has a beneficial interest or in the proceeds of sale of which the civil partner has a beneficial interest, give to a
person who also has a beneficial interest in the property or proceeds an opportunity to make representations with respect to the making and contents of the order.

(6) The representations made under subsection (5) are deemed to be included in section 129 as matters to which the court is required to have regard in proceedings under a provision referred to in that section.

(7) This section does not apply in relation to a shared or family home in which, following the grant of a decree of dissolution, either of the civil partners resides with a new civil partner or spouse.

129.—(1) In deciding whether to make an order under section 116, 117, 118, 119(1)(a) or (b), 120, 121 to 126, 127 or 131, and in determining the provisions of the order, the court shall ensure that the provision that the court considers proper having regard to the circumstances exists or will be made for the civil partners.

(2) In deciding whether to make an order referred to in subsection (1) and in determining the provisions of the order, the court shall, in particular, have regard to the following matters:

(a) the income, earning capacity, property and other financial resources that each of the civil partners has or is likely to have in the foreseeable future;

(b) the financial needs, obligations and responsibilities that each of the civil partners has or is likely to have in the foreseeable future, whether in the case of the registration of a new civil partnership or marriage or otherwise;

(c) the standard of living enjoyed by the civil partners before the proceedings were instituted or before they commenced to live apart;

(d) the age of the civil partners, the duration of their civil partnership and the length of time during which the civil partners lived with each other after registration of their civil partnership;

(e) any physical or mental disability of either of the civil partners;

(f) the contributions that each of the civil partners has made or is likely to make in the foreseeable future to the welfare of the civil partners, including any contribution made by each of them to the income, earning capacity, property and financial resources of the other, and any contribution made by either of them by looking after the shared home;

(g) the effect on the earning capacity of each of the civil partners of the civil partnership responsibilities assumed by each during the period when they lived with one another after the registration of their civil partnership and the degree to which the future earning capacity of a civil partner is impaired by reason of that civil partner having relinquished or foregone the opportunity of remunerative activity in order to look after the shared home;
(h) any income or benefits to which either of the civil partners is entitled by or under statute;

(i) the conduct of each of the civil partners, if that conduct is such that, in the opinion of the court, it would in all the circumstances be unjust to disregard;

(j) the accommodation needs of both of the civil partners;

(k) the value to each of the civil partners of any benefit (for example, a benefit under a pension scheme) which, by reason of the decree of dissolution, a civil partner will forfeit the opportunity or possibility of acquiring; and

(l) the rights of any person other than the civil partners but including a person with whom either civil partner is registered in a new civil partnership or to whom the civil partner is married, or any child to whom either of the civil partners owes an obligation of support.

(3) In deciding whether to make an order under a provision referred to in subsection (1) and in determining the provisions of the order, the court shall have regard to the terms of any separation agreement that the parties have entered into and that is still in force.

(4) The court shall not make an order under a provision referred to in subsection (1) unless it would be in the interests of justice to do so.

130.—The court may, if, having regard to all the circumstances of the case, it considers it appropriate to do so, in a periodical payments order, direct that—

(a) the period in respect of which payments under the order are to be made begins on a specified date that is before the date of the order but after the date of the institution of the proceedings for the grant of the decree of dissolution;

(b) without prejudice to section 117(1)(c), any payments under the order in respect of the period before the date of the order be paid in one sum and before a specified date, and

(c) the civil partner making the payments referred to in paragraph (b) deduct a specified amount equal to any payment made by that civil partner to the other civil partner during the period between the making of the order for the grant of the decree of dissolution and the institution of the proceedings.

131.—(1) This section applies to the following orders:

(a) a maintenance pending suit order;

(b) a periodical payments order;

(c) a secured periodical payments order;
(d) a lump sum order if and insofar as it provides for the payment of the lump sum by instalments or requires the payment of instalments to be secured;

(e) an order under section 118(1)(b), (c) or (d) to the extent that the application of this section is not restricted or excluded pursuant to section 118(2);

(f) an order under section 119(1)(a) or (b);

(g) a financial compensation order;

(h) an order under section 121(2), to the extent that the application of this section is not restricted or excluded pursuant to section 121(8); and

(i) an order under this section.

(2) Any of the following persons may apply under this section with respect to an order referred to in subsection (1):

(a) either of the civil partners concerned;

(b) in the case of the death of a civil partner, another person who has, in the opinion of the court, sufficient interest in the matter; and

(c) in the case of the registration of a new civil partnership or the marriage of either of the civil partners, his or her new civil partner or spouse.

(3) Subject to this section and section 129 and to any restriction or exclusion pursuant to section 118(2) or 121(8), and without prejudice to section 120(6), the court may, on application under subsection (2) and if it considers it proper to do so, having regard to any change in the circumstances of the case and to any new evidence, by order—

(a) vary or discharge the order,

(b) suspend any provision of the order,

(c) suspend temporarily any provision of the order,

(d) revive the operation of a suspended provision,

(e) further vary an order previously varied under this section, and

(f) further suspend or revive the operation of a provision previously suspended or revived under this section.

(4) An order under this section may require the divesting of property vested in a person under an order referred to in subsection (1).

(5) The court’s power under subsection (3) to vary, discharge or suspend an order referred to in subsection (1)(e) is subject to any restriction or exclusion specified in that order and is a power—

(a) to vary the settlement to which that order relates in any person’s favour or to extinguish or reduce any person’s interest under that settlement; and
Method of making payments under certain orders.

Stay on certain orders being appealed.

Transmission of periodical payments through District Court clerk.

132.—(1) This section applies to an order under section 45, 47, 116, 117, 128 or 131.

(2) The court may by order provide that a payment under an order referred to in subsection (1) be made by the method specified in the order and be subject to the specified terms and conditions that the court considers appropriate.

Stay on certain orders being appealed.

133.—The operation of an order being appealed shall not be stayed unless the court that made the order or to which the appeal is brought directs otherwise, in the case of an appeal brought from an order under section 45, 47, 116, 117(1) or (b) or 131(1)(a), (b) or (c).

Transmission of periodical payments through District Court clerk.

134.—Notwithstanding anything in this Part, section 50 applies in relation to a maintenance pending suit order, a periodical payments order or a secured periodical payments order, or one of those orders affected by an order under section 131, with all necessary modifications, including—
the reference in section 50(4) to the maintenance creditor shall be construed as a reference to the person to whom payments under the relevant order are required to be made;

(b) the other references in section 50 to the maintenance creditor shall be construed as references to the person on whose application the relevant order was made; and

(c) the references in section 50(3) to the maintenance debtor shall be construed as a reference to the person by whom payments under the relevant order are required to be made.

135.—(1) The reference in section 98(1)(h) of the Defence Act 1954 to an order for payment of alimony shall be construed as including a reference to a maintenance pending suit order, periodical payments order or secured periodical payments order made under this Act.

(2) The references in section 99 of the Defence Act 1954 to a wife shall be construed as including a reference to a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

136.—The references in subsections (1) and (7) of section 8 of the Enforcement of Court Orders Act 1940 to an order shall be construed as including references to a maintenance order, a variation order, a maintenance pending suit order and a periodical payments order made under this Act.

137.—(1) In this section—

“disposition” means a disposition of property, other than a disposition by will or codicil;

“relief” means the financial or other material benefits conferred by an order under section 116, 117, 118, 119(1)(a), (b) or (c), 120, 122 to 126, 127, or 131 (other than an order affecting an order referred to in section 131(1)(c)), and references to defeating a claim for relief are references to—

(a) preventing the relief being granted to the person concerned,

(b) limiting the relief granted, or

(c) frustrating or impeding the enforcement of an order granting relief;

“reviewable disposition”, in relation to proceedings for the grant of relief brought by a civil partner, means a disposition made by the other civil partner or another person, but does not include a disposition made for valuable consideration (other than on registration in a new civil partnership or marriage) to a person who, at the time of the disposition, acted in good faith and without notice of an intention on the part of the other civil partner to defeat the claim for relief.
(2) The court, on application made by a person who makes it during the proceedings instituted for the grant of relief, may—

(a) if satisfied that the other civil partner concerned or another person, with the intention of defeating the claim for relief, proposes to make a disposition of or transfer out of the jurisdiction or otherwise deal with property, make the order that it thinks fit for the purpose of restraining the other civil partner or person from doing so or otherwise for protecting the claim, or

(b) if satisfied that the other civil partner or person has, with that intention, made a reviewable disposition and that, if the disposition were set aside, relief or different relief would be granted to the applicant, make an order setting aside the disposition.

(3) Where the court has granted relief and the court is satisfied that the other civil partner or person has, with the intention referred to in subsection (2)(a), made a reviewable disposition, it may make an order setting aside the disposition.

(4) A court that makes an order under subsection (2) or (3) shall include in the order any provisions that it considers necessary for the implementation of the order, including provisions requiring the making of any payments or the disposal of any property.

(5) In proceedings on an application made under subsection (2) or (3) with respect to a disposition that took place less than 3 years before the date of the application or with respect to a disposition or other dealing with property that is proposed to be made, there is a presumption, unless the contrary is shown, that the other civil partner or person disposed of or otherwise dealt with the property or proposes to do so with the intention of defeating the applicant’s claim for relief if—

(a) in a case referred to in subsection (2)(a), the disposition or other dealing would, apart from this section, have that consequence, or

(b) in any other case, the disposition has had that consequence.

(6) An application shall not be made for an order setting aside a disposition by reason only of subsection (2)(b) or (3) after the expiration of 6 years from the date of the disposition.

Cost of mediation and counselling services. 136.—The costs of mediation services or counselling services provided for a civil partner who is or becomes party to proceedings under this Part are in the discretion of the court.

PART 13

Jurisdiction and Other Related Matters

Definitions. 139.—In this Part—
“Circuit Court” means the Circuit Court when it is exercising its jurisdiction to hear and determine civil partnership law proceedings or transferring civil partnership law proceedings to the High Court;

“civil partner” includes, where the context requires, a person who was a civil partner in a partnership that has been dissolved;

“civil partnership law proceedings” in relation to a court, means proceedings before a court of competent jurisdiction—

(a) under this Act, with the exception of Part 15,

(b) under the Domestic Violence Act 1996 as amended by Part 9, or

(c) between civil partners under the Partition Act 1868 and the Partition Act 1876, where the fact that they are civil partners of each other is of relevance to the proceedings.

140.—(1) Subject to the other provisions of this section, the Circuit Court has concurrent jurisdiction with the High Court to hear and determine civil partnership law proceedings.

(2) The District Court, and the Circuit Court on appeal from the District Court, have concurrent jurisdiction with the High Court to hear and determine proceedings under sections 45, 46, 47 and 50 except that—

(a) they do not have jurisdiction to make an order under one of those sections for the payment of a periodical sum at a rate greater than €500 per week for support of a civil partner,

(b) they do not have jurisdiction to make an order or direction under one of those sections in a matter in relation to which the High Court has made an order or direction under that section, and

(c) the District Court does not have jurisdiction to make an order or direction otherwise than on appeal from the District Court.

(3) The court shall only exercise its jurisdiction in civil partnership law proceedings if a party to the proceedings—

(a) is domiciled in the State on the date on which the proceedings are commenced, or

(b) is ordinarily resident in the State throughout the one-year period that ends on that date.

(4) The jurisdiction conferred on the Circuit Court may be exercised by the judge of the circuit in which a party to the civil partnership law proceedings ordinarily resides or carries on a business, profession or occupation.

(5) The Circuit Court shall transfer proceedings to the High Court, on application to it by a party to the proceedings, if land to which the proceedings relate—
Notice of civil partnership law proceedings.

141.—A person bringing civil partnership law proceedings shall give notice of them to—

(a) the other civil partner or the civil partners concerned, and

(b) another person if the court so specifies.
142.—(1) In civil partnership law proceedings under section 45, 46, 47, 50, 117, 118, 119(1)(a) or (b), 120, 121 to 126, 127 or 131, each of the civil partners shall give to the other the particulars of his or her property or income that may be reasonably required for the purposes of the proceedings.

(2) The court may direct a person who fails or refuses to comply with subsection (1) to comply with it.

143.—The Circuit Court shall sit to hear and determine civil partnership law proceedings in a different place or at different times or on different days from those on which the ordinary sittings of the Circuit Court are held.

144.—(1) Civil partnership law proceedings shall be as informal as is practicable and consistent with the administration of justice.

(2) A judge sitting to hear and determine civil partnership law proceedings, and a barrister or solicitor appearing in the proceedings, shall not wear a wig or a gown.

145.—Subject to the provisions of section 40 of the Civil Liability and Courts Act 2004, civil partnership law proceedings shall be heard otherwise than in public.

146.—The costs in civil partnership law proceedings are at the discretion of the court.

147.—Rules of court shall provide for the documentation required for the commencement of civil partnership law proceedings in a summary manner.

PART 14

OTHER CONSEQUENTIAL AMENDMENTS, ETC.

148.—(1) Section 5(4) of the Pensions Act 1990 (as amended by the Pensions (Amendment) Act 1996 and the Family Law (Divorce) Act 1996) applies and has effect in relation to sections 121 to 126 and 187 to 192 as it applies and has effect by virtue of section 47 of the Family Law (Divorce) Act 1996 in relation to section 17 of that Act, with the following modifications:

(a) a reference to section 12 of the Family Law Act 1995 or section 17 of the Family Law (Divorce) Act 1996 is to be construed as a reference to sections 121 to 126 and sections 187 to 192;

(b) the reference in paragraph (c) to the Family Law Act 1995 or the Family Law (Divorce) Act 1996 is to be construed as a reference to the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

(c) the references to subsections (1), (2), (3), (5), (6), (7), (8), (10) and (25) of section 12 of the Family Law Act 1995
and section 17 of the Family Law (Divorce) Act 1996 are to be construed as references to sections 121(1), (2) and (5), 123(1), (2), (3), (4), (5) and (7) and 126(2), or sections 187(1), (2) and (5), 189(1), (2), (3), (4), (5) and (7) and 192, as the case may be, of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, respectively; and

(d) the reference to section 2 of the Family Law Act 1995 or the Family Law (Divorce) Act 1996 is to be construed as a reference to section 109 or 187.


149.—In this section and sections 150 to 157, “Act of 1996” means the Family Law (Divorce) Act 1996.

150.—Section 2(1) of the Act of 1996 is amended by inserting the following definitions:

"‘civil partnership’ has the meaning assigned to it by the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘registration’, with respect to a civil partnership, includes entering into a relationship of a class of legal relationships that is the subject of an order made under section 5 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;”.

151.—Section 13(5) of the Act of 1996 is amended—

(a) in paragraph (a)—

(i) by inserting “or registration in a civil partnership”, after “upon the remarriage”, and

(ii) by inserting “or civil partnership registration” after “date of the remarriage”,

and

(b) in paragraph (b) by inserting “or registers in a civil partnership” after “remarries”.
152.—Section 14(3) of the Act of 1996 is amended by inserting “or registers in a civil partnership” after “remarries”.

153.—Section 16(2) of the Act of 1996 is amended—

(a) in paragraph (b), by inserting “, registration in a civil partnership” before “or death”, and

(b) in paragraph (c), by inserting “or registered in a civil partnership” after “remarried”.

154.—Section 17 of the Act of 1996 is amended—

(a) in subsection (19) by inserting “or registration in a civil partnership” after “remarriage”, and

(b) in subsection (23)(a) by inserting “or registered in a civil partnership” after “remarried”.

155.—Section 18 of the Act of 1996 is amended—

(a) in subsection (2) by inserting “or registered in a civil partnership” after “remarried”, and

(b) in subsection (5) by inserting “, civil partner or former civil partner” after “the spouse” wherever it appears.

156.—Section 19(4) of the Act of 1996 is amended—

(a) by inserting “or registration in a civil partnership” before “of that spouse”, and

(b) by inserting “or civil partnership registration” after “remarriage” at the end.

157.—Section 20(2)(b) of the Act of 1996 is amended by inserting “or registration in a civil partnership” after “remarriage”.


159.—Section 2(1) of the Act of 1995 is amended by inserting the following definitions:

‘civil partnership’ has the meaning assigned to it by the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘registration’, with respect to a civil partnership, includes entering into a relationship of a class of legal relationships that is the subject of an order made under section 5 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;.”
Amendment of section 8 of Act of 1995.

Section 8(5) of the Act of 1995 is amended—

(a) in paragraph (a)—

(i) by inserting “or registration in a civil partnership” before “of the spouse”, and

(ii) by inserting “or civil partnership registration” after “date of the remarriage”,

and

(b) in paragraph (b), by inserting “or registers in a civil partnership” after “remarries”.


Section 9(3) of the Act of 1995 is amended by inserting “or registers in a civil partnership” after “remarries”.


Section 11(2) of the Act of 1995 is amended—

(a) in paragraph (b) by inserting “, registration in a civil partnership” before “or death”, and

(b) in paragraph (c) by inserting “or registered in a civil partnership” after “remarried”.

Amendment of section 12 of Act of 1995.

Section 12 of the Act of 1995 is amended—

(a) in subsection (19) by inserting “or registration in a civil partnership” after “remarriage”, and

(b) in subsection (23)(a) by inserting “or registered in a civil partnership” after “remarried”.

Amendment of section 15 of Act of 1995.

Section 15(4) of the Act of 1995 is amended—

(a) by inserting “or registration in a civil partnership” before “of that spouse”, and

(b) by inserting “or civil partnership registration” after “remarriage” in the last line.


Section 15A(2) (inserted by section 52(g) of the Family Law (Divorce) Act 1996) of the Act of 1995 is amended by inserting “or registered in a civil partnership” after “remarried”.

Amendment of section 23 of Act of 1995.

Section 23 of the Act of 1995 is amended—

(a) in subsection (2)(d)—

(i) by substituting “Where a person” for “Where a spouse”,

(ii) by inserting “or registered in a civil partnership” after “remarried”, and

(iii) by substituting “of that person” for “of that spouse” wherever it appears,

(b) in subsection (5), by inserting “or registration in a civil partnership” after “the remarriage”, and

(c) in subsection (6)—

(i) in paragraph (b), by inserting “or registration in a civil partnership” after “remarriage” wherever it appears, and

(ii) in paragraph (c), by inserting “or registers in a civil partnership” after “remarries”.

167.—(1) Section 25(2) of the Act of 1995 is amended by inserting “or registered in a civil partnership” after “remarried”.

(2) Section 25(6) of the Act of 1995 is amended—

(a) by inserting “, or civil partner (if any)” after “spouse (if any)”, and

(b) by inserting “or civil partner” after “representation made by the spouse”.

168.—The Acts specified in Part 3 of the Schedule are amended as indicated in that Schedule.

169.—The Acts specified in Part 4 of the Schedule are amended as indicated in that Schedule.

170.—The Acts specified in Part 5 of the Schedule are amended as indicated in that Schedule.

PART 15

COHABITANTS

171.—In this Part—

“cohabitant” has the meaning assigned to it in section 172;

“court” means the High Court, the Circuit Court or the District Court;

“dependent child”, in relation to a cohabitant or a couple of cohabitants, means any child of whom both the cohabitants are the parents and who is—

(a) under the age of 18 years, or

(b) 18 years of age or over and is—

(i) receiving full-time education or instruction at any university, college, school or other educational establishment and is under the age of 23 years, or
(ii) incapable of taking care of his or her own needs because of a mental or physical disability.

172.—(1) For the purposes of this Part, a cohabitant is one of 2 adults (whether of the same or the opposite sex) who live together as a couple in an intimate and committed relationship and who are not related to each other within the prohibited degrees of relationship or married to each other or civil partners of each other.

(2) In determining whether or not 2 adults are cohabitants, the court shall take into account all the circumstances of the relationship and in particular shall have regard to the following:

(a) the duration of the relationship;
(b) the basis on which the couple live together;
(c) the degree of financial dependence of either adult on the other and any agreements in respect of their finances;
(d) the degree and nature of any financial arrangements between the adults including any joint purchase of an estate or interest in land or joint acquisition of personal property;
(e) whether there are one or more dependent children;
(f) whether one of the adults cares for and supports the children of the other; and
(g) the degree to which the adults present themselves to others as a couple.

(3) For the avoidance of doubt a relationship does not cease to be an intimate relationship for the purpose of this section merely because it is no longer sexual in nature.

(4) For the purposes of this section, 2 adults are within a prohibited degree of relationship if—

(a) they would be prohibited from marrying each other in the State, or
(b) they are in a relationship referred to in the Third Schedule to the Civil Registration Act 2004 inserted by section 26 of this Act.

(5) For the purposes of this Part, a qualified cohabitant means an adult who was in a relationship of cohabitation with another adult and who, immediately before the time that that relationship ended, whether through death or otherwise, was living with the other adult as a couple for a period—

(a) of 2 years or more, in the case where they are the parents of one or more dependent children, and
(b) of 5 years or more, in any other case.

(6) Notwithstanding subsection (5), an adult who would otherwise be a qualified cohabitant is not a qualified cohabitant if—

(2) If the qualified cohabitant satisfies the court that he or she is financially dependent on the other cohabitant and that the financial dependence arises from the relationship or the ending of the relationship, the court may, if satisfied that it is just and equitable to do so in all the circumstances, make the order concerned.

(3) In determining whether or not it is just and equitable to make an order in all the circumstances, the court shall have regard to—

(a) the financial circumstances, needs and obligations of each qualified cohabitant existing as at the date of the application or which are likely to arise in the future,

(b) subject to subsection (5), the rights and entitlements of any spouse or former spouse,

(c) the rights and entitlements of any civil partner or former civil partner,

(d) the rights and entitlements of any dependent child or of any child of a previous relationship of either cohabitant,

(e) the duration of the parties’ relationship, the basis on which the parties entered into the relationship and the degree of commitment of the parties to one another,

(f) the contributions that each of the cohabitants made or is likely to make in the foreseeable future to the welfare of the cohabitants or either of them including any contribution made by each of them to the income, earning capacity or property and financial resources of the other,

(g) any contributions made by either of them in looking after the home,

(h) the effect on the earning capacity of each of the cohabitants of the responsibilities assumed by each of them during the period they lived together as a couple and the degree to which the future earning capacity of a qualified cohabitant is impaired by reason of that qualified cohabitant having relinquished or foregone the opportunity of remunerative activity in order to look after the home,

(i) any physical or mental disability of the qualified cohabitant, and

173.—(1) A qualified cohabitant may, subject to any agreement under section 202, apply to the court, on notice to the other cohabitant, for an order under sections 174, 175 and 187 or any of them.

(2) If the qualified cohabitant satisfies the court that he or she is financially dependent on the other cohabitant and that the financial dependence arises from the relationship or the ending of the relationship, the court may, if satisfied that it is just and equitable to do so in all the circumstances, make the order concerned.

(3) In determining whether or not it is just and equitable to make an order in all the circumstances, the court shall have regard to—

(a) the financial circumstances, needs and obligations of each qualified cohabitant existing as at the date of the application or which are likely to arise in the future,

(b) subject to subsection (5), the rights and entitlements of any spouse or former spouse,

(c) the rights and entitlements of any civil partner or former civil partner,

(d) the rights and entitlements of any dependent child or of any child of a previous relationship of either cohabitant,

(e) the duration of the parties’ relationship, the basis on which the parties entered into the relationship and the degree of commitment of the parties to one another,

(f) the contributions that each of the cohabitants made or is likely to make in the foreseeable future to the welfare of the cohabitants or either of them including any contribution made by each of them to the income, earning capacity or property and financial resources of the other,

(g) any contributions made by either of them in looking after the home,

(h) the effect on the earning capacity of each of the cohabitants of the responsibilities assumed by each of them during the period they lived together as a couple and the degree to which the future earning capacity of a qualified cohabitant is impaired by reason of that qualified cohabitant having relinquished or foregone the opportunity of remunerative activity in order to look after the home,

(i) any physical or mental disability of the qualified cohabitant, and
(i) the conduct of each of the cohabitants, if the conduct is such that, in the opinion of the court, it would be unjust to disregard it.

(4) The court may order that notice be given to any other person that it specifies and may hear the other person on the terms and in respect of the matters it thinks fit in the interests of justice before making an order referred to in this section.

(5) The court shall not make an order referred to in this section in favour of a qualified cohabitant that would affect any right of any person to whom the other cohabitant is or was married.

(6) The court may, on the application of the qualified cohabitant or the other cohabitant, if it considers it proper to do so having regard to any change in the circumstances of the case and to any new evidence, including any change in the circumstances occasioned by a variation by another order of the court made in favour of a person to whom the other cohabitant is or was married, by order—

(a) vary or discharge an order under section 175 or 187,

(b) suspend any provision of such an order,

(c) suspend temporarily any provision of such an order,

(d) revive the operation of a suspended provision,

(e) further vary an order previously varied under this section, or

(f) further suspend or revive the operation of a provision previously suspended or revived under this section.

(7) Where the court makes an order under section 174, 175(1)(c) or 187 in favour of a qualified cohabitant, the court may, in the same proceedings or at any later date, on the application of either of the qualified cohabitants concerned, order that either or both of them shall not, on the death of the other, be entitled to apply for an order under section 194.

(8) If the order under section 174, 175(1)(c) or 187 referred to in subsection (7) has been made but not yet executed at the time that the order is made under subsection (7), the order under subsection (7) shall not take effect until the execution of that other order.
section 202 (subject to section 202(4)) or another settlement (including one made by will or codicil) made on the cohabitants; and

(d) the extinguishment or reduction of the interest of either of the cohabitants under an agreement referred to in section 202 (subject to section 202(4)).

(2) Before making an order under this section, the court shall have regard to whether in all the circumstances it would be practicable for the financial needs of the qualified cohabitant to be met by an order made under section 175 or 187, having regard to all the circumstances, including the likelihood of a future change of circumstances of either of the qualified cohabitants.

175.—(1) The court, on application to it in that behalf by the qualified cohabitant, may, during the lifetime of either of the cohabitants, make one or more of the following orders:

(a) an order that either of the cohabitants make to the other the periodical payments in the amounts, during the period and at the times that may be specified in the order;

(b) an order that either of the cohabitants secure to the other, to the satisfaction of the court, the periodical payments of the amounts, during the period and at the times that may be specified in the order; and

(c) an order that either of the cohabitants make to the other a lump sum payment or lump sum payments of the amount or amounts and at the time or times that may be specified in the order.

(2) The court may order a qualified cohabitant to pay a lump sum to the other qualified cohabitant to meet any liabilities or expenses reasonably incurred by the other qualified cohabitant in maintaining himself or herself before the making of an application by the other qualified cohabitant for an order under subsection (1).

(3) An order under this section for the payment of a lump sum may provide for the payment of the lump sum by instalments of the amounts that may be specified in the order and may require the payment of the instalments to be secured to the satisfaction of the court.

(4) The period specified in an order under subsection (1)(a) or (b) shall begin not earlier than the date of the application for the order and shall end not later than the date of death of the first qualified cohabitant to die.

(5) An order made under subsection (1)(a) or (b) ceases to have effect on the marriage or registration in a civil partnership, or in a legal relationship that is the subject of an order under section 5, of the qualified cohabitant in whose favour the order was made, except as respects payments due under it on the date of the marriage or registration.

(6) The court shall not make an order under this section in favour of a qualified cohabitant who has married or registered in a civil partnership, or in a legal relationship that is the subject of an order under section 5.
(7) The court that makes an order under subsection (1)(a) shall, in the same proceedings, make an attachment of earnings order under section 176 to secure payments under the order if it is satisfied, after taking into consideration any representations on the matter made to it by the qualified cohabitant ordered to make payments under that subsection, that—

(a) the order is desirable to secure payments under an order under subsection (1)(a) and any variations and affirmations of that order, and

(b) the person against whom the attachment of earnings order is made is a person to whom earnings fall to be paid.

176.—(1) For the purposes of this section and sections 177 to 186—

"antecedent order" means an order under section 175;

"attachment of earnings order" means an order directing that an employer deduct from the maintenance debtor’s earnings, at the times specified in the order, periodical deductions of the appropriate amounts specified in the order, having regard to the normal deduction rate and the protected earnings rate;

"employer" includes a trustee of a pension scheme under which the maintenance debtor is receiving periodical pension benefits;

"maintenance creditor" in relation to an attachment of earnings order, means the qualified cohabitant who applied for the order;

"maintenance debtor" means a qualified cohabitant who is required by an antecedent order to make payments;

"normal deduction rate" means the rate at which the court considers it reasonable that the earnings to which the attachment of earnings order relates should be applied in satisfying an antecedent order, not exceeding the rate that appears to the court to be necessary for—

(a) securing payment of the sums falling due from time to time under the antecedent order, and

(b) securing payment within a reasonable period of any sums already due and unpaid under the antecedent order and any costs incurred in proceedings relating to the antecedent order payable by the maintenance debtor;

"protected earnings rate" means the rate below which, having regard to the needs of the maintenance debtor, the court considers it proper that the relevant earnings should not be reduced by a payment made in pursuance of the attachment of earnings order.

(2) The court may, on application to it in that behalf, make an attachment of earnings order if it is satisfied that the maintenance debtor is a person to whom earnings fall to be paid and that the order is desirable to secure payments under the antecedent order and any amendments, variations and affirmations of it.

(3) The court that makes an antecedent order, or an order that makes, varies or affirms on appeal an antecedent order, shall make

an attachment of earnings order in the same proceedings if it is satisfied of the things mentioned in subsection (2).

(4) A person to whom an attachment of earnings order is directed shall pay the amounts ordered to be deducted to the maintenance creditor or to the District Court clerk specified in the order for transmission to the maintenance creditor.

(5) Before deciding whether to make or refuse to make an attachment of earnings order, the court shall give the maintenance debtor an opportunity to make representations, and shall have regard to any representations made, relating to whether the maintenance debtor—

(a) is a person to whom earnings fall to be paid, and

(b) would make the payments to which the relevant order relates.

(6) The court shall include in an attachment of earnings order the particulars required so that the person to whom the order is directed may identify the maintenance debtor.

(7) Payments under an attachment of earnings order are in lieu of payments of the like amount under the antecedent order that have not been made and that, but for the attachment of earnings order, would fall to be made under the antecedent order.

177.—(1) The court registrar or court clerk specified in the attachment of earnings order shall cause the order to be served on the person to whom it is directed and on any person who subsequently becomes the maintenance debtor’s employer and of whom the registrar or clerk becomes aware.

(2) The service may be effected by leaving the order or a copy of it at the person’s residence or place of business in the State, or by sending the order or a copy of it, by registered prepaid post, to that residence or place of business.

(3) A person to whom an attachment of earnings order is directed shall comply with it if it is served on him or her but is not liable for non-compliance before 10 days have elapsed since the service.

(4) If a person to whom an attachment of earnings order is directed is not the maintenance debtor’s employer or ceases to be the maintenance debtor’s employer, the person shall, within 10 days from the service or the date of cesser, give notice of that fact to the court.

(5) The person shall give to the maintenance debtor a statement in writing of the total amount of every deduction made from a maintenance debtor’s earnings in compliance with an attachment of earnings order.

178.—Payments made to a court clerk under an attachment of earnings order shall, when transmitted by the clerk to the maintenance creditor, be deemed to be payments made by the maintenance debtor so as to discharge—

(a) firstly, any sums payable under the antecedent order, and
Statement as to earnings.

179.—(1) In relation to an attachment of earnings order or an application for one, the court may, before or at the hearing or while the order is in force, order—

(a) the maintenance debtor to give to the court, within a specified period, a signed statement in writing specifying—

(i) the name and address of every employer of the maintenance debtor,

(ii) particulars as to the debtor’s earnings and expected earnings, and resources and needs, and

(iii) particulars for enabling the employers to identify the maintenance debtor,

(b) a person appearing to the court to be an employer of the maintenance debtor to give to the court, within a specified period, a statement signed by the person, or on his or her behalf, of specified particulars of the debtor’s earnings and expected earnings.

(2) Notice of an application for an attachment of earnings order served on a maintenance debtor may include a requirement that the maintenance debtor give to the court, within the period and in the manner specified in the notice, a statement in writing of the matters referred to in subsection (1)(a) and of any other matters which are or may be relevant to the determination of the normal deduction rate and the protected earnings rate to be specified in the order.

(3) In any proceedings in relation to an attachment of earnings order, a statement given to the court in compliance with an order under paragraph (a) or (b) of subsection (1) or with a requirement under subsection (2) is admissible as evidence of the facts stated in it and a document purporting to be such a statement is deemed, unless the contrary is shown, to be a statement so given.

Notification of changes of employment and earnings.

180.—Where an attachment of earnings order is in force—

(a) the maintenance debtor shall notify in writing the court that made the order of every occasion on which he or she leaves employment, or becomes employed or re-employed, not later than 10 days after doing so,

(b) the maintenance debtor shall, on any occasion on which he or she becomes employed or re-employed, include in the notification particulars of his or her earnings and expected earnings, and

(c) any person who becomes an employer of the maintenance debtor and who knows that the order is in force and by which court it was made shall, within 10 days of the later of the date of becoming an employer of the maintenance debtor and the date of acquiring the knowledge, notify the court in writing that he or she has become an
181.—(1) Where an attachment of earnings order is in force, the court that made the order shall, on the application of the maintenance debtor’s employer, the maintenance debtor or the person to whom payments are being made under the order, determine whether payments or portions of payments being made to the maintenance debtor that are of a class or description specified in the application are earnings for the purpose of the order.

(2) Where an application is made by the employer under subsection (1), the employer is not liable for non-compliance with the order as respects any payments or portions of payments of the class or description specified by the application that he or she makes while the application, a determination in relation to it or an appeal from the determination is pending.

(3) Subsection (2) does not apply if the employer subsequently withdraws the application or abandons the appeal.

182.—(1) This section applies when a maintenance debtor is in the service of the State, a local authority within the meaning of the Local Government Act 1941, a harbour authority within the meaning of the Harbours Acts 1946 to 2005, the Health Service Executive, a vocational education committee established by the Vocational Education Act 1930, a committee of agriculture established by the Agriculture Act 1931, or another body if his or her earnings are paid directly out of moneys paid by the Oireachtas or from the Central Fund, or is a member of either House of the Oireachtas.

(2) For the purposes of sections 176 to 186, the following officers are regarded as being the employers of the maintenance debtor and the earnings paid to the maintenance debtor out of the Central Fund or out of moneys provided by the Oireachtas are regarded as having been paid by them:

(a) in the case where the maintenance debtor is employed in a department, office, organisation, service, undertaking or other body, its chief officer, or any other officer that may be designated from time to time by the Minister of the Government by whom that body is administered;

(b) in the case where the maintenance debtor is in the service of an authority or body, its chief officer; and

(c) in any other case, where the maintenance debtor is paid out of the Central Fund or out of moneys provided by the Oireachtas, the Secretary of the Department of Finance or any other officer that may be designated from time to time by the Minister for Finance.

(3) A question that arises in proceedings for or arising out of an attachment of earnings order as to which body employs a maintenance debtor may be referred to and determined by the Minister for Finance, but he or she is not obliged to consider the reference unless it is made by the court.

(4) A document purporting to contain a determination by the Minister for Finance under subsection (3) and to be signed by an
officer of that Minister shall, in any proceedings mentioned in that subsection, be admissible in evidence and be deemed, unless the contrary is shown, to contain an accurate statement of that determination.

183.—(1) The court that made an attachment of earnings order may, if it thinks fit, on the application of the maintenance creditor, the maintenance debtor or the clerk on whose application the order was made, make an order discharging or varying that order.

(2) The employer on whom an order varying an attachment of earnings order is served shall comply with it but is not liable for non-compliance before 10 days have elapsed since the service.

(3) If an employer affected by an attachment of earnings order ceases to be the maintenance debtor’s employer, the order lapses insofar as that employer is concerned, except as respects deductions from earnings paid by the employer after the cesser and payment to the maintenance creditor of deductions from earnings made at any time by that employer.

(4) The lapse of an order under subsection (3) does not prevent its remaining in force for other purposes.

184.—(1) An attachment of earnings order ceases to have effect upon the discharge of the relevant antecedent order, except as regards payments under the attachment of earnings order in respect of any time before the date of the discharge.

(2) The clerk or registrar of the court that made the attachment of earnings order shall give notice of a cesser to the employer.

185.—(1) Where an attachment of earnings order has been made, any proceedings commenced under subsection (1) of section 8 of the Enforcement of Court Orders Act 1940 for the enforcement of the relevant antecedent order lapses and any warrant or order issued or made under that subsection ceases to have effect.

(2) An attachment of earnings order ceases to have effect on the making of an order under section 8 of the Enforcement of Court Orders Act 1940 for the enforcement of the relevant antecedent order.

186.—(1) A maintenance creditor who fails to obtain a sum of money due under an attachment of earnings order, or the clerk to whom the sum falls to be paid, may sue for the sum as a simple contract debt in any court of competent jurisdiction, if the failure to obtain the sum is caused by—

(a) a person failing, without reasonable excuse, to comply with section 177(3) or (4), or 180, or an order under section 179 or 183(2), or

(b) a person, without reasonable excuse, giving a false or misleading statement under section 179(1) or notification under section 180.
(2) A person who gives to a court a statement pursuant to section 179 or a notification under section 180 that he or she knows to be false or misleading commits an offence and is liable on summary conviction to a fine not exceeding €254 or to imprisonment for a term not exceeding six months or to both.

(3) A person who contravenes section 177(3) commits an offence and is liable on summary conviction to a fine not exceeding €63.

187.—(1) In this section and sections 188 to 192—

“Act of 1990” means the Pensions Act 1990;

“active member” in relation to a scheme, means a member of the scheme who is in reckonable service;

“actuarial value” means the equivalent cash value of a benefit (including, where appropriate, provision for any revaluation of the benefit) under a scheme calculated by reference to appropriate financial assumptions and making due allowance for the probability of survival to normal pensionable age and beyond in accordance with normal life expectancy on the assumption that the member, at the effective date of calculation, is in a normal state of health having regard to his or her age;

“approved arrangement”, in relation to the trustees of a scheme, means an arrangement whereby the trustees, on behalf of the person for whom the arrangement is made, effect policies or contracts of insurance that are approved of by the Revenue Commissioners with, and make the appropriate payments under the policies or contracts to, one or more undertakings;

“contingent benefit” means a benefit payable under a scheme, other than a payment under section 189(4), to or for the benefit of the surviving qualified cohabitant (if the scheme so permits) or to or for the benefit of, any dependants of the member qualified cohabitant or the personal representative of the member qualified cohabitant, if the member qualified cohabitant dies while in relevant employment and before attaining any normal pensionable age provided for under the rules of the scheme;

“defined contribution scheme” has the meaning assigned to it by section 2(1) (as amended by section 29(1)(a)(ii) of the Social Welfare and Pensions Act 2008) of the Act of 1990;

“designated benefit” in relation to a pension adjustment order, means an amount determined by the trustees of a scheme, in accordance with relevant guidelines and by reference to the period and the percentage of the retirement benefit specified in an order under subsection (2);

“member qualified cohabitant” in relation to a scheme, means a qualified cohabitant who is a member of the scheme;

“normal pensionable age” means the earliest age at which a member of a scheme is entitled to receive benefits under the rules of the scheme on retirement from relevant employment, disregarding any rules providing for early retirement on grounds of ill health or otherwise;
“occupational pension scheme” has the meaning assigned to it by section 2(1) of the Act of 1990;

“reckonable service” means service in relevant employment during membership in any scheme;

“relevant guidelines” means any relevant guidelines for the time being in force under section 10(1)(c) or (cc) (as amended by section 5 of the Pensions (Amendment) Act 1996, section 47(c) of the Family Law (Divorce) Act 1996, section 13(b) of the Pensions (Amendment) Act 2002 and section 37 of the Social Welfare and Pensions Act 2007) of the Act of 1990;

“relevant employment” in relation to a scheme, means any employment, or any period treated as employment, or any period of self-employment to which a scheme applies;

“retirement benefit”, in relation to a scheme, means all benefits, other than contingent benefits, payable under the scheme;

“rules”, in relation to a scheme, means the provisions of the scheme by whatever name called;

“scheme” means—

(a) an occupational pension scheme within the meaning of the Pensions Act 1990,

(b) an annuity contract approved by the Revenue Commissioners under section 784 of the Taxes Consolidation Act 1997, or a contract so approved under section 785 of that Act,

(c) a trust scheme, or part of a trust scheme, approved under section 784(4) or 785(5) of that Act,

(d) a policy or contract of assurance approved by the Revenue Commissioners under Chapter 1 of Part 30 of the Taxes Consolidation Act 1997, or

(e) another scheme or arrangement, including a personal pension plan and a scheme or arrangement established by or pursuant to statute or instrument made under statute other than under the Social Welfare Acts, that provides or is intended to provide either or both of the following:

(i) benefits for a person who is a member of the scheme or arrangement upon retirement at normal pensionable age or upon earlier or later retirement or upon leaving or upon the ceasing of the relevant employment, and

(ii) benefits for the widow, widower or dependants of the person referred to in subparagraph (i), for his or her civil partner or the person that was his or her civil partner until the death of the person referred to in subparagraph (i), for his or her qualified cohabitant or the person that was his or her qualified cohabitant until the death of the person referred to in subparagraph (i) or for any other persons, on the death of that person;
“transfer amount” shall be construed in accordance with subsection (4);

“undertaking” has the same meaning as “‘insurance undertaking’ or ‘undertaking’” in section 2(1) (as inserted by section 3(1) of the Insurance Act 2000) of the Insurance Act 1989.

(2) The court, on application to it in that behalf by either of the qualified cohabitants, may, during the lifetime of a member qualified cohabitant, make an order providing for the payment, in accordance with this section and sections 188 to 192, to the other qualified cohabitant of a benefit consisting of the part of the benefit that is payable under the scheme and has accrued at the time of the making of the order, or of the part of that part, that the court considers appropriate.

(3) The order under subsection (2) shall specify—

(a) the period of reckonable service of the member qualified cohabitant to be taken into account, and

(b) the percentage of the retirement benefit accrued during the period to be paid to the other qualified cohabitant.

(4) Where the court makes an order under subsection (2) in favour of a qualified cohabitant and payment of the designated benefit concerned has not commenced, the qualified cohabitant is entitled to the application in accordance with section 189(1) of an amount of money from the scheme (in this subsection referred to as a "transfer amount") equal to the value of the designated benefit as determined by the trustees of the scheme in accordance with relevant guidelines.

(5) The court, on application to it in that behalf by either of the qualified cohabitants, may make an order providing for the payment, on the death of the member qualified cohabitant, to the other qualified cohabitant of that part of a contingent benefit that is payable under the scheme, or of the part of that part, that the court considers appropriate.

(6) In deciding whether or not to make a pension adjustment order, the court shall have regard to whether proper provision, having regard to the circumstances, exists or can be made for the qualified cohabitant who is not a member under section 175.

188.—(1) A person who makes an application under section 187(2) or (5) shall give notice of the application to the trustees of the scheme. The court shall, in deciding whether to make the order and in determining the provisions of the order, have regard to representations made by the persons to whom notice has been given under this section.

(2) An order referred to in subsection (1) ceases to have effect on the entry into a civil partnership, marriage or death of the person in whose favour the order was made.

(3) The court may, in making an order referred to in subsection (1), give to the trustees of the scheme any directions that it considers appropriate, including a direction that would require the trustees not to comply with the rules of the scheme or the Act of 1990.
Rules respecting payments under schemes.


(4) Notwithstanding subsection (3), a direction given under that subsection shall not permit a payment under section 187(5) unless the scheme concerned expressly provides for payments of contingent benefits to cohabitants.

(5) The registrar or clerk of the court that makes an order referred to in subsection (1) shall cause a copy of the order to be served on the trustees of the scheme.

189. — (1) Subject to section 190(4), the trustees of a scheme in respect of which an order has been made under section 187(2) shall, where the conditions set out in subsection (2) are present, apply, in accordance with relevant guidelines, the transfer amount calculated in accordance with those guidelines—

(a) if the trustees and the qualified cohabitant so agree, in providing a benefit for or in respect of the qualified cohabitant that is of the same actuarial value as the transfer amount, or

(b) in making a payment, at the option of the qualified cohabitant—

(i) to another occupational pension scheme whose trustees agree to accept the payment, or

(ii) to discharge another payment falling to be made by the trustees under any such other approved arrangement.

(2) The conditions referred to in subsection (1) are:

(a) the court has made an order under section 187(2) in favour of the qualified cohabitant;

(b) payment of the designated benefit has not commenced;

(c) the qualified cohabitant has applied to the trustees in that behalf; and

(d) the qualified cohabitant furnishes the information that the trustees require.

(3) Subject to section 190(4), trustees of a defined contribution scheme in respect of which an order has been made under section 187(2) may, if the qualified cohabitant has not made an application under subsections (1) and (2), apply in accordance with relevant guidelines the transfer amount calculated in accordance with those guidelines to make a payment, at their option—

(a) to another occupational pension scheme whose trustees agree to accept the payment, or

(b) to discharge another payment falling to be made by the trustees under any such other approved arrangement.

(4) Subject to section 190(4), the trustees of a scheme in respect of which an order has been made under section 187(2) shall, within 3 months of the death of a member qualified cohabitant who dies before the payment of the designated benefit has commenced, provide for the payment to the other qualified cohabitant of an
amount that is equal to the transfer amount calculated in accordance with relevant guidelines.

(5) Subject to section 190(4), the trustees of a scheme in respect of which an order has been made under section 187(2) may, if the member qualified cohabitant ceases to be a member otherwise than on death, apply, in accordance with relevant guidelines, the transfer amount under the scheme, at their option—

(a) if the trustees and the other qualified cohabitant so agree, in providing a benefit for or in respect of that qualified cohabitant that is of the same actuarial value as the transfer amount, or

(b) in making a payment, either—

(i) to another occupational pension scheme whose trustees agree to accept the payment, or

(ii) to discharge another payment falling to be made by the trustees under any such other approved arrangement.

(6) Subject to section 190(4), the trustees of a scheme in respect of which an order has been made under section 187(2) shall, within 3 months of the death of the qualified cohabitant who is not the member and who dies before payment of the designated benefit has commenced, provide for the payment to the personal representative of that qualified cohabitant of an amount that is equal to the transfer amount calculated in accordance with relevant guidelines.

(7) Subject to section 190(4), the trustees of a scheme in respect of which an order has been made under section 187(2) shall, within 3 months of the death of the qualified cohabitant who is not the member and who dies after payment of the designated benefit has commenced, provide for the payment to the personal representative of that qualified cohabitant of an amount that is equal to the actuarial value, calculated in accordance with relevant guidelines, of the part of the designated benefit that, but for the death of that qualified cohabitant, would have been payable to him or her during his or her lifetime.

(8) The trustees of a scheme in respect of which an order has been made under section 187(2) or (5) shall notify the registrar or clerk of the court and the other qualified cohabitant of the cessation, if the trustees have not applied the transfer amount in accordance with any of subsections (1) to (6).

(9) The trustees of a scheme who apply a transfer amount under subsection (3) or (5) shall notify the qualified cohabitant who is not the member and the registrar or clerk of the court, giving particulars to that qualified cohabitant of the scheme and the transfer amount.
(2) The amount of retirement benefit payable to the member qualified cohabitant, or the amount of contingent benefit payable to or in respect of the member qualified cohabitant, in accordance with the rules of the relevant scheme shall be reduced by the designated benefit or contingent benefit payable pursuant to an order made under section 187(2) or (5), as the case may be, to the other qualified cohabitant.

(3) The amount of contingent benefit payable in accordance with the rules of the scheme in respect of a member qualified cohabitant who dies before the payment of the designated benefit payable pursuant to an order under section 187(2) has commenced shall be reduced by the amount of the payment made under section 189(4).

(4) Trustees who make a payment or apply a transfer amount under any of subsections (1) to (7) of section 189 are discharged from any obligation to make further payment or apply another transfer amount under any of those subsections in respect of the benefit payable pursuant to the order made under section 187(2).

(5) A trustee is not liable for any loss or damage caused by complying with a direction referred to in section 188(3) rather than the rules of the scheme or the Act of 1990.

191.—(1) The court may determine the manner in which the costs incurred by the trustees of a scheme further to an order under section 187 are to be borne, including by one or the other of the qualified cohabitants or by both of them in the proportions that the court may determine, and in default of a determination, the qualified cohabitants shall bear those costs equally.

(2) The court may, on application to it by the trustees, order that an amount ordered to be paid by a qualified cohabitant under subsection (1) that has not been paid be deducted from any benefits payable to the qualified cohabitant—

   (a) pursuant to an order made under section 187, if the qualified cohabitant is the beneficiary of the order; and

   (b) pursuant to the scheme, if the qualified cohabitant is the member qualified cohabitant.

192.—For the purposes of this section and sections 187 to 191, the court may, of its own motion, and shall, if so requested by either of the qualified cohabitants or another concerned person, direct the trustees of the scheme to provide the qualified cohabitants or the other person and the court, within a specified period of time—

   (a) with a calculation of the value and amount, determined in accordance with relevant guidelines, of the retirement benefit or contingent benefit that is payable or that would have been payable under the scheme and has accrued at the time of making the order, and

   (b) with a calculation of the amount of the contingent benefit that is payable or that would have been payable, under the scheme.
193.—(1) The court may adjourn or further adjourn proceedings under section 173 at any time for the purpose of enabling the cohabitants to attempt, if they both so wish, with or without the assistance of a third party—

(a) to reconcile, or

(b) to reach agreement on some or all of the terms of a possible settlement between them.

(2) Either or both of the cohabitants may at any time request that the hearing of proceedings adjourned under subsection (1) be resumed as soon as may be and, if a request is made, the court shall, subject to any other power of the court to adjourn proceedings, resume the hearing.

(3) The powers conferred by this section are additional to any other power of the court to adjourn proceedings.

(4) The court may, at its discretion when adjourning proceedings under this section, advise the cohabitants to seek the assistance of a mediator or other third party in relation to the cohabitants’ proposed reconciliation or reaching of an agreement between them on some or all of the terms of a possible settlement.

194.—(1) A qualified cohabitant may, after the death of his or her cohabitant but not more than 6 months after representation is first granted under the Succession Act 1965 in respect of that cohabitant’s estate, apply for an order under this section for provision out of the net estate.

(2) Notwithstanding subsection (1), a qualified cohabitant shall not apply for an order under this section where the relationship concerned ended 2 years or more before the death of the deceased, unless the applicant—

(a) was in receipt of periodical payments from the deceased, whether under an order made under section 175 or pursuant to a cohabitants’ agreement or otherwise,

(b) had, not later than 2 years after that relationship ended, made an application for an order under section 174, 175 or 187 and either—

(i) the proceedings were pending at the time of the death, or

(ii) any such order made by the court had not yet been executed,

or

(c) had, not later than 2 years after the relationship ended, made an application for an order under section 174, 175 or 187, the order was made, an application under section 173(b) was subsequently made in respect of that order and either—

(i) the proceedings in respect of that application were pending at the time of the death, or
(ii) any such order made by the court under section 173(6) in favour of the qualified cohabitant who is the applicant under this section had not yet been executed.

(3) The court may by order make the provision for the applicant that the court considers appropriate having regard to the rights of any other person having an interest in the matter, if the court is satisfied that proper provision in the circumstances was not made for the applicant during the lifetime of the deceased for any reason other than conduct by the applicant that, in the opinion of the court, it would in all the circumstances be unjust to disregard.

(4) In considering whether to make an order under this section, the court shall have regard to all the circumstances of the case, including—

(a) an order made under section 173(6), 174, 175 or 187 in favour of the applicant,

(b) a devise or bequest made by the deceased in favour of the applicant,

(c) the interests of the beneficiaries of the estate, and

(d) the factors set out in section 173(3).

(5) The court shall not make an order under this section where the relationship concerned ended before the death of the deceased and—

(a) the court is not satisfied that the applicant is financially dependent on the deceased within the meaning of section 173(2), or

(b) the applicant has married or registered in a civil partnership, or in a legal relationship of a class that is the subject of an order under section 5.

(6) The applicant shall give notice of an application under this section to the personal representative of the deceased, any spouse or civil partner of the deceased and to any other persons that the court may direct and, in deciding whether to make the order and in determining the provisions of the order, the court shall have regard to any representations made by any of those persons.

(7) The total value for the applicant of the provision made by an order referred to in subsection (4)(a) on the date on which that order was made and an order made under this section shall not exceed any share of the applicant in the estate of the deceased qualified cohabitant to which the applicant would have been entitled if the qualified cohabitants had been spouses or civil partners of each other.

(8) If the qualified cohabitant does not notify the personal representative as required by subsection (6), the personal representative may distribute the assets of the deceased qualified cohabitant or any part of them amongst the persons entitled to them and is not liable to the qualified cohabitant for that distribution.

(9) Nothing in this section prejudices the rights of the qualified cohabitant to follow assets into the hands of a person who has received them.
(10) An order under this section shall not affect the legal right of a surviving spouse.

(11) For the purposes of this section, “net estate”, with respect to the estate of a person, means the estate that remains after provision for the satisfaction of—

(a) other liabilities of the estate having priority over the rights referred to in paragraphs (b) and (c),

(b) any rights, under the Succession Act 1965, of any surviving spouse of the person, and

(c) any rights, under the Succession Act 1965, of any surviving civil partner of the person.

195.—Proceedings under this Part other than proceedings under sections 173(6) and 194, shall, save in exceptional circumstances, be instituted within 2 years of the time that the relationship between the cohabitants ends, whether through death or otherwise.

196.—(1) Subject to the other provisions of this section, the Circuit Court has concurrent jurisdiction with the High Court to hear and determine applications for orders for redress referred to in section 173 and orders for provision from the estates of deceased cohabitants under section 194.

(2) The District Court, and the Circuit Court on appeal from the District Court, have concurrent jurisdiction with the High Court to hear and determine applications for orders for redress referred to in section 173 and orders for provision from the estates of deceased cohabitants under section 194, except that—

(a) they do not have jurisdiction to make such an order for periodical payments at a rate greater than €500 per week,

(b) they do not have jurisdiction to make such an order in a matter in relation to which the High Court has made such an order, and

(c) the District Court does not have jurisdiction to make such an order in a matter in relation to which the Circuit Court has made such an order otherwise than on appeal from the District Court.

(3) The court shall only exercise its jurisdiction to hear and determine an application for an order for redress referred to in section 173 if both of the cohabitants concerned were ordinarily resident in the State throughout the one-year period prior to the end of their relationship, and either of the cohabitants—

(a) is domiciled in the State on the date on which the application is made, or

(b) is ordinarily resident in the State throughout the one-year period that ends on that date.

(4) The court shall only exercise its jurisdiction to hear and determine an application for an order for provision from the estate of a deceased cohabitant under section 194 if—
(a) in the case where the relationship concerned ended before the death of the deceased, each of the cohabitants concerned was ordinarily resident in the State throughout the one-year period prior to the end of their relationship and—

(i) each of the cohabitants concerned was ordinarily resident in the State throughout the one-year period that ended on the date of the death of the deceased,

(ii) on the date of the death of the deceased, the applicant was in receipt of periodical payments from the deceased, whether under an order made under section 175 or pursuant to a cohabitants’ agreement or otherwise,

(iii) the applicant had, not later than 2 years after that relationship ended, made an application for an order under section 174, 175 or 187 and either—

(I) the proceedings were pending at the time of the death, or

(II) any such order made by the court had not yet been executed,

or

(iv) the applicant had, not later than 2 years after the relationship ended, made an application for an order under section 174, 175 or 187, the order was made, an application under section 173(6) was subsequently made in respect of that order and either—

(I) the proceedings were pending at the time of the death, or

(II) any such order made by the court under section 173(6) in favour of the applicant had not yet been executed,

and

(b) in any other case, each of the cohabitants concerned was ordinarily resident in the State throughout the one-year period that ended on the date of the death of the deceased.

(5) The jurisdiction conferred on the Circuit Court may be exercised by the judge of the circuit in which a party to the application ordinarily resides or carries on a business, profession or occupation.

(6) The Circuit Court shall transfer, to the High Court, proceedings on applications for orders for redress referred to in section 173, on application to it by a party to the application for the order concerned, if land to which the proceedings relate—

(a) has a rateable valuation that exceeds €254, or

(b) has not been given a rateable valuation or is the subject with other land of a rateable valuation, if the Circuit
Court determines that the rateable valuation would exceed €254.

(7) An order made or act done in the course of the proceedings before a transfer under subsection (6) is valid unless discharged or varied by the High Court.

197.—(1) In proceedings under this Part, each of the qualified cohabitants shall give to the other the particulars of his or her property or income that may be reasonably required for the purposes of the proceedings.

(2) The court may direct a person who fails or refuses to comply with subsection (1) to comply with it.

(3) A qualified cohabitant who fails or refuses to comply with subsection (1) or a direction under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding €254, or to imprisonment for a term not exceeding 6 months, or to both.

198.—(1) Proceedings under this Part shall be as informal as is practicable and consistent with the administration of justice.

(2) A judge sitting to hear and determine proceedings under this Part, and a barrister or solicitor appearing in the proceedings, shall not wear a wig or a gown.

199.—Subject to the provisions of section 40 of the Civil Liability and Courts Act 2004, proceedings under this Part shall be heard otherwise than in public.

200.—The costs in proceedings under this Part are at the discretion of the court.

201.—(1) Rules of court shall provide for the documentation required for the commencement of proceedings under this Part in a summary manner.

(2) Rules of court may make provision, in cases where one or both of the parties to an application under section 175 or 187, or to an application to vary an order under one of those sections, is or was married, for—

(a) the adjournment of those proceedings or any proceedings for the financial support of the person to whom the party is or was married,

(b) the postponement of an order made under any of the proceedings referred to in paragraph (a), or

(c) any other procedure reasonably required in order to ensure that that party’s financial circumstances are taken into account in the proceedings.
202.—(1) Notwithstanding any enactment or rule of law, cohabitants may enter into a cohabitants’ agreement to provide for financial matters during the relationship or when the relationship ends, whether through death or otherwise.

(2) A cohabitants’ agreement is valid only if—

(a) the cohabitants—

(i) have each received independent legal advice before entering into it, or

(ii) have received legal advice together and have waived in writing the right to independent legal advice,

(b) the agreement is in writing and signed by both cohabitants, and

(c) the general law of contract is complied with.

(3) Subject to subsection (4), a cohabitants’ agreement may provide that neither cohabitant may apply for an order for redress referred to in section 173, or an order for provision from the estate of his or her cohabitant under section 194.

(4) The court may vary or set aside a cohabitants’ agreement in exceptional circumstances, where its enforceability would cause serious injustice.

(5) An agreement that meets the other criteria of this section shall be deemed to be a cohabitants’ agreement under this section even if entered into before the cohabitation has commenced.

203.—Section 39(3)(a)(ii) of the Residential Tenancies Act 2004 is amended by substituting “was the tenant’s cohabitant within the meaning of section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 and lived with the tenant” for “cohabited with the tenant as husband and wife”.

204.—The definition of “dependant” in section 47(1) (as substituted by section 1 of the Civil Liability (Amendment) Act 1996) of the Civil Liability Act 1961 is amended by substituting the following for paragraph (c):

“(c) a person who was not married to or a civil partner of the deceased but who, until the date of the deceased’s death, had been living with the deceased as the deceased’s cohabitant within the meaning of section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 for a continuous period of not less than three years,”.

205.—Paragraph 3(1) of the First Schedule of the Powers of Attorney Act 1996 is amended—

(a) in subparagraph (h) by substituting “blood;” for “blood;”, and

(b) by inserting the following:
206.—An order for redress referred to in section 173 shall only be made if the application for it is made with respect to a relationship that ends, whether by death or otherwise, after the commencement of this section but the time during which two persons lived as a couple before the commencement date is included for the purposes of calculating whether they are qualified cohabitants within the meaning of this Part.

207.—Nothing in section 202(2) prevents a court from enforcing an agreement entered into between two persons before the commencement of this Part.

PART 16

MISCELLANEOUS

208.—In making an order under this Act and in particular in making a maintenance order, lump sum order, property adjustment order, pension adjustment order or order for provision from the estate of a deceased person, the court shall have regard to the rights of any other person with an interest in the matter, including a spouse or former spouse and a civil partner or former civil partner.
## Part 1

### Conflicts of Interests Provisions

<table>
<thead>
<tr>
<th>Item</th>
<th>Act</th>
<th>Provision</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Companies Act 1963</td>
<td>Section 193(1)</td>
<td>substitute “himself or herself and to his or her spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “himself and to his or her spouse”</td>
</tr>
<tr>
<td>2.</td>
<td>Companies Act 1963</td>
<td>Section 301A(4)(a)</td>
<td>insert “civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>3.</td>
<td>Companies Act 1963</td>
<td>Section 315(1)(c)</td>
<td>insert “- civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
</tbody>
</table>
| 4.   | Housing (Private Rented Dwellings) (Amendment) Act 1983 | Section 14(5) | (a) substitute “he or she or his or her spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “he or his spouse” wherever it appears;  
(b) substitute “any” for “either” in paragraph (b) |
| 5.   | Form Tax Act 1985 | Paragraph 14(2) of the Schedule | insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears |
| 6.   | Building Societies Act 1989 | Section 52 | insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears |
| 7.   | Building Societies Act 1989 | Section 87(3)(c) | insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” and “his spouse” wherever either of these expressions appear |
| 8.   | Trustee Savings Banks Act 1989 | Section 2(15) | insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “trustee’s spouse” |
| 9.   | Companies Act 1990 | Section 72 | (a) delete “family and corporate” from the shoulder note;  
(b) substitute “his or her spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “his or her spouse” in section 72(1) |
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<tbody>
<tr>
<td>11.</td>
<td>Ethics in Public Office Act 1995</td>
<td>Section 2(1)</td>
<td>insert the following definition: “‘civil partner’, in relation to a person, means a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 but does not include a civil partner who is living separately and apart from the person.”</td>
</tr>
<tr>
<td>12.</td>
<td>Ethics in Public Office Act 1995</td>
<td>Section 13(5)</td>
<td>insert “or civil partner” after “spouse” wherever it appears</td>
</tr>
<tr>
<td>14.</td>
<td>Ethics in Public Office Act 1995</td>
<td>Section 15(2)(i)</td>
<td>insert “or civil partner” after “relative”</td>
</tr>
<tr>
<td>16.</td>
<td>Ethics in Public Office Act 1995</td>
<td>Section 16(1)(a)</td>
<td>(a) insert “or civil partner” after “actual knowledge of his or her spouse” in subparagraph (ii); (b) substitute “spouse or civil partner or child a substantial benefit” for “spouse or child a substantial benefit”</td>
</tr>
<tr>
<td>17.</td>
<td>Ethics in Public Office Act 1995</td>
<td>Section 17(1)(a)</td>
<td>(a) insert “or civil partner” after “actual knowledge of his or her spouse” in subparagraph (ii); (b) substitute “spouse or civil partner or child a substantial benefit” for “spouse or child a substantial benefit”</td>
</tr>
<tr>
<td>18.</td>
<td>Ethics in Public Office Act 1995</td>
<td>Section 18(1)(a)</td>
<td>(a) insert “or civil partner” after “actual knowledge of his or her spouse” in subparagraph (ii); (b) substitute “spouse or civil partner or child a substantial benefit” for “spouse or child a substantial benefit”;</td>
</tr>
<tr>
<td>19.</td>
<td>Ethics in Public Office Act 1995</td>
<td>Section 19(3)(a)(i)</td>
<td>(a) insert “or civil partner” after “actual knowledge of his or her spouse”; (b) substitute “spouse or civil partner or child a substantial benefit” for “spouse or child a substantial benefit”;</td>
</tr>
<tr>
<td>20.</td>
<td>Ethics in Public Office Act 1995</td>
<td>Section 29(2)</td>
<td>(a) substitute “applies or of the spouse or civil partner of such a person” for “applies or of the spouse of such a person” in paragraph (a); (b) substitute “an interest of his or her spouse or civil partner” for “an interest of his or her spouse” in paragraph (i)</td>
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<td>Item</td>
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<tr>
<td>21.</td>
<td>Ethics in Public Office Act 1995</td>
<td>Section 30</td>
<td>substitute “that his or her spouse or civil partner or a child” for “that his or her spouse or a child”</td>
</tr>
<tr>
<td>22.</td>
<td>Ethics in Public Office Act 1995</td>
<td>Paragraph 1 of the Second Schedule</td>
<td>(a) in subparagraph (4), substitute “private home of the person or of his or her spouse or civil partner,” for “private home of the person or of his or her spouse,”;</td>
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<td>(b) in subparagraph (5) substitute “relative or civil partner or friend of the person or of his or her spouse or civil partner” for “relative or friend of the person or of his or her spouse” wherever it appears;</td>
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<td>(c) in subparagraph (6)(a), substitute “relative or civil partner or friend of the person or of his or her spouse or civil partner” for “relative or friend of the person or of his or her spouse”</td>
</tr>
<tr>
<td>23.</td>
<td>Credit Union Act 1997</td>
<td>Section 39(0)</td>
<td>insert “or a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,” after “spouse”</td>
</tr>
<tr>
<td>24.</td>
<td>Credit Union Act 1997</td>
<td>Section 1142(3)</td>
<td>insert “, civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,” after “spouse”</td>
</tr>
<tr>
<td>25.</td>
<td>Food Safety Authority of Ireland Act 1998</td>
<td>Paragraph (f) of definition of “interests” in section 4(7)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,” after “spouse”</td>
</tr>
<tr>
<td>26.</td>
<td>Planning and Development Act 2000</td>
<td>Section 148</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,” after “spouse” wherever it appears</td>
</tr>
<tr>
<td>27.</td>
<td>Aviation Regulation Act 2001</td>
<td>Paragraph (d) of definition of “interests” in section 157(1)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,” after “spouse”</td>
</tr>
<tr>
<td>28.</td>
<td>Local Government Act 2001</td>
<td>Definition of “connected person” in section 166(1)</td>
<td>substitute “spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 of the person” for “spouse of the person”</td>
</tr>
<tr>
<td>29.</td>
<td>Local Government Act 2001</td>
<td>Section 175c(1)</td>
<td>substitute “relative or friend of the person or of his or her spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 of a child of the person or his or her spouse for purely personal reasons only” for “relative or friend of the person or of his or her spouse or of a child of the person or his or her spouse for purely personal reasons only”</td>
</tr>
<tr>
<td>30.</td>
<td>Transport (Railway Infrastructure) Act 2001</td>
<td>Section 28(2)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,” after “connected relative” wherever it appears</td>
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<td>31.</td>
<td>Valuation Act 2001</td>
<td>Paragraph 15 of Schedule 2</td>
<td>(e) insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” in subparagraph (2) wherever it appears.</td>
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<td>(b) substitute the following for the definition of “relative” in subparagraph (10):</td>
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<td>“relative”, in relation to a person, means a brother, sister, parent, spouse, or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, of the person or a child of the person or of the spouse.”;</td>
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<td>(c) insert the following subparagraph after subparagraph (11):</td>
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<td></td>
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<td>“(12) For the purposes of subparagraphs (2) and (9) of this paragraph, ‘civil partner’ in relation to a person, does not include a civil partner who is living separately and apart from the person.”</td>
</tr>
<tr>
<td>32.</td>
<td>Gas (Interim) (Regulation) Act 2002</td>
<td>Paragraph (c) of definition of “interests” in section 9(5)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>33.</td>
<td>National Development Finance Agency Act 2002</td>
<td>Section 17(10)(e)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>34.</td>
<td>Sustainable Energy Act 2002</td>
<td>Section 18(2)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “connected relative” wherever it appears</td>
</tr>
<tr>
<td>35.</td>
<td>Digital Hub Development Agency Act 2003</td>
<td>Paragraph (c) of definition of “interests” in section 24(3)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>36.</td>
<td>Industrial Development (Science Foundation Ireland) Act 2003</td>
<td>Section 36(2)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “connected relative” wherever it appears</td>
</tr>
<tr>
<td>37.</td>
<td>Private Security Services Act 2004</td>
<td>Section 17(2)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “connected relative” wherever it appears</td>
</tr>
<tr>
<td>Item</td>
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<td>38.</td>
<td>City of Dublin Development Agency Act 2005</td>
<td>Paragraph (r) of definition of “interests” in section 28(5)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>39.</td>
<td>Railway Safety Act 2005</td>
<td>Section 20(2)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “connected relative” wherever it appears</td>
</tr>
<tr>
<td>40.</td>
<td>National Sports Campus Development Authority Act 2006</td>
<td>Section 11(2)</td>
<td>(a) insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “connected relative” wherever it appears, (b) substitute “any” for “either” in paragraph (a)</td>
</tr>
<tr>
<td>41.</td>
<td>Registration of Deeds and Title Act 2006</td>
<td>Section 14(2)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “connected relative” wherever it appears</td>
</tr>
<tr>
<td>42.</td>
<td>Sea-Fisheries and Maritime Jurisdiction Act 2006</td>
<td>Section 57(2)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “connected relative” wherever it appears</td>
</tr>
<tr>
<td>43.</td>
<td>Consumer Protection Act 2007</td>
<td>Section 25(2)</td>
<td>(a) insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “connected relative” wherever it appears, (b) substitute “any” for “either” in paragraph (a) of section 25(2)</td>
</tr>
<tr>
<td>44.</td>
<td>Pharmacy Act 2007</td>
<td>Definition of “beneficial interest” in section 63(5)(a)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>45.</td>
<td>Pharmacy Act 2007</td>
<td>Subparagraph 9(3) of Schedule 1</td>
<td>Substitute “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 of that member or a nominee of any of them” for “of that member or a nominee of either of them”</td>
</tr>
<tr>
<td>46.</td>
<td>Pharmacy Act 2007</td>
<td>Subparagraph 10(3) of Schedule 1</td>
<td>Substitute “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 of the employee or any of them” for “of the employee or either of them”</td>
</tr>
</tbody>
</table>
### Pensions Provisions

<table>
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<tr>
<th>Item</th>
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</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Pilotage Order Confirmation Act 1927</td>
<td>Schedule</td>
<td>substitute “surviving spouse, or surviving civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010”, for “widow” wherever it appears</td>
</tr>
<tr>
<td>2.</td>
<td>Ministerial and Parliamentary Offices Act 1938</td>
<td>Section 20 (substituted by section 15 of the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001)</td>
<td>(a) insert “or surviving civil partner” after “surviving spouse” wherever it appears; (b) insert “or surviving civil partner’s” after “surviving spouse’s” wherever it appears; (c) insert “or civil partner” after “spouse” wherever it appears; (d) in subsection (3), insert “or enters into a new civil partnership” after “remaries”; (e) in subsection (9), insert the following definition: “civil partner has the meaning assigned to it in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010”</td>
</tr>
<tr>
<td>3.</td>
<td>Ministerial and Parliamentary Offices Act 1938</td>
<td>Section 20C (inserted by section 26 of the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001)</td>
<td>(a) in subsection (1), substitute “spouse’s pension or surviving civil partner’s (within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010) pension that has ceased to be payable because that person has married, remarried or entered into a civil partnership” for “spouse’s pension that has ceased to be payable because that person has remarried”; (b) inserting “or civil partnership” after “marriage”</td>
</tr>
<tr>
<td>4.</td>
<td>Ministerial and Parliamentary Offices Act 1938</td>
<td>Section 21(4)</td>
<td>substitute “surviving spouses’ pensions, surviving civil partners’ pensions” for “widows’ pensions”</td>
</tr>
<tr>
<td>5.</td>
<td>Oireachtas (Allowances to Members) Act 1938</td>
<td>Section 6A(8)(6) (inserted by section 1 of the Oireachtas (Allowances to Members) (Amendment) Act 1968)</td>
<td>substitute “surviving spouses or surviving civil partners within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010”, for “widows”</td>
</tr>
<tr>
<td>Item</td>
<td>Act</td>
<td>Provision</td>
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<td>7.</td>
<td>Presidential Establishment Act 1958</td>
<td>Section 4(2) (substituted by section 3 of the Presidential Establishment (Amendment) Act 1991)</td>
<td>substitute “married, remarried or entered into a civil partnership within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 after the death of the spouse or civil partner” for “remarried after the death of the spouse”</td>
</tr>
<tr>
<td>8.</td>
<td>Presidential Establishment Act 1958</td>
<td>Section 4(3) (substituted by section 3 of the Presidential Establishment (Amendment) Act 1991)</td>
<td>substitute “spouse or civil partner until, in case the person marries, remarries or enters into a civil partnership, such marriage, remarriage or entry into a civil partnership, or, in case the person does not marry, remarry or enter into a civil partnership,” for “spouse until, in case the person marries, such remarriage or, in case the person does not remarry,”</td>
</tr>
<tr>
<td>9.</td>
<td>Garda Síochána (Compensation) Act 1941</td>
<td>Section 12</td>
<td>substitute “surviving spouse or surviving civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “widow” wherever it appears</td>
</tr>
<tr>
<td>10.</td>
<td>Central Bank Act 1942</td>
<td>Definition of “superannuation benefit” in section 33AG(3) (inserted by section 26 of the Central Bank and Financial Services Authority of Ireland Act 2003)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;” after “spouse”</td>
</tr>
<tr>
<td>12.</td>
<td>Harbours Act 1946</td>
<td>Section 151(9)</td>
<td>substitute “surviving spouse or surviving civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “widow”</td>
</tr>
<tr>
<td>13.</td>
<td>Great Southern Railways Company Scheme 1928</td>
<td>Schedule (a) substitute “surviving spouse, or surviving civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;” for “widow” wherever it</td>
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<tr>
<td>Item</td>
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<td>14.</td>
<td>Electricity (Supply) (Amendment) Act 1958</td>
<td>Section 15(1)</td>
<td>substitute “to that person’s spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “widower or widow”</td>
</tr>
<tr>
<td>15.</td>
<td>Electricity (Supply) (Amendment) Act 1958</td>
<td>Section 15(3)</td>
<td>substitute “the dependent or wife, or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,” for “the wife or dependant”</td>
</tr>
<tr>
<td>16.</td>
<td>Courts of Justice and Court Officers (Superannuation) Act 1961</td>
<td>Section 7</td>
<td>substitute “spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “wife” wherever it appears</td>
</tr>
<tr>
<td>17.</td>
<td>Companies Act 1963</td>
<td>Paragraph 90 of First Schedule</td>
<td>substitute “his or her surviving spouse or surviving civil partner, within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, or dependants” for “his widow or dependants”</td>
</tr>
<tr>
<td>18.</td>
<td>Electricity (Supply) (Amendment) Act 1970</td>
<td>Section 5(4)(b)</td>
<td>substitute “spouse, civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or a dependant” for “wife or a dependant”</td>
</tr>
<tr>
<td>19.</td>
<td>Local Government (Superannuation) Act 1980</td>
<td>Section 5(4)(b)(i)(II)</td>
<td>substitute “surviving spouses or surviving civil partners, within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “widows”</td>
</tr>
<tr>
<td>22.</td>
<td>Air Navigation and Transport (Amendment) Act 1998</td>
<td>Section 32(12)</td>
<td>insert “, civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears</td>
</tr>
<tr>
<td>23.</td>
<td>Garda Síochána Act 2005</td>
<td>Section 122(1)(i)</td>
<td>insert “or civil partners within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouses”</td>
</tr>
</tbody>
</table>
### Property Rights Provisions

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Land Act 1901</td>
<td>Section 35(3)(a)</td>
<td>substitute “spouse, civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “husband”</td>
</tr>
<tr>
<td>2.</td>
<td>Land Act 1933</td>
<td>Section 29(1)</td>
<td>insert “or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “husband”</td>
</tr>
<tr>
<td>3.</td>
<td>Land Act 1936</td>
<td>Section 36(3)(b)</td>
<td>insert “or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “husband” wherever it appears</td>
</tr>
<tr>
<td>4.</td>
<td>Companies Act 1963</td>
<td>Section 299(3)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>5.</td>
<td>Companies Act 1963</td>
<td>Section 303A(1)(b) (inserted by section 196 of the Companies Act 1980)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>6.</td>
<td>Land Act 1985</td>
<td>Section 6(3)</td>
<td>(a) insert “or who is a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 whose civil partner (not being interested jointly or in common in the land) is alive on that date,” after “on that date”; (b) insert “or civil partner” after “spouse” in paragraph (a); (c) insert “or civil partner” after “spouse” in paragraph (b) wherever it appears</td>
</tr>
<tr>
<td>7.</td>
<td>Land Act 1985</td>
<td>Section 6(4)</td>
<td>(a) substitute “unmarried,” for “unmarried or”; (b) insert “or is a surviving civil partner” after “widow”; (c) insert “or civil partner” after “spouse”</td>
</tr>
<tr>
<td>8.</td>
<td>Agricultural Credit Act 1978</td>
<td>Section 31(3)(a)(ii)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “husband”</td>
</tr>
<tr>
<td>9.</td>
<td>Housing (Miscellaneous Provisions) Act 1979</td>
<td>Section 4(5) (inserted by section 25 of the Housing Act 1980)</td>
<td>(a) substitute “marriage or civil partnership within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “marriage” in paragraph (a)(i); (b) substitute “separated from his or her spouse or civil partner” for “separated from his spouse” in paragraph (a) (ii); (c) add “or civil partner” after “spouse” in paragraph (c)</td>
</tr>
<tr>
<td>Item</td>
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<td>Provision</td>
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<tr>
<td>10.</td>
<td>Housing (Miscellaneous Provisions) Act 1979</td>
<td>Section 31(3)(b)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>11.</td>
<td>Occasional Trading Act 1979</td>
<td>Section 2(2)(g)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>12.</td>
<td>Abattoirs Act 1988</td>
<td>Section 13(2)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>13.</td>
<td>Abattoirs Act 1988</td>
<td>Section 28(2)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
</tbody>
</table>
| 14.  | Bankruptcy Act 1988 | Section 61(5) | (a) insert “or shared home within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “family home” wherever it appears;  
(b) insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” |
| 15.  | Housing Act 1988 | Section 3(2)(e) | insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” |
| 16.  | Housing Act 1988 | Section 4 | insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears |
| 17.  | Central Bank Act 1989 | Paragraph (e) of the definition of “connected person” in section 55 | insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears |
| 18.  | Companies Act 1990 | Section 26(1)(a) (substituted by section 76 of the Company Law Enforcement Act 2001) | insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears |
| 19.  | Companies Act 1990 | Section 64 | insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears |
| 20.  | Irish Horseracing Industry Act 1994 | Section 48(2)(c)(g) | insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” |
### Section 169.

**PART 4**

**Redress Provisions**

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<tr>
<td>21.</td>
<td>Consumer Credit Act 1995</td>
<td>Section 4(3)</td>
<td>insert the following paragraph after paragraph (a): “(aa) for the purposes of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, send any written communication connected with the agreement to the consumer’s civil partner, or”</td>
</tr>
<tr>
<td>22.</td>
<td>Investor Compensation Act 1998</td>
<td>Paragraph (d) of definition of “excluded investor” in section 2(1)</td>
<td>insert “a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “relative”</td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>Item</th>
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<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Garda Síochána (Compensation) Act 1941</td>
<td>Section 3(a)</td>
<td>substitute “surviving spouse or surviving civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “widow”</td>
</tr>
<tr>
<td>2.</td>
<td>Civil Liability Act 1961</td>
<td>Definition of “dependant” in section 47(1) (substituted by section 1 of the Civil Liability (Amendment) Act 1996)</td>
<td>(a) insert “a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”; (b) delete “or” at the end of paragraph (b); (c) insert the following paragraph after paragraph (b): “(ba) a person whose civil partnership with the deceased has been dissolved by a decree of dissolution that was granted under the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or under the law of a country or jurisdiction other than the State and is recognised in the State, or”</td>
</tr>
<tr>
<td>3.</td>
<td>Residential Institutions Redress Act 2002</td>
<td>Section 9(1) and (2)</td>
<td>substitute “the children, spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “the children or spouse” wherever it appears</td>
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</tbody>
</table>
### Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

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</table>
| 4.   | Air Navigation and Transport (International Conventions) Act 2004 | Definition of “dependant” in section 7(1) | (e) insert “, or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “husband”;
|      |     |           | (b) insert the following paragraph after paragraph (b):
|      |     |           | “(i) a person whose civil partnership with the deceased—
|      |     |           | (i) has been dissolved by a decree of dissolution that was granted under the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, or
|      |     |           | (ii) has been dissolved in accordance with the law of a country or jurisdiction (other than the State), but only if the dissolution is recognised in the State;” |
| 5.   | Commission to Inquire into Child Abuse (Amendment) Act 2005 | Section 27(1) | insert “or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “relative” |

### PART 5

**Section 170**

### MISCELLANEOUS PROVISIONS

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<tbody>
<tr>
<td>1.</td>
<td>Enforcement of Court Orders Act 1926</td>
<td>Section 13(1)</td>
<td>insert “, or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “husband”</td>
</tr>
<tr>
<td>2.</td>
<td>Aliens Act 1935</td>
<td>Section 5(4)</td>
<td>insert “, or the civil partner to whom an order made under section 5 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 applies,” after “spouse” wherever it appears</td>
</tr>
<tr>
<td>3.</td>
<td>Defence Act 1954</td>
<td>Section 3(4)(a)(i)(i) (inserted by section 18(e)(i) of the Defence (Amendment) Act 2007)</td>
<td>insert “or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “family”</td>
</tr>
<tr>
<td>Item</td>
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<td>Amendment</td>
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<td>6.</td>
<td>Prosecution of Offences Act 1974</td>
<td>Section 92(3)(i)</td>
<td>insert “or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “family”</td>
</tr>
<tr>
<td>7.</td>
<td>Unfair Dismissals Act 1977</td>
<td>Section 2(1)(c)</td>
<td>insert “civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse”</td>
</tr>
<tr>
<td>8.</td>
<td>Bankruptcy Act 1986</td>
<td>Section 49(1)</td>
<td>substitute “spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “wife”</td>
</tr>
<tr>
<td>9.</td>
<td>Bankruptcy Act 1986</td>
<td>Section 59</td>
<td>(a) insert “or civil partnership within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “marriage” in subsection (1);</td>
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<td>(b) insert the following subsection after subsection (2):</td>
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<td>“(2A) A covenant or contract made by any person (in this section called the settlor) in consideration of his or her entry into civil partnership within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2000, either for the future payment of money for the benefit of the settlor’s civil partner, or for the future settlement, on or for the settlor’s civil partner, of property wherein the settlor had not at the date of the registration of the civil partnership any estate or interest, whether vested or contingent, in possession or remainder, shall, if the settlor is adjudicated bankrupt and the covenant or contract has not been executed at the date of the adjudication, be void as against the Official Assignee, except so far as it</td>
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<td>10.</td>
<td>Health (Nursing Homes) Act 1990</td>
<td>Section 2(1)</td>
<td>insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” before “or of a parent”</td>
</tr>
</tbody>
</table>
| 11. | Health (Nursing Homes) Act 1990 | Section 7B (substituted by section 3 of the Health (Nursing Homes) (Amendment) Act 2007) | (a) insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” wherever it appears;  
(b) insert “civil partner, or a” before “married or cohabiting person” in subsection (4);  
(c) substitute “applicant and his or her civil partner or spouse” for “married couple” in subsection (4) |
<p>| 12. | Electoral Act 1992 | Section 12(2) | insert “or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” |
| 13. | Statistics Act 1993 | Section 25(1)(a) | replace “spouse or” with “spouse, civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, or a” |
| 14. | Solicitors (Amendment) Act 1994 | Section 32(4) | insert “or, civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” |
| 15. | Criminal Assets Bureau Act 1996 | Sections 11(1), 13(1) and 15(1) | insert “or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “family” wherever it appears |
| 16. | Refugee Act 1996 | Section 18(3)(a) | insert “or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “family” |
| 17. | Non-Fatal Offences Against the Person Act 1997 | Sections 9(1) and 11(1) | insert “or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “family” wherever it appears |</p>
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| 18. | Organisation of Working Time Act 1997 | Section 5(2)(b) | (a) insert “or is employed by the person’s civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “household” in subparagraph (ii);  
(b) insert “or civil partner” after “relative” in subparagraph (ii) |
| 19. | Criminal Justice Act 1999 | Section 41(1)(d) | insert “or his or her civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “household” in subparagraph (i);  
(b) insert “or civil partner” after “relative” in subparagraph (ii) |
| 21. | Housing (Miscellaneous Provisions) Act 2002 | Section 13(2)(a) | substitute “, civil status within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” for “marital status” |
| 22. | Health Act 2004 | Sections 46(1)(a) and 46(4) | insert “or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “relative” wherever it appears |
| 23. | Disability Act 2005 | Section 9(2)(a) | insert “, civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “spouse” |
| 24. | Registration of Deeds and Title Act 2006 | Definition of “died” in section 32(1) | (a) insert “or under section 6 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “Act 1976” in paragraph (j);  
(b) insert “or under section 28(12) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010” after “Act 1976” in paragraph (k) |
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CHILDREN AND FAMILY RELATIONSHIPS ACT 2015

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CHILDREN AND FAMILY RELATIONSHIPS ACT 2015

An Act to provide for certain matters relating to donor-assisted human reproduction and the parentage of children born as a result of donor-assisted human reproduction procedures; to provide for the establishment and maintenance of a register to be known as the National Donor-Conceived Person Register; to amend and extend the law relating to the guardianship and custody of, and access to, children and for those purposes to amend the Guardianship of Infants Act 1964; to extend the category of persons who may be liable for the maintenance of children and for that purpose to amend the Family Law (Maintenance of Spouses and Children) Act 1976, and for that and other purposes to amend the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010; to provide for the use in certain circumstances of DNA testing to determine parentage and for that and other purposes to amend the Status of Children Act 1987; to amend the Family Law Act 1995; to amend the category of persons who may adopt children and for that and other purposes to amend the Adoption Act 2010; to make consequential amendments to the Succession Act 1965, the Civil Registration Act 2004 and other enactments; and to provide for related matters. [6th April, 2015]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, collective citations and commencement

1. (1) This Act may be cited as the Children and Family Relationships Act 2015.

(2) Part 9 and the Civil Registration Acts 2004 to 2014 may be cited together as the Civil Registration Acts 2004 to 2015.

(3) Part 11 and the Adoption Acts 2010 to 2013 may be cited together as the Adoption Acts 2010 to 2015.

(4) Section 175 and the Child Care Acts 1991 to 2013 may be cited together as the Child Care Acts 1991 to 2015.

(5) This Act, subject to subsections (6) to (9), shall come into operation on the day or days that the Minister may appoint by order or orders either generally or with
reference to a particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(6) *Parts 2 and 3* shall come into operation on the day or days that the Minister for Health may appoint by order or orders either generally or with reference to a particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(7) *Part 9* shall come into operation on the day or days that the Minister may, after consulting with the Minister for Social Protection, appoint by order or orders either generally or with reference to a particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(8) *Part 10* shall come into operation on the day or days that the Minister for Foreign Affairs and Trade may appoint by order or orders either generally or with reference to a particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(9) *Part 11* shall come into operation on the day or days that the Minister for Children and Youth Affairs may appoint by order or orders either generally or with reference to a particular purpose or provision and different days may be so appointed for different purposes or different provisions.

**Interpretation**

2. In this Act—

“Act of 1964” means the Guardianship of Infants Act 1964;

“Act of 1965” means the Succession Act 1965;


“Act of 1987” means the Status of Children Act 1987;


“Act of 2004” means the Civil Registration Act 2004;

“Act of 2010” means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“Minister”, other than in *Parts 2 and 3*, means the Minister for Justice and Equality.

**Expenses**

3. The expenses incurred by the Minister or any other Minister of the Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.
PART 2

PARENTAGE IN CASES OF DONOR-ASSISTED HUMAN REPRODUCTION

Interpretation (Parts 2 and 3)

4. In this Part and Part 3—

“birth certificate” means a document issued under section 13(4) of the Act of 2004 in respect of an entry in the register of births;

“civil partner” shall be construed in accordance with section 3 of the Act of 2010;

“cohabitant” shall be construed in accordance with section 172(1) of the Act of 2010;

“DAHR facility” means a place at which a DAHR procedure is performed;

“DAHR procedure” means a donor-assisted human reproduction procedure, being any procedure performed in the State with the objective of it resulting in the implantation of an embryo in the womb of the woman on whose request the procedure is performed, where—

(a) one of the gametes from which the embryo has been or will be formed has been provided by a donor,

(b) each gamete from which the embryo has been or will be formed has been provided by a donor, or

(c) the embryo has been provided by a donor;

“donation facility” means a place at which a person provides and donates his or her gamete, and includes a DAHR facility;

“donor”—

(a) in relation to a gamete, means—

(i) a person who has consented, under section 6 or in the manner referred to in section 26(1)(b)(ii), to the use in a DAHR procedure of a gamete provided by him or her, or

(ii) the donor of a gamete to which section 26(6) applies,

and includes a donor of a gamete that is used in the formation of an embryo that is used in a further DAHR procedure, and

(b) in relation to an embryo, means—

(i) a person who has consented under section 14 or 16 or in the manner referred to in section 26(2)(b)(ii), to the use of the embryo in a DAHR procedure or a further DAHR procedure, or

(ii) the donor of an embryo to which section 26(6) applies;

“donor-conceived child” means—
(a) a child born in the State, after the commencement of this section, as a result of a 
DAHR procedure, or

(b) other than in sections 33 to 39, a child in respect of whom a person has been 
declared under section 21 or 22 to be his or her parent;

“embryo” means a human embryo formed by the fertilisation of a human egg by a human 
sperm;

“enactment” means a statute or an instrument made under a power conferred by statute;

“further DAHR procedure” has the meaning it has in section 16;

“gamete” means—

(a) a human sperm, which is formed in the body of and provided by a man, or

(b) a human egg, which is formed in the body of and provided by a woman;

“intending mother” means, in relation to a DAHR procedure, a woman who requests the 
performance of the procedure for the purpose of her becoming the mother of a child born 
as a result of the procedure;

“intending parent” means, in relation to a DAHR procedure, a person who intends to be 
the parent, under section 5, of a child born as a result of the procedure, and includes an 
intending mother;

“Minister” means the Minister for Health;

“mother” means, in relation to a child, the woman who gives birth to the child;

“operator” means, in relation to a DAHR facility, the person who owns or manages the 
facility or is otherwise responsible for the running of the facility;

“prescribed” means prescribed by regulations under section 41;

“Register” means the register established under section 33;

“registered medical practitioner” means a person who is a registered medical practitioner 
within the meaning of section 2 of the Medical Practitioners Act 2007;

“registered nurse” means a person whose name is entered for the time being in the nurses 
division of the register of nurses and midwives established under section 46 of the 
Nurses and Midwives Act 2011;

“relevant donor” means, in relation to a donor-conceived child—

(a) subject to paragraph (b), the donor of a gamete that was used in the DAHR 
procedure that resulted in the birth of the donor-conceived child, and

(b) in the case of a donor-conceived child who is born as a result of a DAHR 
procedure or a further DAHR procedure in which a donated embryo was used—

(i) a donor of the embryo who provided a gamete that was used in the formation 
of the embryo, and
(ii) where applicable, the donor of a gamete that was used in the formation of the embryo.

**Parentage of child born as a result of DAHR procedure**

5. (1) The parents of a donor-conceived child who is born as a result of a DAHR procedure to which subsection (8) applies are—
   
   (a) the mother, and
   
   (b) the husband, civil partner or cohabitant, as the case may be, of the mother.

(2) Where a donor-conceived child is born as a result of a DAHR procedure, other than a DAHR procedure to which subsection (8) applies, the mother alone shall be the parent of that child.

(3) Where a person is, under subsection (1) or (2), the parent of a child, he or she shall have all parental rights and duties in respect of the child.

(4) In deducing any relationship for the purposes of any enactment, the relationship between every donor-conceived child and his or her parent or parents shall be determined in accordance with this section and all other relationships shall be determined accordingly.

(5) A donor of a gamete that is used in a DAHR procedure—
   
   (a) is not the parent of a child born as a result of that procedure, and
   
   (b) has no parental rights or duties in respect of the child.

(6) A donor of an embryo that is used in a DAHR procedure—
   
   (a) is not the parent of a child born as a result of that procedure, and
   
   (b) has no parental rights or duties in respect of the child.

(7) On and after the coming into operation of this section, a reference in any enactment to—
   
   (a) a mother or parent of a child shall be construed as not including a woman who is the donor of a gamete or embryo that was used in a DAHR procedure that resulted in the birth of the child, and
   
   (b) a father or parent of a child shall be construed as not including a man who is the donor of a gamete or embryo that was used in a DAHR procedure that resulted in the birth of the child.

(8) This subsection applies to a DAHR procedure in relation to which—
   
   (a) the intending mother has consented under section 9 to the parentage under subsection (1) of the child born as a result of the procedure, where her declaration under section 9(1)(c) includes a statement referred to in section 9(3)(d) in respect of her husband, civil partner or cohabitant, as the case may be, and
(b) the husband, civil partner or cohabitant of the intending mother referred to in paragraph (a) has consented under section 11 to the parentage under subsection (1) of the child referred to in that paragraph.

**Consent to use of gamete in DAHR procedure**

6. (1) A person consents under this section to the use in a DAHR procedure of a gamete provided by him or her where he or she—

   (a) has attained the age of 18 years,

   (b) has received the information referred to in section 7, and

   (c) makes a declaration in accordance with subsections (2) and (3).

(2) A declaration under subsection (1)(c) shall be made before the donation is made, and shall be in writing, dated, and signed by the person in the presence of a person authorised in that behalf by the operator of the donation facility where the gamete is provided.

(3) A declaration under subsection (1)(c) shall be in such form as may be prescribed and shall include the following statements:

   (a) that the person has received the information referred to in section 7;

   (b) subject to subsection (4), that the person consents to the use in a DAHR procedure of the gamete provided by him or her;

   (c) that, in the event that the gamete is used in a procedure referred to in paragraph (b), the person consents to the provision to the Minister of the information referred to in section 28(3)(a) in respect of him or her;

   (d) that the person is aware that he or she shall not be the parent of any child born as a result of a procedure referred to in paragraph (b);

   (e) that, in the event that a child is born as a result of a procedure referred to in paragraph (b), the person—

      (i) consents to the recording on the Register of the information specified in section 33(3)(d) in respect of the person, and

      (ii) understands that the child may, in accordance with section 35, access the information referred to in subparagraph (i) and seek to contact him or her.

(4) In making a statement referred to in subsection (3)(b), a person may state that his or her consent is restricted to the use of the gamete in a DAHR procedure performed on the request of—

   (a) the intending mother specified in the statement, where the DAHR procedure concerned is one to which section 25(3)(b)(i) applies, or

   (b) the intending parents specified in the statement, where the DAHR procedure concerned is one to which section 25(3)(b)(ii) applies.
(5) A person’s consent under this section to the use of his or her gamete in a DAHR procedure may not be restricted other than as provided for in subsection (4).

**Information to be provided for purposes of section 6**

7. The operator of a donation facility shall, before a person makes a declaration under section 6(1)(c), inform him or her—

(a) that, in the event that he or she consents under section 6 to the use in a DAHR procedure of a gamete provided by him or her—

(i) he or she is entitled to seek the information referred to in section 34(2), and

(ii) where such a DAHR procedure is performed, he or she consents to the provision to the Minister of the information referred to in section 28(3)(a) in respect of him or her,

(b) that, in the event that a child is born as a result of the procedure referred to in paragraph (a)—

(i) he or she shall not be the parent of that child,

(ii) the information specified in section 33(3)(d) in relation to him or her shall be recorded on the Register,

(iii) the child may, in accordance with section 35, access the information referred to in subparagraph (ii) and seek to contact him or her,

(iv) the person’s entitlement to obtain information recorded on the Register is subject to section 36 and is otherwise restricted to the information referred to in section 34(2), and

(v) having regard to the child’s right to his or her identity, it is desirable that he or she keep updated, in accordance with section 38(1), the information in relation to him or her that is recorded on the Register,

and

(c) of his or her right under section 8, in the event that he or she consents under section 6 to the use of his or her gamete in a DAHR procedure, to revoke that consent.

**Revocation of consent given under section 6**

8. (1) Subject to this section, a donor of a gamete may, by notice in writing to the operator of the donation facility to which his or her declaration under section 6(1)(c) was made, revoke his or her consent under that section.

(2) A revocation of consent under subsection (1) shall have no effect in respect of a gamete to which the consent relates that has been used at a DAHR facility in the formation of an embryo before the date on which the notice under that subsection is received by the operator of the DAHR facility concerned.
Consent of intending mother

9. (1) An intending mother consents under this section to the parentage, under subsection (1) or (2), as the case may be, of section 5 of a child born to her as a result of a DAHR procedure where, before that procedure is performed, she—

(a) has attained the age of 21 years,

(b) has received the information referred to in section 13, and

(c) makes a declaration in accordance with subsections (2) and (3).

(2) A declaration under subsection (1)(c) shall be made before the DAHR procedure is performed and shall be in writing, dated, and signed by the intending mother in the presence of a person authorised in that behalf by the operator of the DAHR facility where the DAHR procedure is to be performed.

(3) A declaration under subsection (1)(c) shall be in such form as may be prescribed and shall include the following statements:

(a) that the intending mother has received the information referred to in section 13;

(b) that, in the event that a DAHR procedure is performed, the intending mother—

(i) consents to the provision to the Minister of the information referred to in section 28(3)(b) in respect of her, and

(ii) agrees to comply with her obligations under section 27;

(c) that the intending mother is aware that—

(i) the donor of a gamete or embryo used in the DAHR procedure shall not be the parent of any child born as a result of that procedure, and

(ii) she shall be the mother of such a child;

(d) where applicable, that the intending mother consents to her husband, civil partner or cohabitant, as the case may be, being the parent under section 5(1)(b) of any child born as a result of the DAHR procedure;

(e) that, in the event that a child is born as a result of the DAHR procedure, the intending mother—

(i) consents to the recording on the Register of the information specified in section 33(3)(c) in respect of her,

(ii) consents to the recording on the Register of the information specified in paragraphs (a) and (b) of section 33(3) in respect of the child, and

(iii) understands that the child may, in accordance with section 35, access the information specified in section 33(3)(d) in respect of a person who is, in relation to the child, a relevant donor and seek to contact him or her.
Revocation of consent given under section 9

10. (1) Subject to this section, an intending mother may, by notice in writing to the operator of the DAHR facility to which her declaration under section 9(1)(c) was made, revoke her consent under that section.

(2) A revocation of consent under subsection (1) shall have no effect in respect of a DAHR procedure to which the consent relates that has been performed before the notice under that subsection is received by the operator of the DAHR facility at which the procedure was performed.

Consent of husband, civil partner or cohabitant of intending mother

11. (1) A person, being the husband, civil partner or cohabitant of the intending mother concerned, consents under this section to be the parent, under section 5(1)(b), of a child born as a result of a DAHR procedure where, before that procedure is performed—

(a) the person has attained the age of 21 years,

(b) the intending mother has consented under section 9 to a DAHR procedure, and her declaration under section 9(1)(c) includes a statement referred to in section 9(3)(d) in respect of the person,

(c) the person has received the information referred to in section 13; and

(d) the person makes a declaration in accordance with subsections (2) and (3).

(2) A declaration under subsection (1)(d) shall be made before the DAHR procedure is performed and shall be in writing, dated, and signed by the person in the presence of a person authorised in that behalf by the operator of the DAHR facility where the DAHR procedure is to be performed.

(3) A declaration under subsection (1)(d) shall be in such form as may be prescribed and shall include the following statements:

(a) that the person is the husband, civil partner or cohabitant, as the case may be, of the intending mother;

(b) that the person has received the information referred to in section 13;

(c) that, in the event that a DAHR procedure is performed, the person—

(i) consents to the provision to the Minister of the information referred to in section 28(3)(b) in respect of him or her, and

(ii) agrees to comply with his or her obligations under section 27;

(d) that the person is aware that—

(i) the donor of a gamete or embryo used in the DAHR procedure shall not be the parent of any child born as a result of that procedure, and

(ii) by consenting in accordance with this section, he or she shall, under this Act, together with the mother of the child, be the parent of such a child;
(e) that, in the event that a child is born as a result of the DAHR procedure, the person—

(i) consents to the recording on the Register of the information specified in section 33(3)(c) in respect of him or her,

(ii) consents to the recording on the Register of the information specified in paragraphs (a) and (b) of section 33(3) in respect of the child, and

(iii) understands that the child may, in accordance with section 35, access the information specified in section 33(3)(d) in respect of a person who is, in relation to the child, a relevant donor and seek to contact him or her.

Revocation of consent given under section 11

12. (1) Subject to this section, a person may, by notice in writing to the operator of the DAHR facility to which his or her declaration under section 11(1)(d) was made, revoke his or her consent under that section.

(2) A revocation of consent under subsection (1) shall have no effect in respect of a DAHR procedure to which the consent relates that has been performed before the notice under that subsection is received by the operator of the DAHR facility at which the procedure was performed.

Information to be provided for purposes of sections 9 and 11

13. The operator of a DAHR facility shall, before a person makes a declaration under section 9(1)(c) or section 11(1)(d), inform him or her—

(a) that, in the event that a DAHR procedure is performed, the information referred to in section 28(3)(b) in respect of him or her shall be provided to the Minister,

(b) that, in the event that he or she consents in accordance with section 9 or 11, as the case may be, and a child is born as a result of the DAHR procedure—

(i) he or she shall be the parent of the child,

(ii) the donor of a gamete or embryo used in the DAHR procedure shall not be the parent of the child,

(iii) the information specified in section 33(3) in respect of the intending parent or parents, the child and a person who is, in relation to the child, a relevant donor, shall be recorded on the Register,

(iv) the child may, in accordance with section 35, access the information specified in section 33(3)(d) in respect of the donor referred to in subparagraph (iii) and seek to contact him or her, and

(v) his or her entitlement to obtain information from the Register shall be restricted to the information referred to in section 34(1),

(c) of his or her obligation under section 27 to provide the information specified in that section to the DAHR facility concerned, and
(d) of his or her right under section 10 or 12, as the case may be, in the event that he or she consents under section 9 or 11, to revoke that consent.

Consent to use of embryo in DAHR procedure

14. (1) Where—

(a) an embryo is formed for the purposes of an assisted human reproduction procedure, and

(b) the woman and man on whose request the assisted human reproduction procedure is to be performed do not wish for the embryo to be used in such a procedure,

the woman and man may consent, under this section, to the use of the embryo in a DAHR procedure.

(2) Subject to subsection (3), the woman and man referred to in subsection (1) may consent under this section to the use of the embryo in a DAHR procedure in respect of which neither of them is an intending parent.

(3) An embryo referred to in subsection (2) may be used in a DAHR procedure to which that subsection applies only where both the woman and the man concerned have consented under that subsection.

(4) A man to whom subsection (1) applies may consent under this section to the use of the embryo in a DAHR procedure in respect of—

(a) the woman to whom subsection (1) applies is the intending mother, and

(b) he is not an intending parent.

(5) A person consents under this section to the use of an embryo in a DAHR procedure where he or she—

(a) receives the information referred to in section 15, and

(b) makes a declaration in accordance with subsections (6) and (7).

(6) A declaration under subsection (5)(b) shall be made before the donation is made and shall be in writing, dated, and signed by the person in the presence of a person authorised in that behalf by the operator of a DAHR facility.

(7) A declaration under subsection (5)(b) shall include the following statements:

(a) that the person has received the information referred to in section 15;

(b) subject to subsection (8), that the person consents to the use in a DAHR procedure of the embryo;

(c) that the person is aware that he or she shall not be the parent of any child born as a result of the DAHR procedure;

(d) that, in the event that the embryo is used in a DAHR procedure, the person consents to the provision to the Minister of the information referred to in section 28(3)(a) in respect of him or her;
(e) that, in the event that a child is born as a result of a DAHR procedure, the person—

(i) consents to the recording in the Register of the information specified in section 33(3)(d) in respect of him or her, and

(ii) understands that the child may, in accordance with section 35, access the information referred to in subparagraph (i), and seek to contact him or her.

(8) In making a statement referred to in subsection (7)(b), a person may state that his or her consent is restricted to the use of the embryo in a DAHR procedure performed on the request of—

(a) an intending mother specified in the statement, where the DAHR procedure concerned is one to which section 25(3)(b)(i) applies, or

(b) the intending parents specified in the statement, where the DAHR procedure concerned is one to which section 25(3)(b)(ii) applies.

(9) A person’s consent under this section to the use of an embryo in a DAHR procedure may not be restricted other than as provided for in subsection (8).

(10) In this section, “assisted human reproduction procedure” means a procedure performed with the objective of it resulting in the implantation of an embryo in the womb of the woman on whose request the procedure is performed, where—

(a) the embryo has been or will be formed from a gamete provided by the woman and a gamete provided by a man, and

(b) the procedure is performed for the purpose of the woman and the man becoming the parents of a child born as a result of the procedure.

Information to be provided for purposes of section 14

15. The operator of a DAHR facility shall, before a person makes a declaration under section 14(5)(b), inform him or her—

(a) that, in the event that he or she consents under section 14 to the use of the embryo in a DAHR procedure—

(i) he or she is entitled to seek the information referred to in section 34(2), and

(ii) where such a DAHR procedure is performed, he or she consents to the provision to the Minister of the information referred to in section 28(3)(a) in respect of him or her,

(b) that, in the event that a child is born as a result of the DAHR procedure referred to in paragraph (a)—

(i) he or she shall not be the parent of that child,

(ii) the information specified in section 33(3)(d) in relation to him or her shall be recorded on the Register,
(iii) the child may, in accordance with section 35, access the information specified in section 33(3)(d) in respect of him or her and seek to contact him or her,

(iv) the person’s entitlement to obtain information recorded on the Register is subject to section 36 and is otherwise restricted to the information referred to in section 34(2), and

(v) having regard to the child’s right to his or her identity, it is desirable that he or she keep updated, in accordance with section 38(1), the information in relation to him or her that is recorded on the Register,

and

(c) of his or her right under section 18, in the event that he or she consents under section 14 to the use of the embryo in a DAHR procedure, to revoke that consent.

Consent to use of embryo in further DAHR procedure

16.  (1) Where—

(a) an embryo is formed for the purposes of a DAHR procedure, and

(b) (i) in the case of a DAHR procedure to which section 25(3)(b)(i) applies, the intending parents do not wish for the embryo to be used in a DAHR procedure in respect of which they are the intending parents, or

(ii) in the case of a DAHR procedure to which section 25(3)(b)(i) applies, the intending mother does not wish for the embryo to be used in a DAHR procedure in respect of which she is the intending mother,

a person referred to in paragraph (b) may consent, under this section, to the use of the embryo in a further DAHR procedure.

(2) Subject to subsection (3), each intending parent referred to in subsection (1)(b)(i) may consent under this section to the use of the embryo in a DAHR procedure in respect of which neither of them is an intending parent.

(3) An embryo referred to in subsection (2) may be used in a further DAHR procedure to which that subsection applies only where each intending parent has consented under that subsection.

(4) An intending parent to whom subsection (1)(b)(i) applies, who is not the intending mother, may consent under this section to the use of the embryo in a DAHR procedure in respect of which—

(a) the intending mother is the intending mother, and

(b) he or she is not an intending parent.

(5) A person consents under this section to the use of an embryo in a further DAHR procedure where he or she—

(a) receives the information referred to in section 17, and
(b) makes a declaration in accordance with subsections (6) and (7).

(6) A declaration under subsection (5)(b) shall be made before the donation is made and shall be in writing, dated, and signed by the person in the presence of a person authorised in that behalf by the operator of a DAHR facility.

(7) A declaration under subsection (5)(b) shall include the following statements:

(a) that the person has received the information referred to in section 17;

(b) subject to subsection (8), that the person consents to the use in a further DAHR procedure of the embryo;

(c) that the person is aware that he or she shall not be the parent of any child born as a result of a further DAHR procedure;

(d) where the embryo was formed from a gamete provided by the person—

(i) that, in the event that the embryo is used in a further DAHR procedure, the person consents to the provision to the Minister of the information referred to in section 28(3)(a) in respect of him or her, and

(ii) that, in the event that a child is born as a result of a further DAHR procedure, the person—

(I) consents to the recording in the Register of the information specified in section 33(3)(d) in respect of him or her, and

(II) understands that the child may, in accordance with section 35, access the information referred to in clause (I), and seek to contact him or her.

(8) In making a statement referred to in subsection (7)(b), a person may state that his or her consent is restricted to the use of the embryo in a further DAHR procedure performed on the request of—

(a) an intending mother specified in the statement, where the further DAHR procedure concerned is one to which section 25(3)(b)(i) applies, or

(b) the intending parents specified in the statement, where the further DAHR procedure concerned is one to which section 25(3)(b)(ii) applies.

(9) A person’s consent under this section to the use of an embryo in a further DAHR procedure may not be restricted other than as provided for in subsection (8).

(10) In this section “further DAHR procedure”, means a DAHR procedure to which subsection (2) or (4) applies.

Information to be provided for purposes of section 16

17. (1) The operator of a DAHR facility shall, before a person makes a declaration under section 16(5)(b), inform him or her—

(a) that, in the event that he or she consents under section 16 to the use of the embryo in a further DAHR procedure, and a child is born as a result of that procedure, he or she shall not be the parent of the child,
(b) of his or her right under section 18, in the event that he or she consents under section 16 to the use of the embryo in a further DAHR procedure, to revoke that consent, and

c) where subsection (2) applies, of the matters specified in that subsection.

(2) Where a person referred to in subsection (1) has provided a gamete that was used in the formation of the embryo concerned, the facility referred to in that subsection shall, in addition, inform the person that—

(a) in the event that he or she consents under section 16 to the use of the embryo in a further DAHR procedure—

(i) he or she is entitled to seek the information referred to in section 34(2), and

(ii) where such a further DAHR procedure is performed, he or she consents to the provision to the Minister of the information referred to in section 28(3) (a) in respect of him or her,

and

(b) in the event that a child is born as a result of the further DAHR procedure—

(i) the information specified in section 33(3)(d) in relation to him or her shall be recorded on the Register,

(ii) the child may, in accordance with section 35, access the information specified in section 33(3)(d) in respect of him or her and seek to contact him or her,

(iii) the person’s entitlement to obtain information recorded on the Register is subject to section 36 and is otherwise restricted to the information referred to in section 34(2), and

(iv) having regard to the child’s right to his or her identity it is desirable that he or she keep updated, in accordance with section 38(1), the information in relation to him or her that is recorded on the Register.

Revocation of consent given under section 14 or 16

18. (1) Subject to subsection (2), a donor under section 14 or 16 of an embryo may, by notice in writing to the operator of the DAHR facility to which his or her declaration under section 14(5)(b) or section 16(5)(b), as the case may be, was made, revoke his or her consent under the relevant section.

(2) A revocation of consent under subsection (1) shall have no effect in respect of a DAHR procedure or, as the case may be, a further DAHR procedure to which the consent relates that has been performed before the notice under that subsection is received by the operator of the DAHR facility at which the procedure is performed.
Payment of reasonable expenses

19. (1) The consent of a donor under section 6 shall not be valid where it is given in exchange for financial compensation in excess of the reasonable expenses associated with the provision of the gamete concerned or the giving of consent under that section.

(2) The consent of a donor under section 14 or 16 shall not be valid where it is given in exchange for financial compensation in excess of the reasonable expenses specified in subsection (3)(a) or (c) associated with the giving of consent under that section.

(3) In this section, “reasonable expenses” means, in relation to a donor, the donor’s—
   
   (a) travel costs,
   
   (b) medical expenses, and
   
   (c) any legal or counselling costs,

incurred by him or her in relation to the provision of the gamete or, as the case may be, the giving of consent under this Part.

Child to whom this section applies

20. (1) This section applies to a child where—

   (a) the child was born in the State,
   
   (b) the child was born as a result of a DAHR procedure that was performed before the date on which this section comes into operation that—

   (i) was performed in the State, or
   
   (ii) was performed outside the State, where the person who performed the procedure was authorised to do so under the law of the place where the procedure was performed,
   
   (c) at the time when the DAHR procedure referred to in paragraph (b) was performed, a person was an intending parent of the child and was the only intending parent of the child,
   
   (d) at the time referred to in paragraph (c) the person, other than the mother of the child, who provided a gamete that was used in the DAHR procedure—

   (i) was unknown to the mother of the child and the person referred to in paragraph (c), and
   
   (ii) was not an intending parent of the child,
   
   (e) at the time of an application under section 21 or 22, as the case may be, the person referred to in paragraph (d) remains unknown to the mother of the child and the person referred to in paragraph (c), and
   
   (f) the mother of the child is recorded as the mother of the child in a register of births and no person, or no person other than the person referred to in paragraph (c), is recorded in that register as the child’s father or parent.
(2) In this section and sections 21 to 23—

“DAHR procedure” includes a DAHR procedure that is performed outside the State;

“intending parent” means, in relation to a child who is born as a result of a DAHR procedure, a person, other than the intending mother of the child who, at the time the DAHR procedure is performed, was aware of the performance of the procedure and undertook to care for, and exercise responsibilities towards, any child born as a result of the procedure, as if he or she were the parent of the child;

“register of births”, means a register of births maintained by An tArd-Chlárraitheoir under section 13(1)(a) of the Civil Registration Act 2004, as amended, or under the repealed enactments (within the meaning of that Act).

Declaration by District Court of parentage of child to whom section 20 applies

21. (1) The persons specified in subsection (2) may jointly apply to the District Court in such manner as may be prescribed by rules of court for a declaration under this section that the person referred to in subsection (2)(b) is the parent of a child to whom section 20 applies.

(2) An application for a declaration under this section may be made, in relation to a child to whom section 20 applies, by—

(a) the mother of the child, and

(b) the person, referred to in section 20(1)(c), who was an intending parent of the child.

(3) The child to whom an application for a declaration under this section relates shall be joined as a party to the proceedings.

(4) An application under this section shall be grounded on an affidavit sworn by each applicant, stating that—

(a) the child to whom the application relates is a child to whom section 20 applies,

(b) the applicant referred to in subsection (2)(b) was, at the time referred to in section 20(1)(c), the intending parent of the child, and

(c) he or she consents to the making of a declaration under this section.

(5) On an application under this section 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.

(6) Where on an application under this section the Attorney General requests to be made a party to the proceedings, the Court shall order that he or she shall be added as a party, and, whether or not he or she so requests, the Attorney General may argue before the Court any question in relation to the application which the Court considers necessary to have fully argued and take such other steps in relation thereto as he or she thinks necessary or expedient.
(7) The Court may direct that notice of any application under this section shall be given to such other persons as the Court thinks fit and where notice is so given to any person the Court may, either of its own motion or on the application of that person or any party to the proceedings, order that that person shall be added as a party to those proceedings.

(8) In deciding whether or not to make a declaration under this section the Court shall, to the extent possible given his or her age or understanding, give the child the opportunity to make his or her views on the matter known, and shall have regard to those views.

(9) Where on an application under this section, the Court is satisfied that—
   (a) the child is a child to whom section 20 applies, and
   (b) where the child has not attained the age of 18 years, it is in the best interests of the child to make the declaration,

it shall make a declaration that the applicant referred to in subsection (2)(b) is a parent of the child.

(10) Any declaration made under this section shall be binding on the parties to the proceedings and any person claiming through a party to the proceedings, and where the Attorney General is made a party to the proceedings the declaration shall also be binding on the State.

Declaration by Circuit Court of parentage of child to whom section 20 applies

22. (1) The persons specified in subsection (2) may apply to the Circuit Court for a declaration under this section that a person named in the application (in this section referred to as a “relevant person”) is the parent of a child to whom section 20 applies.

(2) An application for a declaration under this section may be made, in relation to a child to whom section 20 applies, by—
   (a) the child,
   (b) the mother of the child, or
   (c) the relevant person.

(3) The child to whom an application for a declaration under this section relates shall be joined as a party to the proceedings.

(4) Subsections (5) to (8) of section 21 apply, with all necessary modifications, to an application under this section as they apply to an application under that section.

(5) An application under this section shall be accompanied by evidence that—
   (a) the child concerned is a child to whom section 20 applies, and
   (b) the relevant person was, at the time referred to in section 20(1)(c), an intending parent of the child concerned.
(6) Subject to subsection (7), where on an application under this section it is proved on the balance of probabilities that—

(a) the child concerned is a child to whom section 20 applies, and

(b) the relevant person was, at the time referred to in section 20(1)(c), an intending parent of the child concerned,

the Circuit Court shall make a declaration that the relevant person is a parent of the child.

(7) The Circuit Court shall not make a declaration under subsection (6) where it is satisfied that to do so—

(a) would not be in the best interests of the child concerned, where the child has not attained the age of 18 years, or

(b) would be contrary to the interests of justice.

(8) Any declaration made under this section shall be binding on the parties to the proceedings and any person claiming through a party to the proceedings, and where the Attorney General is made a party to the proceedings the declaration shall also be binding on the State.

**Effect of declaration under section 21 or 22**

23. Where a person is declared under section 21 or 22 to be a parent of a child, from the date on which the declaration is made—

(a) the person shall be deemed to be the parent, under section 5(1)(b), of the child,

(b) the person, referred to in section 20(1)(d), who provided a gamete that was used in the DAHR procedure that resulted in the birth of the child—

(i) is not the parent of the child, and

(ii) has no parental rights or duties in respect of the child,

and

(c) a reference in any enactment to a mother, father or parent of a child shall be construed as not including, in relation to the child to whom the declaration relates, the person referred to in paragraph (b).

**PART 3**

**DONOR-ASSISTED HUMAN REPRODUCTION**

**Acquisition by operator of DAHR facility of gamete or embryo**

24. (1) The operator of a DAHR facility shall not acquire for use in a DAHR procedure a gamete provided by a donor unless, at the time of such acquisition, he or she also acquires the information specified in subsection (3) in respect of the donor.
(2) The operator of a DAHR facility shall not acquire an embryo for use in a DAHR procedure or a further DAHR procedure unless, at the time of such acquisition, he or she also acquires the information specified in subsection (3) in respect of—

(a) the donor or, as the case may be, each donor of the embryo who provided a gamete that was used in the formation of the embryo, and

(b) where applicable, the donor of a gamete that was used in the formation of the embryo.

(3) The information referred to in subsections (1) and (2), in relation to the donor concerned, is:

(a) his or her name;

(b) his or her date and place of birth;

(c) his or her nationality;

(d) the date on which, and the place at which, he or she provided the gamete;

(e) his or her contact details.

Performance of DAHR procedure

25. (1) A person shall not perform a DAHR procedure unless the person is—

(a) a registered medical practitioner, or

(b) a registered nurse.

(2) A person shall not perform a DAHR procedure other than on the request of an intending parent.

(3) A person shall not perform a DAHR procedure on the request of an intending parent unless—

(a) he or she has first obtained the following information in respect of that intending parent—

(i) his or her name,

(ii) his or her date of birth, and

(iii) his or her address and contact details,

and

(b) the following applies:

(i) where the intending mother is the only intending parent, she has consented under section 9 to the parentage under section 5 of a child born to her as a result of the procedure;

(ii) where the intending parents are the intending mother and her husband, civil partner or cohabitant—
(I) the intending mother has consented under section 9 to the parentage under section 5 of a child born as a result of the procedure, and her declaration under section 9(1)(c) includes a statement referred to in section 9(3)(d) in respect of the husband, civil partner or cohabitant concerned, and

(II) the husband, civil partner or cohabitant concerned has consented under section 11 to being the parent, under section 5, of a child born as a result of the procedure.

Use of gamete or embryo in DAHR procedure

26. (1) The operator of a DAHR facility shall not use or permit to be used in a DAHR procedure a gamete provided by a donor unless—

(a) the gamete has been acquired in accordance with section 24(1), and

(b) the donor of that gamete—

(i) has consented under section 6 to the use of the gamete in a DAHR procedure, or

(ii) where the gamete is acquired from outside the State, has consented to the use of the gamete in a DAHR procedure, where that consent is substantially the same as that provided for in section 6.

(2) The operator of a DAHR facility shall not use or permit to be used in a DAHR procedure or a further DAHR procedure an embryo unless—

(a) it has acquired the embryo in accordance with section 24(2), and

(b) the donor, or as the case may be, each donor of the embryo—

(i) has consented under section 14 or 16, to the use of the embryo in a DAHR procedure or, as the case may be, a further DAHR procedure, or

(ii) where the embryo is acquired from outside the State, has consented to the use of the embryo in a DAHR procedure or a further DAHR procedure, where that consent is substantially the same as that provided for in section 14 or, as the case may be, section 16.

(3) The operator of a DAHR facility shall not use or permit to be used in a DAHR procedure a gamete provided by a donor, where he or she has become aware that—

(a) the consent of the donor under section 6 has been revoked under section 8, or

(b) in the case of a gamete to which subsection (1)(b)(ii) or (5) applies, the consent of the donor referred to in that subsection has been revoked.

(4) The operator of a DAHR facility shall not use or permit to be used in a DAHR procedure or a further DAHR procedure an embryo where he or she has become aware that—

(a) the consent of the donor under section 14 or, as the case may be, section 16, has been revoked under section 18, or
(b) in the case of an embryo to which subsection (2)(b)(ii) or (6) applies, the consent of the donor referred to in that subsection has been revoked.

(5) Notwithstanding subsection (1), for a period of 3 years from the date on which that subsection comes into operation, a gamete to which paragraph (a) of that subsection does not apply may be used in a DAHR procedure where—

(a) the gamete concerned has been acquired before that date by the DAHR facility concerned,

(b) the donor of the gamete has consented to the use of the gamete in a DAHR procedure, and

(c) the intending parent is the parent of a child born as a result of a DAHR procedure performed before that date, where the gamete used in that procedure was provided by the same donor.

(6) Subsection (2)(a) shall not apply to an embryo where—

(a) the embryo was formed before the date on which the subsection comes into operation,

(b) the embryo was acquired by the DAHR facility before that date, and

(c) the donor or, as the case may be, each donor of the embryo has consented to the use of the embryo in a DAHR procedure or a further DAHR procedure.

(7) Where an embryo to which subsection (6) applies is used in a DAHR procedure or a further DAHR procedure, nothing in this section shall operate to prevent the recording on the Register of the information specified in section 33(3)(d) in respect of the donor from whose gamete the embryo was formed.

(8) The operator of a DAHR facility may use or permit to be used in a DAHR procedure an embryo that was formed before the date on which this subsection comes into operation, where—

(a) the embryo has been formed for the purposes of the DAHR procedure,

(b) the donor of the gamete that was used in the formation of the embryo has consented to the use of the gamete in a DAHR procedure, and

(c) each person who, at the time of the formation of the embryo, was an intending parent, has consented under section 9, or as the case may be, section 11, to the parentage under section 5 of a child born as a result of the procedure.

Intending parent to provide information to DAHR facility following DAHR procedure

27. (1) Where a DAHR procedure is performed, the intending parent concerned shall, as soon as practicable after becoming aware of the fact, inform the operator of the DAHR facility concerned of the following:

(a) whether the procedure has led to the pregnancy of the intending mother;

(b) where the procedure has led to the pregnancy of the intending mother, the date on which the intending mother is expected to give birth.
(2) Where subsection (1)(b) applies, the intending parent concerned shall, as soon as practicable after the pregnancy of the intending mother has come to an end, inform the DAHR facility concerned of—

(a) whether the pregnancy resulted in the birth of a live child, and

(b) where the pregnancy resulted in the birth of a live child, the name, date and place of birth, sex and address of the child.

(3) Where an intending parent does not comply with subsection (1) or (2), the operator of the DAHR facility concerned shall contact the intending parent concerned in order to obtain the information referred to in the subsection concerned.

(4) Where an intending parent provides an operator of a DAHR facility with the information referred to in subsection (2)(b), the operator shall furnish the intending parent with a certificate under subsection (5).

(5) A certificate under this subsection shall be in such form as may be prescribed and shall state—

(a) that a DAHR procedure was performed at the DAHR facility on the request of the intending parent or parents, and the date on which procedure was performed,

(b) in relation to the procedure referred to in paragraph (a), whether—

(i) one gamete provided by a donor was used in the procedure and, if so, whether that gamete was a human egg or a human sperm,

(ii) each gamete used in the procedure was provided by a donor, or

(iii) an embryo provided by a donor was used in the procedure,

(c) whether—

(i) the gamete referred to in paragraph (b) that was provided by a donor was one to which section 26(1) or, as the case may be, section 26(5), applied, or

(ii) where applicable, the embryo referred to in paragraph (b)(iii) was one to which subsection (2) or (6) of section 26 applied,

(d) that the intending mother concerned consented, under section 9, to the parentage under section 5 of a child born as a result of the procedure, and

(e) where applicable, that the husband, civil partner or cohabitant of the intending mother consented under section 11 to being the parent of a child born as a result of the procedure.

**DAHR facility to retain and provide certain information**

28. (1) An operator of a donation facility shall retain—

(a) a written consent of a person made under section 6, and

(b) a record of the revocation, under section 8, by a person referred to in paragraph (a) of his or her consent.
(2) An operator of a DAHR facility shall retain—
   (a) a written consent of a person made under section 9, 11, 14 or 16, and
   (b) a record of the revocation, under section 10, 12 or 18, as the case may be, by a
       person referred to in paragraph (a) of his or her consent.

(3) Where a DAHR procedure is performed at a DAHR facility, the operator of the
    facility shall retain a record of—
    (a) all information acquired under section 24 in respect of the donor concerned, and
    (b) all information obtained under section 25(3)(a) in respect of the intending parent
        concerned.

(4) The operator of a DAHR facility referred to in subsection (3) shall provide the
    Minister, for the purpose of the performance by the Minister of his or her functions
    under section 33, with the following information:
    (a) that a DAHR procedure has been performed at the DAHR facility at the request
        of the intending parents;
    (b) the information referred to in subsection (3) in respect of the donor and the
        intending parent;
    (c) where known to the operator—
        (i) whether the procedure has led to the pregnancy of the intending mother, and
        (ii) where the procedure has resulted in the pregnancy of the intending mother,
            the date on which the intending mother is expected to give birth or, where
            applicable, the information specified in subsection (5).

(5) Where the pregnancy of the intending mother referred to in subsection (4)(c)(i) has
    come to an end, the information to be provided under that subsection is the following:
    (a) whether the pregnancy resulted in the birth of a live child;
    (b) where the pregnancy resulted in the birth of a live child, the name, date and place
        of birth, sex and address of the child.

(6) Subject to subsection (7), the information referred to in subsection (4) shall be
    provided to the Minister, in relation to each DAHR procedure performed at the
    DAHR facility, on each of the following dates—
    (a) on a date that is no later than 6 months after the performance of the procedure
        concerned, and
    (b) on a date that is no earlier than 12 months and no later than 13 months after the
        performance of the procedure concerned.

(7) Where the operator of a DAHR facility becomes aware of an error in information
    provided by it under subsection (4), he or she shall without delay inform the Minister
    of the error and provide the Minister with corrected information.
Minister may require information on compliance by DAHR facility with section 28

29. The Minister may require the operator of a DAHR facility to provide him or her with any information that he or she needs to determine whether the operator is in compliance with his or her obligations under section 28.

Authorised persons

30. (1) The Minister may appoint such and so many persons as he or she considers appropriate to be an authorised person or authorised persons for the purposes of ensuring compliance by the operator of a DAHR facility with his or her obligations under section 28.

(2) A person appointed to be an authorised person under this section shall on his or her appointment be furnished by the Minister with a warrant of his or her appointment, and when exercising a power conferred by this Act shall, if requested by any person thereby affected, produce such warrant to that person for inspection.

Powers of authorised persons

31. (1) For the purposes of this Act, an authorised person may—

(a) subject to subsection (3), enter and inspect at all reasonable times any premises—

(i) which he or she has reasonable grounds for believing are being used as a DAHR facility, or

(ii) at which he or she has reasonable grounds for believing records or documents relating to a DAHR facility are being kept,

(b) at such premises inspect and take copies of, any books, records or other documents (including books, records or documents stored in non-legible form), or extracts therefrom, that he or she finds in the course of his or her inspection,

(c) remove any such books, documents or records from such premises and detain them for such period as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act,

(d) require—

(i) the operator of the DAHR facility, or

(ii) any person at the premises concerned, including the owner or person in charge of that place or premises,

   to give the authorised person such information and assistance as the authorised person may reasonably require for the purposes of his or her functions under this Act,

(e) require—

(i) the operator of the DAHR facility, or

(ii) any persons at the premises concerned, including the owner or person in charge of that place or premises,
to produce to the authorised person such books, documents or other records (and in the case of documents or records stored in non-legible form, produce to him or her a legible reproduction thereof) that are in that person’s possession or procurement, or under that person’s control, as he or she may reasonably require for the purposes of his or her functions under this Act, and

(f) examine with regard to any matter under this Act any person whom the authorised person has reasonable grounds for believing to be—

(i) the operator of a DAHR facility, or

(ii) to be employed at a DAHR facility,

and require the person to answer such questions as the authorised person may ask relative to those matters and to make a declaration of the truth of the answers to those questions.

(2) When performing a function under this Act, an authorised person may, subject to any warrant under subsection (4), be accompanied by such number of other authorised persons or members of the Garda Síochána as he or she considers appropriate.

(3) An authorised person shall not enter a dwelling, other than—

(a) with the consent of the occupier, or

(b) pursuant to a warrant under subsection (4).

(4) Upon the sworn information of an authorised person, a judge of the District Court may—

(a) for the purposes of enabling an authorised person to carry out an inspection of premises that the authorised person has reasonable grounds for believing are being used as a DAHR facility, or

(b) if satisfied that there are reasonable grounds for believing that information, books, documents or other records (including information, books, documents or records stored in non-legible form) required by an authorised person under this section is or are held in any place or premises,

issue a warrant authorising a named authorised person accompanied by such other authorised persons or members of the Garda Síochána as may be necessary, at any time or times, before the expiration of one month from the date of issue of the warrant, to enter the dwelling and perform the functions of an authorised person under subsection (1).

(5) A person commits an offence if he or she—

(a) obstructs or interferes with an authorised person or a member of the Garda Síochána in the course of exercising a power conferred on him or her by this Act or a warrant under subsection (4) or impedes the exercise by the person or member, as the case may be, of such power, or

(b) fails or refuses to comply with a request or requirement of, or to answer a question asked by, the person or member pursuant to this section, or in purported
compliance with such request or requirement or in answer to such question gives information to the person or member that he or she knows to be false or misleading in any material respect.

(6) Where an authorised person believes, upon reasonable grounds, that a person has committed an offence under this Act, he or she may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides.

(7) A statement or admission made by a person pursuant to a requirement under subsection (1)(d) or (f) shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under subsection (5)).

(8) A person who commits an offence under this section is liable—

(a) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both, and

(b) on conviction on indictment to a fine not exceeding €70,000 or imprisonment for a term not exceeding 2 years or both.

Enforcement of obligations of DAHR facility under section 28

32. (1) Where the Minister is satisfied that the operator of a DAHR facility is not in compliance with his or her obligations under section 28, the Minister may—

(a) issue to the operator a direction requiring him or her to comply with such of the obligations as are specified in the direction, or

(b) apply to the Circuit Court for an order under subsection (3).

(2) Where the Minister is satisfied that the operator of DAHR facility to which he or she has issued a direction under subsection (1)(a) is not in compliance with that direction, the Minister may apply to the Circuit Court for an order under subsection (3).

(3) The Circuit Court, on an application under subsection (1)(b) or (2), as the case may be, where satisfied that the operator of the DAHR facility concerned is not in compliance with his or her obligations under section 28, may make an order directing the operator to comply with those obligations.

(4) Where the Minister is satisfied that the operator of a DAHR facility who is the subject of an order under subsection (3) is not in compliance with the order, the Minister may apply to the Circuit Court for an order under subsection (5).

(5) The Circuit Court, on an application under subsection (4), where satisfied that the operator of the DAHR facility is not in compliance with an order under subsection (3), may make an order prohibiting or restricting the performance at the DAHR facility of DAHR procedures until such time as the operator of the DAHR facility satisfies the Court of his or her ability to comply with his or her obligations under section 28.

(6) The operator of a DAHR facility may, within 21 days from the date of the order, appeal an order of the Circuit Court under subsection (5) to the High Court on a point
of law and the determination of the High Court on such an appeal in respect of the point of law shall be final and conclusive.

National Donor-Conceived Person Register

33. (1) The Minister shall cause to be established and maintained a register to be known as the National Donor-Conceived Person Register.

(2) The Minister shall make an entry in the Register in respect of each child born in the State as the result of a DAHR procedure.

(3) An entry under subsection (2) shall contain the following particulars:

(a) the name, date and place of birth and sex of the child;

(b) the address of the child;

(c) the information in respect of the parent of the child, as provided to the Minister under section 28;

(d) the information in respect of the donor concerned, as provided to the Minister under section 28;

(e) the date on which the DAHR procedure that resulted in the birth of the child was performed;

(f) the name and address of the DAHR facility at which the DAHR procedure referred to in paragraph (e) was performed.

(4) The Minister may prescribe the manner in which the information specified in subsection (3) is to be recorded on the Register.

Access to certain information from Register

34. (1) A donor-conceived child who has attained the age of 18 years, or the parent of a donor-conceived child who has not attained the age of 18 years, may request the Minister to provide him or her with the following information from the Register:

(a) information other than the relevant donor’s name, date of birth and contact details, that is recorded on the Register in respect of the relevant donor;

(b) the number of persons who have been born as a result of the use in a DAHR procedure of a gamete donated by the relevant donor, and the sex and year of birth of each of them.

(2) A donor may request the Minister to provide him or her with information from the Register on the number of persons who have been born as a result of the use in a DAHR procedure of a gamete donated by the donor, and the sex and year of birth of each of them.

(3) The Minister shall comply with a request made in accordance with subsection (1) or (2).
Information in respect of relevant donor to be provided to donor-conceived child

35. (1) A donor-conceived child who has attained the age of 18 years may request from the Minister the name, date of birth and contact details of a relevant donor, as recorded in the Register.

(2) Where the Minister receives a request under subsection (1), he or she shall send to the relevant donor a notice informing him or her that—

(a) a request under subsection (1) has been made by the donor-conceived child, and

(b) the Minister shall, 12 weeks from the date on which the notice is sent, release to the donor-conceived child the information requested, unless the relevant donor makes representations to the Minister setting out why the safety of the relevant donor or the donor-conceived child, or both, requires that the information not be released.

(3) Where a relevant donor to whom subsection (2) applies makes representations to the Minister in accordance with that subsection, the Minister shall consider those representations, having regard to the right of the donor-conceived child to his or her identity, and—

(a) if satisfied that sufficient reasons exist to withhold the information concerned from the donor-conceived child, shall refuse the request under subsection (1) and notify the donor-conceived child of the refusal and, in doing so, may inform him or her of the content of the representations of the relevant donor under subsection (2), or

(b) if not so satisfied, shall release the information to the donor-conceived child concerned.

(4) Where a relevant donor to whom subsection (2) applies does not make representations in accordance with that subsection, the Minister shall release the information to the donor-conceived child concerned.

(5) A donor-conceived child may, within 21 days of receipt of the notification under subsection (3)(a), appeal to the Circuit Court against the Minister’s refusal of his or her request under subsection (1).

(6) An appeal under subsection (5) shall—

(a) be on notice to the Minister, and

(b) be heard otherwise than in public.

Information in respect of donor-conceived child to be provided to relevant donor

36. (1) A donor-conceived child who has attained the age of 18 years may request the Minister to record on the Register a statement of his or her name, date of birth and contact details and confirming that he or she consents, on the making by the relevant donor of a request under subsection (2), to the release, in accordance with this section, to the relevant donor of that information.
(2) A donor may request from the Minister the name, date of birth and contact details of a donor-conceived child who has attained the age of 18 years and in relation to whom he or she is a relevant donor.

(3) Where the Minister receives a request under subsection (2), and a statement under subsection (1) by the donor-conceived child is recorded on the Register, the Minister shall send the donor-conceived child a notice informing him or her that—

(a) a request under subsection (2) has been made by the relevant donor, and

(b) unless he or she informs the Minister, within 12 weeks from the date on which the notice is sent, that he or she objects to the release to the relevant donor of the information contained in the statement under subsection (1), the Minister shall release that information to the relevant donor.

(4) Where a donor-conceived child to whom a notice under subsection (3) has been sent does not, in accordance with that subsection, object to the release of the information concerned, the Minister shall release that information to the relevant donor concerned.

Information in respect of other persons to be provided to donor-conceived child

37. (1) A donor-conceived child who has attained the age of 18 years may request the Minister to record on the Register a statement of his or her name, date of birth and contact details and confirming that he or she consents, on the making by a person of a request under subsection (2), to the release, in accordance with this section, to that person of that information.

(2) A donor-conceived child who has attained the age of 18 years (in this section referred to as a “requesting person”) may request from the Minister the name, date of birth and contact details of a relevant person.

(3) Where the Minister receives a request under subsection (2), and the donor-conceived child to whom the requested information relates has made a statement under subsection (1) that is recorded on the Register, the Minister shall send the donor-conceived child a notice informing him or her that—

(a) a request under subsection (2) has been made by the requesting person, and

(b) unless the donor-conceived child informs the Minister, within 12 weeks of the date of the sending of the notice, that he or she objects to the release to the requesting person of the information contained in the statement under subsection (1), the Minister shall release that information to the requesting person.

(4) Where a donor-conceived child to whom a notice under subsection (3) has been sent does not, in accordance with that subsection, object to the release of the information concerned, the Minister shall release that information to the requesting person.

(5) In this section, “relevant person” means, in relation to a requesting person, a donor-conceived child in relation to whom a relevant donor is also a relevant donor in relation to the requesting person.
Additional provision in relation to sections 33 to 37

38. (1) Where information relating to a person is, in accordance with sections 33 to 37, recorded on the Register, that person (or, in the case of a person who has not attained the age of 18 years, his or her parent or guardian) may request the Minister to update the information concerned.

(2) The Minister shall not—

(a) record on the Register a statement made by a person under section 36(1) or 37(1), or

(b) release information to a person in response to a request under section 35, 36, or 37,

unless the Minister is satisfied that the person has received counselling on the implications of his or her recording such a statement or, as the case may be, receiving such information.

Interaction of Register and register of births

39. (1) Where the Minister makes an entry under section 33(2), he or she shall notify an tArd-Chláraitheoir that the Minister holds a record in the Register in respect of the child concerned.

(2) Where an tArd-Chláraitheoir receives a notification under subsection (1), he or she shall note in the entry in the register of births in respect of the child that the child is a donor-conceived child and that additional information is available from the Register in relation to the child.

(3) A note referred to in subsection (2) shall be released only to the child concerned, when he or she has attained the age of 18 years.

(4) Where a person who has attained the age of 18 years applies for a copy of his or her birth certificate, and the register of births contains a note referred to in subsection (2), an tArd-Chláraitheoir shall, when issuing a copy of the birth certificate requested, inform the person that further information relating to him or her is available from the Register.

Jurisdiction (Parts 2 and 3)

40. (1) The jurisdiction conferred on the District Court by section 21 shall be exercised by—

(a) a judge of the District Court who is assigned to the district court district in which an applicant under that section ordinarily resides or carries on any profession, business or occupation, or

(b) where no applicant under that section ordinarily resides or carries on any profession, business or occupation in the State, a judge who is assigned to the Dublin Metropolitan District.

(2) The jurisdiction conferred on the Circuit Court by sections 22 and 35 shall be exercised by—
(a) the judge of the circuit in which an applicant under the section concerned ordinarily resides or carries on any profession, business or occupation, or

(b) where no applicant under the section concerned ordinarily resides or carries on any profession, business or occupation in the State, by a judge of the court for the time being assigned to the Dublin Circuit.

(3) The jurisdiction conferred on the Circuit Court by section 32 shall be exercised by the judge of the circuit in which the DAHR facility concerned is located.

**Regulations (Parts 2 and 3)**

41. (1) The Minister may make regulations prescribing any matter or thing which is referred to in Part 2 or this Part as prescribed or to be prescribed.

(2) Regulations under Part 2 or this Part may contain such incidental, supplementary and consequential provisions as the Minister considers necessary or expedient for the purposes of the regulations.

(3) Regulations made under Part 2 or this Part shall be laid before each House of the Oireachtas as soon as may be after they are made and, if a resolution annulling those regulations is passed by either such House within the next 21 days on which that House has sat after the regulations are laid before it, the regulations shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

**Service of documents (Parts 2 and 3)**

42. (1) A notice or other document that is required to be served on or given to a person under Part 2 or this Part shall be addressed to the person concerned by name, and may be so served on or given to the person in one of the following ways:

(a) by delivering it to the person;

(b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address; or

(c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.

(2) For the purpose of this section, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.
Amendment of section 2 of Act of 1964

43. Section 2 of the Act of 1964 is amended—

(a) in subsection (1) by—

(i) the substitution of the following definition for the definition of “adoption order”:

“ ‘adoption order’ has the same meaning as it has in the Adoption Act 2010;”;

(ii) the substitution of the following definition for the definition of “father”:

“ ‘father’ includes a male adopter under an adoption order but subject to section 11(4), does not include the father of a child who has not married that child’s mother unless—

(a) an order under section 6A is in force in respect of that child,

(b) the circumstances set out in subsection (3) of this section apply,

(c) the circumstances set out in subsection (4) of this section apply,

(d) the circumstances set out in subsection (4A) of this section apply, or

(e) the father is a guardian of the child by virtue of section 6D;”;

(iii) the substitution of the following definition for the definition of “parent”:

“ ‘parent’ means—

(a) subject to paragraph (b), a father or mother as defined by this subsection, and

(b) in relation to a donor-conceived child, the parent or parents of that child under section 5 of the Act of 2015;”;

and

(iv) the insertion of the following definitions:

“ ‘Act of 2010’ means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;


civil partner’ shall be construed in accordance with section 3 of the Act of 2010;

‘cohabitant’ shall be construed in accordance with section 172(1) of the Act of 2010;
‘donor-conceived child’ has the meaning it has in Part 2 of the Act of 2015;

‘enactment’ means a statute or an instrument made under a power conferred by statute;

‘enforcement order’ shall be construed in accordance with section 18A(1);

‘qualifying guardian’, in relation to a child, means a person who is a guardian of that child and who—

(a) is the parent of the child and has custody of him or her, or

(b) not being a parent of the child has custody of him or her to the exclusion of any living parent of the child;

‘Minister’ means the Minister for Justice and Equality;

‘relative’, in relation to a child, means a grandparent, brother, sister, uncle or aunt of the child;”,

(b) in subsection (4)—

(i) in paragraph (c), by the deletion of “child,” and substitution of “child, and”, and

(ii) by the deletion of paragraph (d),

and

(c) by the insertion after subsection (4) of the following:

“(4A) The circumstances referred to in paragraph (d) of the definition of ‘father’ in subsection (1) are that the father and mother of the child concerned—

(a) have not married each other, and

(b) have been cohabitants for not less than 12 consecutive months occurring after the date on which this subsection comes into operation, which shall include a period, occurring at any time after the birth of the child, of not less than three consecutive months during which both the mother and father have lived with the child.”.

References in enactments to guardians appointed under section 6C or 6E

44. The Act of 1964 is amended by the insertion of the following section after section 2:

“References in enactments to guardians appointed under section 6C or 6E

2A. (1) Subject to subsection (2), a reference in a provision of an enactment specified in section 6C(12) to a person who is a guardian of a child pursuant to this Act shall include a reference to a person who is appointed as guardian of the child under that section if the court so
appointing the person orders that he or she is to enjoy the rights and responsibilities of a guardian under the provision concerned.

(2) Subsection (1) shall apply subject to such limitations (if any) as may be specified under section 6C(9) in the order of the court under that section appointing the person concerned as guardian of the child concerned.

(3) A reference in a provision of an enactment to a person who is a guardian of a child pursuant to this Act shall, in the case of a temporary guardian appointed under section 6E, be construed subject to such limitations (if any) as are imposed under subsection (6) or (11) of that section on the exercise by him or her of the rights and responsibilities of a guardian under the provision.”.

Best interests of child to be paramount

45. The Act of 1964 is amended by the substitution of the following section for section 3:

“3. (1) Where, in any proceedings before any court, the—

(a) guardianship, custody or upbringing of, or access to, a child, or

(b) administration of any property belonging to or held on trust for a child or the application of the income thereof,

is in question, the court, in deciding that question, shall regard the best interests of the child as the paramount consideration.

(2) In proceedings to which subsection (1) applies, the court shall determine the best interests of the child concerned in accordance with Part V.”.

Amendment of section 5(2) of Act of 1964

46. Section 5(2) of the Act of 1964 is amended by the substitution of “at a rate greater than €150 per week towards the maintenance of a child or a lump sum order greater than €15,000 for the benefit of a child”, for “at a rate greater than €150 per week towards the maintenance of a child”.

Amendment of section 6 of Act of 1964

47. Section 6 of the Act of 1964 is amended—

(a) by the insertion of the following subsection after subsection (1):

“(1A) Where civil partners or a cohabiting couple have jointly adopted a child under an adoption order the civil partners or cohabiting couple, as the case may be, shall be guardians of the child jointly.”;

(b) by the insertion of the following subsection after subsection (3):
“(3A) (a) On the death of a civil partner who has jointly adopted a child with their civil partner, the other civil partner, if surviving, shall be guardian of the child, either alone or jointly with any guardian appointed by the deceased civil partner or by the court.

(b) On the death of one cohabitant of a cohabiting couple who have jointly adopted a child, the other cohabitant, if surviving, shall be guardian of the child, either alone or jointly with any guardian appointed by the deceased cohabitant or by the court.”,

(c) by the substitution of the following subsection for subsection (4):

“(4) Subject to subsection (1A), where the mother of a child has not married the child’s father, and no other person is, under this Act, the guardian of the child, she, while living, shall alone be the guardian of the child.”,

and

(d) by the insertion of the following subsection after subsection (4):

“(5) In this section, ‘cohabiting couple’ has the same meaning as it has in the Adoption Act 2010.”.

Amendment of section 6A of Act of 1964
48. The Act of 1964 is amended by the substitution of the following section for section 6A:

“Power of court to appoint parent as guardian

6A. (1) The court may, on an application to it by a person who, being a parent of the child, is not a guardian of the child, make an order appointing the person as guardian of the child.

(2) Without prejudice to other provisions of this Act, the appointment under this section of a guardian shall not, unless the court otherwise orders, affect the prior appointment (whether under this or any other enactment) of any other person as guardian of the child.”.

Insertion in Act of 1964 of sections 6B to 6E
49. The Act of 1964 is amended by the insertion of the following sections after section 6A:

“Rights of certain parents to guardianship

6B. (1) A man who—

(a) is, under section 5(1)(b) of the Act of 2015, the parent of the child, and

(b) has married the mother of the child,

shall be a guardian of the child.
(2) A person, other than a person to whom subsection (1) applies, who, along with the mother of the child is, under section 5 of the Act of 2015, the parent of a child shall be a guardian of the child where—

(a) the person has entered into a civil partnership with the mother,

(b) the circumstances in subsection (3) apply, or

(c) the circumstances in subsection (4) apply.

(3) The circumstances referred to in subsection (2)(b) are that the person and the mother of the child concerned have been cohabitants for not less than 12 consecutive months occurring after the date on which this subsection comes into operation, which shall include a period, occurring at any time after the birth of the child, of not less than three consecutive months during which both the mother and the person have lived with the child.

(4) The circumstances referred to in subsection (2)(c) are that the person and the mother of the child concerned—

(a) declare that they are the parents, under section 5 of the Act of 2015, of the child concerned,

(b) declare that they agree to the appointment of the person as a guardian of the child, and

(c) have made a statutory declaration to that effect in a form prescribed by the Minister.

Power of court to appoint person other than parent as guardian
6C. (1) The court may, on an application to it by a person who, not being a parent of the child, is eligible under subsection (2) to make such application, make an order appointing the person as guardian of a child.

(2) A person is eligible to make an application referred to in subsection (1) where he or she is over the age of 18 years and—

(a) on the date of the application, he or she—

(i) is married to or is in a civil partnership with, or has been for over 3 years a cohabitant of, a parent of the child, and

(ii) has shared with that parent responsibility for the child’s day-to-day care for a period of more than 2 years,

or

(b) on the date of the application—

(i) he or she has provided for the child’s day-to-day care for a continuous period of more than 12 months, and
(ii) the child has no parent or guardian who is willing or able to exercise the rights and responsibilities of guardianship in respect of the child.

(3) An application under subsection (1) shall be on notice to each person who is a parent or guardian of the child concerned.

(4) Where a person to whom subsection (2)(b) applies makes an application under subsection (1), the court shall direct that the Child and Family Agency be put on notice of the application, and have regard to the views (if any) of the Agency in deciding whether or not to make an order under subsection (1).

(5) Without prejudice to other provisions of this Act, the appointment under this section of a guardian shall not, unless the court otherwise orders, affect the prior appointment (whether under this or any other enactment) of any other person as guardian of the child.

(6) Subject to subsection (7), an order under subsection (1) shall not be made under this section without the consent of—

(a) each guardian of the child, and

(b) the applicant concerned.

(7) The court may make an order dispensing, for the purposes of this section, with the consent of a guardian of the child, if it is satisfied that the consent is unreasonably withheld and that it is in the best interests of the child to make such an order.

(8) In deciding whether or not to make an order under this section, the court shall—

(a) ensure that the child concerned, to the extent possible given his or her age and understanding, has the opportunity to make his or her views on the matter known, and have regard to those views, and

(b) have regard to the number of persons who are guardians of the child concerned, and the degree to which those persons are involved in the upbringing of the child.

(9) Where the court appoints under this section a person as guardian of a child, and one or both of the parents of that child are still living, the person so appointed shall enjoy the rights and responsibilities of a guardian specified in subsection (11) only—

(a) where the court expressly so orders, and

(b) to the extent specified in the order and in the case of the rights and responsibilities specified in any of paragraphs (a) to (e) of that subsection, subject to such limitations as are specified in the order.

(10) In deciding whether to exercise its power under subsection (9), the court shall have regard to—
(a) the relationship between the child concerned and the person appointed as guardian of the child, and

(b) the best interests of the child.

(11) The rights and responsibilities referred to in subsection (9) are the rights and responsibilities of a guardian:

(a) to decide on the child’s place of residence;

(b) to make decisions regarding the child’s religious, spiritual, cultural and linguistic upbringing;

(c) to decide with whom the child is to live;

(d) to consent to medical, dental and other health related treatment for the child, in respect of which a guardian’s consent is required;

(e) under an enactment specified in subsection (12);

(f) to place the child for adoption, and consent to the adoption of the child, under the Adoption Act 2010.

(12) The enactments referred to in subsection (11)(e) are:

(a) section 2A(2) of the Firearms Act 1925;

(b) section 5 of the Protection of Young Persons (Employment) Act 1996;

(c) sections 50 and 50A of the International Criminal Court Act 2006;

(d) sections 79, 79A and 79B of the Criminal Justice (Mutual Assistance) Act 2008;

(e) section 14 of the Passports Act 2008;

(f) the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014.

Rights and responsibilities equivalent to guardianship arising in another state

6D. (1) Subject to this section, a person shall be the guardian of a child where he or she has—

(a) pursuant to a judgment that is entitled to recognition in accordance with the provisions of the Council Regulation or the Convention,

(b) pursuant to a measure that is entitled to recognition in accordance with the provisions of the Convention, or

(c) by operation of the law of a state other than the State as provided for in Chapter III of the Convention,

acquired, in respect of the child, rights and responsibilities that are equivalent to guardianship.
(2) The court may, in accordance with this Act and, where applicable, the Council Regulation and the Convention, remove, vary or enforce the rights and responsibilities of a guardian to whom subsection (1) applies.

(3) In this section—

‘Convention’ means the Convention on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children, signed at the Hague on the 19th day of October, 1996;


‘judgment’ means a judgment as defined in Chapter I of Article 2 of the Council Regulation;

‘measure’ means a judgment or decision which is made in accordance with Chapter II of the Convention;

‘person’ includes a person, institution or other body.

Power of court to appoint temporary guardian

6E. (1) A qualifying guardian may nominate a person to be, in the event that the qualifying guardian becomes incapable through serious illness or injury of exercising the rights and responsibilities of guardianship, temporary guardian of the child concerned.

(2) The nomination under subsection (1) of a person to be a temporary guardian shall—

(a) be in writing, in such form as may be prescribed, and

(b) specify such limitations (if any) as the qualifying guardian wishes to impose on the rights and responsibilities of guardianship that the temporary guardian, if appointed under this section, may exercise.

(3) Where a qualifying guardian who has nominated a person under subsection (1), or a person so-nominated (in this section referred to as the ‘nominated person’), is of opinion that the qualifying guardian is incapable through serious illness or injury of exercising the rights and responsibilities of guardianship, that guardian or nominated person may apply to the court for an order under this section.

(4) An application under subsection (3) shall be on notice to—

(a) each guardian of the child, including, where the application is made by the nominated person, the qualifying guardian concerned,
(b) where the application is made by the qualifying guardian concerned, the nominated person,

(c) a parent (if any) of the child who is not the child’s guardian, and

(d) the Child and Family Agency.

(5) The court, on hearing an application under subsection (3), and having regard to the views (if any) of the persons referred to in subsection (4), may make an order appointing the nominated person to be a temporary guardian of the child concerned where, and only where, it is satisfied that—

(a) the qualifying guardian concerned is incapable through serious illness or injury of exercising the rights and responsibilities of guardianship,

(b) the nominated person is a fit and proper person to exercise the rights and responsibilities specified in subsection (8), and

(c) it is in the best interests of the child concerned for the nominated person to become the temporary guardian of the child.

(6) An order under subsection (5) may impose—

(a) such limitations on the exercise by the temporary guardian of the rights and responsibilities of guardianship, and

(b) such conditions relating to the periodic review by the court of the appointment of the person as temporary guardian,

as the court considers necessary in the best interests of the child concerned.

(7) In imposing limitations or conditions under subsection (6), the court shall have regard to the limitations specified by the qualifying guardian under subsection (2).

(8) Subject to the terms of the order concerned under subsection (5), a person appointed to be temporary guardian—

(a) may exercise the rights and responsibilities of guardianship in respect of the child concerned,

(b) shall take custody of the child concerned, and

(c) shall act jointly with any other guardian of the child concerned, including the qualifying guardian concerned.

(9) A temporary guardian shall, and the qualifying guardian concerned may, where he or she is of opinion that the qualifying guardian is no longer incapable of exercising the rights and responsibilities of guardianship, apply to the court for an order under subsection (11).

(10) An application under subsection (9) shall be on notice to—
(a) each guardian of the child concerned, including, where the application is made by a temporary guardian, the qualifying guardian concerned,

(b) any parent of the child who is not the child’s guardian, and

(c) the Child and Family Agency.

(11) The court, on hearing an application under subsection (9), may make an order—

(a) confirming that the appointment of the temporary guardian shall continue in force,

(b) to the effect that the qualifying guardian is capable of exercising the rights and responsibilities of guardianship and revoking the appointment of the temporary guardian, or

(c) to the effect that the qualifying guardian shall have specified rights and responsibilities of guardianship and that the other rights and responsibilities of guardianship shall be exercised by the qualifying guardian and temporary guardian jointly.

(12) An order under subsection (11) may—

(a) specify the period for which it shall remain in effect,

(b) impose such conditions relating to the periodic review by the court of the order as the court considers necessary in the best interests of the child concerned, and

(c) provide for such additional matters as the court considers necessary in the best interests of the child concerned.

(13) In considering an application under subsection (3) or (9), the court shall ensure that the child concerned, to the extent possible given his or her age and understanding, has the opportunity to make his or her views on the matter known, and the court shall take account of those views.

Declaration that person is guardian

6F. (1) A person specified in subsection (2) may apply to the court for a declaration under this section that a person named in the application is or is not a guardian by virtue of the circumstances set out in section 2(4A) or 6B(3) of a child named in the application (in this section referred to as the ‘child concerned’).

(2) An application for a declaration under this section may be made, in relation to a child concerned, by—

(a) a guardian of the child concerned, or
(b) a person seeking a declaration that he or she is or is not a guardian by virtue of the circumstances set out in section 2(4A) or 6B(3) of the child concerned.

(3) An application for a declaration under this section shall not be made in relation to a child concerned other than—

(a) where the application is made by a person referred to in subsection (2)(a), on notice to each other guardian of the child and the person named in the application in relation to whom the declaration is sought, and

(b) where the application is made by a person referred to in subsection (2)(b), on notice to each guardian of the child.

(4) The court may direct that notice of any application for a declaration under this section shall be given to such other persons as the court thinks fit and where notice is so given or where notice is given under subsection (3) to any person the court may, either of its own motion or on the application of that person or any party to the proceedings, order that that person shall be added as a party to those proceedings.

(5) Where on an application for a declaration under this section it is proved on the balance of probabilities that a person named in the application is or is not a guardian by virtue of the circumstances set out in section 2(4A) or 6B(3) of the child concerned, the court shall make the declaration accordingly.”.

**Power of parents to appoint testamentary guardians**

50. The Act of 1964 is amended by the substitution of the following section for section 7:

“**Power of parents to appoint testamentary guardians**

7. (1) On the death of the guardian (‘deceased guardian’) of a child, a guardian (‘suriving guardian’) surviving the deceased guardian, if any, shall be guardian of the child jointly, where applicable, with—

(a) any other surviving guardian, and

(b) any person or persons appointed testamentary guardian by the deceased guardian in accordance with this section.

(2) A guardian who is—

(a) the parent of a child, or

(b) not being the parent of the child, has custody of him or her to the exclusion of any living parent of the child,

may by deed or will appoint a person or persons to be guardian (‘testamentary guardian’) of the child after his or her death.
(3) On the death of a guardian referred to in subsection (2), the testamentary guardian appointed by the deceased guardian shall, subject to subsections (4) and (5), act jointly with a surviving guardian of the child so long as that surviving guardian remains alive.

(4) Where subsection (3) applies and—

(a) a surviving guardian referred to in that subsection objects to a testamentary guardian acting jointly with him or her, or

(b) the testamentary guardian considers that a surviving guardian is unfit to have the custody of the child,

the surviving guardian or the testamentary guardian, as the case may be, may apply to the court for an order under this section.

(5) On an application under subsection (4), the court may make an order providing that—

(a) the appointment of the testamentary guardian is revoked and the surviving guardian shall remain guardian of the child concerned,

(b) the testamentary guardian shall act jointly with the surviving guardian, or

(c) the testamentary guardian shall act as guardian of the child to the exclusion, insofar as the court thinks proper, of the surviving guardian.

(6) Where the court makes an order under subsection (5)(c), it may make all or any of the following orders:

(a) such order regarding the custody of the child and the right of access to the child of the surviving guardian as it thinks proper;

(b) an order that a parent of the child shall pay to the guardian or guardians, or any of them, towards the maintenance of the child such weekly or other periodical sum as, having regard to the means of the surviving parent, it considers reasonable.

(7) An appointment of a testamentary guardian by deed may be revoked by a subsequent deed or by will.”.

Amendment of section 8 of Act of 1964

51. Section 8 of the Act of 1964 is amended by—

(a) the substitution of the following subsection for subsection (4):

“(4) A guardian—

(a) appointed by will or deed,

(b) appointed by order of the court,"
(c) holding office by virtue of the circumstances set out in subsection (4) or (4A) of section 2, or subsection (3) or (4) of section 6B, or

(d) holding office by virtue of section 6D, and subject to subsection (2) of that section,

may be removed from office only by the court.

and

(b) the insertion of the following subsections after subsection (5):

“(6) The court may, on application by a guardian or a proposed guardian make an order removing from office a guardian (including a guardian who is the applicant)—

(a) appointed pursuant to section 6A, 6C, 7 or subsection (1) or (2), or

(b) who holds office by virtue of the circumstances set out in subsection (4) or (4A) of section 2, or subsection (3) or (4) of section 6B, or

(c) who holds office by virtue of section 6D.

(7) The court shall remove a guardian from office under subsection (6) only where—

(a) there is another guardian in place or about to be appointed,

(b) the court is satisfied that it is in the best interests of the child that the guardian be removed from office,

(c) for substantial reasons that appear to it to be sufficient, the court considers it necessary or desirable to do so, and

(d) the guardian who is to be removed from office—

(i) consents to the removal,

(ii) is unable or unwilling to exercise the powers, responsibilities and entitlements of guardianship in respect of the child, or

(iii) has failed in his or her duty towards the child to such extent that the safety or welfare of the child is likely to be prejudicially affected if he or she is not removed from office.”.

Insertion of section 8A in Act of 1964

52. The Act of 1964 is amended by the insertion of the following section after section 8:

“Duration of guardianship

8A. Subject to section 8, a person continues to be a guardian of a child until whichever of the following occurs first—

(a) the guardian dies,
(b) the child attains the age of 18 years, or
(c) the child marries.”.

Amendment of section 11 of Act of 1964

53. Section 11 of the Act of 1964 is amended by—

(a) the substitution of the following subsection for subsection (2):

“(2) The court may by an order under this section—

(a) give such directions as it thinks proper regarding the custody of the child and the right of access to the child of each of his or her parents, and

(b) order a parent of the child to pay towards the maintenance of the child such weekly or other periodical sum as, having regard to the means of the parent, the court considers reasonable.”,

(b) the substitution of the following subsection for subsection (4):

“(4) In the case of a child whose parents have not married each other—

(a) a reference in subsection (2)(b) to a parent of that child shall be construed as including a parent who is not a guardian of the child, and

(b) the right to make an application under this section regarding the custody of the child and the right of access thereto of each of his or her parents shall extend to a parent who is not a guardian of the child, and for this purpose references in this section to the parent of a child shall be construed as including such a parent.”,

and

(c) the insertion of the following subsection after subsection (9):

“(10) An application under subsection (1) shall be on notice to each other person who is a parent or guardian of the child concerned.”.

Amendment of section 11A of Act of 1964

54. Section 11A of the Act of 1964 is amended by the substitution of “parents” for “father and mother”.

Amendment of section 11B of Act of 1964

55. Section 11B of the Act of 1964 is amended—

(a) in subsection (1), by the substitution of the following paragraph for paragraph (b):

“(b) is a person with whom the child resides or has formerly resided,”,
(b) by the deletion of subsection (2), and
(c) in subsection (3)—

(i) in paragraph (c), by the substitution of “guardians,” for “guardians.,” and
(ii) by the insertion of the following paragraphs after paragraph (c):

“(d) the views of the child, and

(e) whether it is necessary to make an order to facilitate the access of
the person to the child.”.

Amendment of section 11D of Act of 1964
56. Section 11D of the Act of 1964 is amended by the substitution of “each of his or her
parents” for “both his or her father and mother”.

 Relatives and certain persons may apply for custody of child
57. The Act of 1964 is amended by the insertion of the following section after section 11D:

“Relatives and certain persons may apply for custody of child
11E. (1) The court may, on application by—

(a) a person who is a relative of a child, or
(b) a person to whom subsection (2) applies,

make an order giving that person custody of the child.

(2) This subsection applies to a person with whom the child concerned
resides where the person—

(a) (i) is or was married to or in a civil partnership with, or has been,
for a period of over 3 years, the cohabitant of the parent of the
child, and
(ii) has, for a period of more than 2 years, shared with that parent
responsibility for the child’s day-to-day care,

or

(b) (i) is an adult who has, for a continuous period of more than 12
months, provided for the child’s day-to-day care, and
(ii) the child has no parent or guardian who is willing or able to
exercise the rights and responsibilities of guardianship in
respect of the child.

(3) Subject to subsection (4), the court shall not make an order under
subsection (1) without the consent of each guardian of the child.

(4) The court may make an order dispensing with the consent of a
 guardian if satisfied it is in the best interests of the child to do so.
children and family relationships act 2015.

58. the act of 1964 is amended by the insertion of the following section after section 12:

“additional powers of court in relation to applications under this act

12a. (1) in making any order under this act, the court may impose such conditions as it considers to be necessary in the best interests of the child.

(2) the court may, where it considers it necessary and appropriate in order to protect the best interests of the child, including his or her right to the care and custody of both of his or her parents, impose conditions in relation to the holding of the passport of a child.

(3) the conditions referred to in subsection (2) include that a passport may be retained by the court or held by a specified person and may be released subject to such further conditions as may be determined by the court.

(4) where, in any proceedings pursuant to this part, it appears to the court that it may be appropriate for a care order or a supervision order to be made with respect to a child concerned in the proceedings, the court may, of its own motion, or on the application of any person, adjourn the proceedings and make such directions under section 20 of the child care act 1991 as the court may deem appropriate.”.

amendment of section 18(2) of act of 1964

59. section 18(2) of the act of 1964 is amended by the substitution of “parents” for “father and mother”.

insertion in act of 1964 of sections 18a to 18d

60. the act of 1964 is amended by the insertion of the following sections after section 18:

“enforcement orders

18a. (1) a guardian or parent of a child who has been—
(a) granted, by order of the court made under this Act, custody of, or access to, that child, and

(b) unreasonably denied such custody or access by another guardian or parent of that child,

may apply to the court for an order (‘enforcement order’) under this section.

(2) An application under subsection (1) shall be on notice to each guardian and parent of the child concerned.

(3) Subject to subsection (4), the court, on an application under subsection (1), shall make an enforcement order only where it is satisfied that—

(a) the applicant was unreasonably denied custody or access, as the case may be, by the other parent or guardian,

(b) it is in the best interests of the child to do so, and

(c) it is otherwise appropriate in the circumstances of the case to do so.

(4) An enforcement order may provide for one or more than one of the following:

(a) that the applicant be granted access to the child for such periods of time (being periods of time in addition to the periods of time during which the applicant has access to the child under the order referred to in subsection (1)(a)) that the court may consider necessary in order to allow any adverse effects on the relationship between the applicant and child caused by the denial referred to in subsection (1) to be addressed;

(b) that the respondent reimburse the applicant for any necessary expenses actually incurred by the applicant in attempting to exercise his or her right under the order referred to in subsection (1)(a) to custody of, or access to, the child;

(c) that the respondent or the applicant, or both, in order to ensure future compliance by them with the order referred to in subsection (1)(a) do one or more than one of the following:

(i) attend, either individually or together, a parenting programme;

(ii) avail, either individually or together, of family counselling;

(iii) receive information, in such manner and in such form as the court may determine on the possibility of their availing of mediation as a means of resolving disputes between them, that adversely affect their parenting capacities, between the applicant and respondent.

(5) An enforcement order shall not contain a provision referred to in subsection (4)(a) unless—
(a) the child, to the extent possible given his or her age and understanding, has had the opportunity to make his or her views on the matter known to the court, and

(b) the court has taken the views (if any) of the child referred to in paragraph (a) into account in making the order.

(6) Where the court, on an application under subsection (1), is of the opinion that the denial of custody or access was reasonable in the particular circumstances, it may—

(a) refuse to make an enforcement order, or

(b) make such enforcement order that it considers appropriate in the circumstances.

(7) This section is without prejudice to the law as to contempt of court.

(8) In this section—

‘family counselling’ means a service provided by a family counsellor in which he or she assists a person or persons—

(a) to resolve or better cope with personal and interpersonal problems or difficulties relating to, as the case may be, his, her or their marriage, civil partnership, cohabitation or parenting of a child, or

(b) to resolve or better cope with personal and interpersonal problems or difficulties, or issues relating to the care of children, where the person or persons is or are affected, or likely to be affected, by separation, divorce, the dissolution of a civil partnership or the ending of a relationship of cohabitation;

‘family counsellor’ means a person who has the requisite skill and judgment to provide family counselling;

‘parenting programme’ means a programme that is designed to assist (including by the provision of counselling services or the teaching of techniques to resolve disputes) a person in resolving problems that adversely affect the carrying out of his or her parenting responsibilities.

Person presumed to have seen order of court

18B. A person shall be deemed to have been given or shown a copy of an order made under this Act if that person was present at the sitting of the court at which such order was made.

Power of court to vary or terminate custody or access enforcement order

18C. (1) The court may, on application by a person granted by order of the court made under this Act, custody of, or access to a child, make an order varying or terminating an enforcement order or any part of that order.
(2) The court may, in proceedings to vary or terminate a custody or access order, in those proceedings vary or terminate an enforcement order that relates to that custody or access order.

**Enforcement of custody or access order**

**18D.** (1) Where a guardian or parent of a child—

(a) has been granted, by order of the court made under this Act, custody of, or access to that child, and

(b) fails, without reasonable notice to another guardian or parent of the child, to exercise the right concerned,

the other parent or guardian of the child may apply to the court for an order requiring the first-mentioned guardian or parent to reimburse to the second-mentioned guardian or parent any necessary expenses actually incurred by that guardian or parent as a result of the failure of the first-mentioned guardian or parent to exercise that right.

(2) In this section, and section 18A, ‘necessary expenses’ include the following:

(a) travel expenses;

(b) lost remuneration;

(c) any other expenses the court may allow.”.

**Amendment of section 23 of Act of 1964**

**61.** Section 23 of the Act of 1964 is amended by—

(a) designating the section as subsection (1), and

(b) by inserting the following subsections after subsection (1):

“(2) Subsection (1) does not apply to—

(a) an admission by a party that indicates a child has been abused or is at risk of abuse, or

(b) a disclosure by a child that indicates the child has been abused or is at risk of abuse.

(3) In this section, ‘abuse’ means physical, sexual or emotional abuse.”.

**Amendment of section 27 of Act of 1964**

**62.** Section 27 of the Act of 1964 is amended in subsection (1) by the substitution of “section 6A, 6C, 6E, 11, 11B or 11E” for “section 6A, 11 or 11B”.

**Insertion of Part V in Act of 1964**

**63.** The Act of 1964 is amended by the insertion of the following after Part IV:
“Part V

BEST INTERESTS OF THE CHILD

Determination by court of best interests of child

31. (1) In determining for the purposes of this Act what is in the best interests of a child, the court shall have regard to all of the factors or circumstances that it regards as relevant to the child concerned and his or her family.

(2) The factors and circumstances referred to in subsection (1) include:

(a) the benefit to the child of having a meaningful relationship with each of his or her parents and with the other relatives and persons who are involved in the child’s upbringing and, except where such contact is not in the child’s best interests, of having sufficient contact with them to maintain such relationships;

(b) the views of the child concerned that are ascertainable (whether in accordance with section 32 or otherwise);

(c) the physical, psychological and emotional needs of the child concerned, taking into consideration the child’s age and stage of development and the likely effect on him or her of any change of circumstances;

(d) the history of the child’s upbringing and care, including the nature of the relationship between the child and each of his or her parents and the other relatives and persons referred to in paragraph (a), and the desirability of preserving and strengthening such relationships;

(e) the child’s religious, spiritual, cultural and linguistic upbringing and needs;

(f) the child’s social, intellectual and educational upbringing and needs;

(g) the child’s age and any special characteristics;

(h) any harm which the child has suffered or is at risk of suffering, including harm as a result of household violence, and the protection of the child’s safety and psychological well-being;

(i) where applicable, proposals made for the child’s custody, care, development and upbringing and for access to and contact with the child, having regard to the desirability of the parents or guardians of the child agreeing to such proposals and co-operating with each other in relation to them;

(j) the willingness and ability of each of the child’s parents to facilitate and encourage a close and continuing relationship between the child and the other parent, and to maintain and foster relationships between the child and his or her relatives;
(k) the capacity of each person in respect of whom an application is made under this Act—

(i) to care for and meet the needs of the child,

(ii) to communicate and co-operate on issues relating to the child, and

(iii) to exercise the relevant powers, responsibilities and entitlements to which the application relates.

(3) For the purposes of subsection (2)(h), the court shall have regard to household violence that has occurred or is likely to occur in the household of the child, or a household in which the child has been or is likely to be present, including the impact or likely impact of such violence on:

(a) the safety of the child and other members of the household concerned;

(b) the child’s personal well-being, including the child’s psychological and emotional well-being;

(c) the victim of such violence;

(d) the capacity of the perpetrator of the violence to properly care for the child and the risk, or likely risk, that the perpetrator poses to the child.

(4) For the purposes of this section, a parent’s conduct may be considered to the extent that it is relevant to the child’s welfare and best interests only.

(5) In any proceedings to which section 3(1)(a) applies, the court shall have regard to the general principle that unreasonable delay in determining the proceedings may be contrary to the best interests of the child.

(6) In obtaining the ascertainable views of a child for the purposes of subsection (2)(b), the court—

(a) shall facilitate the free expression by the child of those views and, in particular, shall endeavour to ensure that any views so expressed by the child are not expressed as a result of undue influence, and

(b) may make an order under section 32.

(7) In this section ‘household violence’ includes behaviour by a parent or guardian or a household member causing or attempting to cause physical harm to the child or another child, parent or household member, and includes sexual abuse or causing a child or a parent or other household member to fear for his or her safety or that of another household member.
Power of court to make certain orders

32. (1) In proceedings to which section 3(1)(a) applies, the court may, by order, do either or both of the following:

(a) give such directions as it thinks proper for the purpose of procuring from an expert a report in writing on any question affecting the welfare of the child; or

(b) appoint an expert to determine and convey the child’s views.

(2) An order under subsection (1) may be made by the court of its own motion or on application to it in that behalf by a party to the proceedings and, in deciding whether to make an order, the court shall have regard to any views expressed to it in relation to the matter by or on behalf of a party to the proceedings concerned or any other person to whom they relate.

(3) Without prejudice to the generality of subsection (1), the court, in deciding whether to make an order under that subsection, shall, in particular, have regard to the following:

(a) the age and maturity of the child;

(b) the nature of the issues in dispute in the proceedings;

(c) any previous report under subsection (1)(a) on a question affecting the welfare of the child;

(d) the best interests of the child;

(e) whether the making of the order will assist the expression by the child of his or her views in the proceedings;

(f) the views expressed by a person referred to in subsection (2).

(4) A copy of a report under subsection (1)(a) may be provided in evidence in the proceedings and shall be given to—

(a) the parties to the proceedings concerned, and

(b) subject to subsection (5), if he or she is not a party to the proceedings, to the child concerned.

(5) In determining whether a report obtained under subsection (1)(a) should be furnished to the child to whom it relates, the court shall have regard to the following:

(a) the age and maturity of the child and the capacity of the child to understand the report;

(b) the impact on the child of reading the report and the effect it may have on his or her relationship with his or her parents or guardians;

(c) the best interests of the child;
(d) whether the best interests of the child would be better served by the furnishing of the report to the parent, guardian, next friend of the child or an expert appointed under subsection (1)(b), rather than to the child himself or herself.

(6) An expert appointed under subsection (1)(b) shall—

(a) ascertain the maturity of the child,

(b) where requested by the court, ascertain whether or not the child is capable of forming his or her views on the matters that are the subject of the proceedings, and report to the court accordingly,

(c) where paragraph (b) does not apply, or where paragraph (b) applies and the expert ascertains that the child is capable of forming his or her own views on the matters that are the subject of the proceedings—

(i) ascertain the views of the child either generally or on any specific questions on which the court may seek the child’s views, and

(ii) furnish to the court a report, which shall put before the court any views expressed by the child in relation to the matters to which the proceedings relate.

(7) The court or a party to proceedings to which this section applies may call as a witness in the proceedings an expert appointed under subsection (1).

(8) Where, in proceedings referred to in subsection (1), the court has made an order under paragraph (a) or (b) of subsection (1), nothing in this section shall prevent the court from—

(a) making a further order under either or both of those paragraphs, or

(b) in making such a further order, appointing the same or a different expert to perform the function concerned.

(9) The fees and expenses of an expert appointed under subsection (1) shall be paid by such parties to the proceedings concerned and in such proportions, or by such party to the proceedings, as the court may determine.

(10) The Minister may, in consultation with the Minister for Children and Youth Affairs, by regulation specify—

(a) the qualifications and experience of an expert appointed under this section, and

(b) the fees and allowable expenses that may be charged by such an expert.
(11) Without prejudice to the generality of subsection (10), regulations under that subsection may provide for:

(a) the qualifications, and the minimum level of professional experience, to be held by an expert,

(b) the minimum standards that shall apply to the performance by an expert of his or her functions under this section, and

(c) such other matters as the Minister considers necessary to ensure that experts are capable of performing their functions under this section.”.

PART 5

AMENDMENTS TO SUCCESSION ACT 1965

Amendment of section 3 of Act of 1965

64. Section 3 of the Act of 1965 is amended in subsection (1) by the insertion of the following definition:

“‘Act of 2015’ means the Children and Family Relationships Act 2015;”.

Amendment of section 4A of Act of 1965

65. Section 4A of the Act of 1965 is amended—

(a) in subsection (1), by the substitution of “Subject to subsection (1A), in deducing any relationship” for “In deducing any relationship”,

(b) by the insertion of the following subsection after subsection (1):

“(1A) In deducing any relationship for the purposes of this Act, the relationship between every donor-conceived child (within the meaning of the Act of 2015) and his or her parents shall be determined in accordance with section 5 of the Act of 2015 and all other relationships shall be determined accordingly.”,

(c) in subsection (2), by the substitution of “Subject to subsection (2A) (inserted by section 65(d) of the Act of 2015), where a person” for “Where a person”, and

(d) by the insertion of the following subsection after subsection (2):

“(2A) The reference to father in subsection (2) does not include a man who is, under section 5 of the Act of 2015, a parent of the first-mentioned person referred to in that subsection.”.

Amendment of section 27A of Act of 1965

66. The Act of 1965 is amended in section 27A—
(a) by designating the section as subsection (1),

(b) in subsection (1) (as designated by paragraph (a))—

(i) by the substitution of “Subject to subsection (2), for the purpose of the application” for “For the purpose of the application”, and

(ii) by the substitution of “whose parents have not married each other or whose parents are not civil partners of each other” for “whose parents have not married each other” in each place it occurs,

and

(c) by the insertion of the following subsections after subsection (1):

“(2) Subsection (1) shall not apply in relation to a person whose parents have not married each other or whose parents are not civil partners of each other where—

(a) the person has been adopted by a cohabiting couple—

(i) under an adoption order, or

(ii) outside the State, where that adoption is recognised by virtue of the law for the time being in force in the State,

or

(b) they are the parents, under section 5 of the Act of 2015, of the person.

(3) In this section—

‘Act of 2010’ means the Adoption Act 2010;

‘adoption order’ has the same meaning as it has in section 3(1) of the Act of 2010;

‘cohabiting couple’ has the same meaning as it has in section 3(1) (amended by section 102 of the Act of 2015) of the Act of 2010.”.

Amendment of section 67A of Act of 1965

67. Section 67A of the Act of 1965 is amended—

(a) in subsection (2)(a), by the substitution of “subject to subsections (3), (3A) (inserted by section 67(c) of the Act of 2015), (4), (5), (6) and (7)” for “subject to subsections (3) to (7)”;

(b) in subsection (3), by the substitution of “Subject to subsection (3A), the court may” for “The court may”, and

(c) by the insertion of the following subsection after subsection (3):

“(3A) An application may not be made under subsection (3) by or on behalf of a child of an intestate where that child is also the child of the surviving civil partner.”.

65
Amendment of section 72A of Act of 1965
68. Section 72A of the Act of 1965 is amended in paragraph (b) by the substitution of “the spouse, civil partner or a direct lineal ancestor” for “the spouse or a direct lineal ancestor”.

Amendment of section 117 of Act of 1965
69. Section 117 of the Act of 1965 is amended by the substitution of the following subsection for subsection (3A):

“(3A) An order under this section—

(a) where the surviving civil partner is a parent of the child, shall not affect the legal right of that surviving civil partner or any devise or bequest to the civil partner or any share to which the civil partner is entitled on intestacy, or

(b) where the surviving civil partner is not a parent of the child, shall not affect the legal right of the surviving civil partner unless the court, after consideration of all the circumstances, including the testator’s financial circumstances and his or her obligations to the surviving civil partner, is of the opinion that it would be unjust not to make the order.”.

Amendment of section 121 of Act of 1965
70. Section 121 of the Act of 1965 is amended in subsection (6) by the substitution of “spouse or civil partner, as the case may be,” for “spouse” in each place it occurs.

PART 6

Amendments to Family Law (Maintenance of Spouses and Children) Act 1976

Amendment of section 3 of Act of 1976
71. Section 3 of the Act of 1976 is amended in subsection (1)—

(a) in the definition of “antecedent order”, by the insertion of the following paragraph after paragraph (d):

“(da) an order under section 8A of this Act (in so far as it is deemed under that section to be a maintenance order),”,

(b) in the definition of “maintenance debtor”, by the substitution of “person” for “spouse” wherever it occurs,

(c) in the definition of “maintenance order”, by the substitution of “an order under section 5, 5A, 5B or 5C” for “an order under either section 5 or 5A”, and

(d) by the insertion of the following definitions:
“‘Act of 2010’ means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;
‘civil partner’ shall be construed in accordance with section 3 of the Act of 2010;
‘cohabitant’ shall be construed in accordance with section 172(1) of the Act of 2010 and includes a former cohabitant;”.

Amendment of section 5A of Act of 1976
72. Section 5A of the Act of 1976 is amended—
   (a) by the substitution of “whose parents are not married to each other and are not civil partners of each other” for “whose parents are not married to each other” wherever it occurs, and
   (b) in subsection (3)(b), by the substitution of the following subparagraph for subparagraph (i):

   “(i) a spouse or a civil partner,.”.

Maintenance by cohabitants of certain dependent children
73. The Act of 1976 is amended by the insertion of the following sections after section 5A:

   “Maintenance order (liability of cohabitant to other cohabitant in respect of child of other cohabitant)
5B. (1) This section applies to a cohabitant of a person (in this section referred to as the maintenance applicant) who is a parent of, or who is in loco parentis to, a dependent child who is under the age of 18 years where the cohabitant—

   (a) is not the parent of the dependent child, and

   (b) is a guardian of the dependent child appointed under section 6C of the Guardianship of Infants Act 1964.

   (2) Subject to subsection (3) of this section, where it appears to the Court, on application to it by a maintenance applicant, that the applicant’s cohabitant has failed to provide such maintenance for a dependent child referred to in subsection (1) of this section as is proper in the circumstances, the Court may make an order (in this Act referred to as a maintenance order) that the cohabitant make to the maintenance applicant periodical payments, for the support of the child, for such period during the lifetime of the maintenance applicant, of such amount and at such times, as the Court may consider proper.

   (3) The Court, in deciding whether to make a maintenance order under this section for the support of a dependent child referred to in subsection (1) of this section and, if it decides to do so, in determining the amount of any payment, shall have regard to all the circumstances
of the case and, in particular, in so far as is practicable, to the following matters—

(a) the income, earning capacity (if any), property and other financial resources of—

(i) the cohabitant,

(ii) the maintenance applicant,

(iii) the child, and

(iv) any other dependent children of the maintenance applicant or the cohabitant,

including income or benefits to which the maintenance applicant, the cohabitant, the child or such other dependent children are entitled by or under statute with the exception of a benefit or allowance or any increase in such benefit or allowance in respect of the child or other dependent children granted to either parent of any such children, and

(b) the financial and other responsibilities of the maintenance applicant and the cohabitant concerned towards—

(i) a spouse, civil partner or cohabitant,

(ii) the child, and

(iii) any other dependent children of the maintenance applicant or the cohabitant,

and the needs of such children, including the need for care and attention.

Maintenance order (liability of cohabitant to any person in respect of child of other cohabitant)

5C. (1) This section applies to a cohabitant (in this section called the relevant cohabitant) of a person who is a parent of, or who is in loco parentis to, a dependent child who is under the age of 18 years where the relevant cohabitant—

(a) is not the parent of the dependent child, and

(b) is a guardian of the child appointed under section 6C of the Guardianship of Infants Act 1964.

(2) Subject to subsection (3) of this section, where it appears to the Court, on application to it by any person, that the relevant cohabitant has failed to provide such maintenance for a dependent child referred to in subsection (1) of this section as is proper in the circumstances, the Court may make an order (in this Act referred to as a maintenance order) that the relevant cohabitant make to the person periodical payments, for the support of the dependent child, for such period
during the lifetime of that person, of such amount and at such times, as the Court may consider proper.

(3) The Court, in deciding whether to make a maintenance order under this section for the support of a dependent child referred to in subsection (1) of this section and, if it decides to do so, in determining the amount of any payment, shall have regard to all the circumstances of the case and, in particular, in so far as is practicable, to the following matters—

(a) the income, earning capacity (if any), property and other financial resources of—

(i) the relevant cohabitant,
(ii) the child, and
(iii) any other dependent children of the relevant cohabitant,

including income or benefits to which the relevant cohabitant, the child or such other dependent children are entitled by or under statute with the exception of a benefit or allowance or any increase in such benefit or allowance in respect of the child or other dependent children granted to either parent of such children, and

(b) the financial and other responsibilities of the relevant cohabitant towards—

(i) a spouse, civil partner or cohabitant,
(ii) the child, and
(iii) any other dependent children of the relevant cohabitant,

and the needs of any such children, including the need for care and attention.

(4) The Court shall not make a maintenance order under subsection (2) of this section in relation to a relevant cohabitant in respect of a dependent child referred to in subsection (1) of this section if a maintenance order is in force under section 5B of this Act requiring that cohabitant to make periodical payments for the support of the child unless—

(a) the cohabitant is not complying with the order under section 5B of this Act, and

(b) the Court, having regard to all the circumstances, thinks it proper to do so,

but, if the Court makes the order under the said subsection (2), any amounts falling due for payment under the order under the said section 5B on or after the date of the making of the order under the said subsection (2) shall not be payable.". 
Amendment of section 6 of Act of 1976
74. Section 6 of the Act of 1976 is amended—
   (a) in subsection (3), by the substitution of “Subject to subsection (3A) of this section, that part of a maintenance order” for “That part of a maintenance order”, and
   (b) by the insertion of the following subsection after subsection (3):
      “(3A) A maintenance order made under section 5B or 5C of this Act shall stand discharged when the person for whose benefit the order was made attains the age of 18 years.”.

Amendment of section 8A of Act of 1976
75. Section 8A of the Act of 1976 is amended by the substitution of “who are not married to each other and are not civil partners of each other enter into an agreement” for “who are not married to each other enter into an agreement”.

Amendment of section 10 of Act of 1976
76. Section 10 of the Act of 1976 is amended in subsection (3)(b)(i) by the substitution of “whether the person concerned” for “whether the spouse concerned”.

Amendment of section 21A of Act of 1976
77. Section 21A of the Act of 1976 is amended in subsection (1) by the substitution of the following paragraph for paragraph (b):
      “(b) in relation to a dependent child whose parents are not married to each other and are not civil partners of each other, a parent.”.

Amendment of section 23 of Act of 1976
78. Section 23 of the Act of 1976 is amended—
   (a) in subsection (1), by the substitution of “proceedings under sections 5, 5A, 5B, 5C, 6, 7, 9 and 21A of this Act” for “proceedings under sections 5, 5A, 6, 7, 9 and 21A of this Act”,
   (b) in subsection (2)—
      (i) in paragraph (b), by the substitution of “under section 5, 5A, 5B, 6, 7 or 9” for “under section 5, 6, 7 or 9”, and
      (ii) in paragraph (c), by the substitution of “under section 5, 5A, 5B, 6, 7 or 9” for “under section 5, 6, 7 or 9”, and
   (c) by the substitution of the following subsection for subsection (3):
“(3) In proceedings under this Act, each party to the proceedings shall give to the other party such particulars of his or her financial circumstances, including property and income, and in so far as is practicable, the financial circumstances of his or her dependent children, as may reasonably be required for the purpose of the proceedings.”.

PART 7

AMENDMENTS TO STATUS OF CHILDREN ACT 1987

Amendment of section 33 of Act of 1987

79. Section 33 of the Act of 1987 is amended by the insertion of the following definitions:

“‘Act of 2015’ means the Children and Family Relationships Act 2015;

‘adopted person’ has the same meaning as in section 3(2)(b) of this Act;

‘donor-conceived child’ has the same meaning as in Part 2 of the Act of 2015;

‘parent’ includes a second parent;

‘second parent’, in relation to a donor-conceived child, means a person who is a parent of the child under section 5(1)(b) of the Act of 2015, other than a person who is a parent under that section by virtue of a declaration obtained under section 21 or 22 of that Act.”.

Amendment of section 35 of Act of 1987

80. Section 35 of the Act of 1987 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) A person specified in subsection (1A) of this section may apply to the Court for a declaration under this section that—

(a) a person named in the application is or is not the mother,

(b) a person named in the application is or is not the father or second parent, or

(c) 2 persons named in the application are or are not the parents,

of a person (other than a person who is an adopted person) named in the application (in this section referred to as the ‘person concerned’).”,

(b) by the insertion of the following subsections after subsection (1):

“(1A) An application for a declaration under this section may be made, in relation to a person concerned, by—

(a) the person concerned,
(b) any person seeking a declaration that he or she is the mother, father or second parent of the person concerned, or

(c) any person seeking a declaration that he or she is not the mother, father or second parent of the person concerned.

(1B) Where an application for a declaration under this section is made by a person referred to in paragraph (b) or (c) of subsection (1A) of this section in relation to a person concerned, the person concerned shall be joined as a party to the proceedings.”,

(c) in subsection (3), by the substitution of “Where an application for a declaration under this section is made in relation to a person concerned who was not born in the State, the person making the application shall specify” for “Where a person not born in the State makes an application for a declaration by virtue of subsection (1)(b) of this section, he shall specify”,

(d) by the deletion of subsection (4), and

(e) by the substitution of the following subsection for subsection (8):

“(8) Where on an application under subsection (1) of this section it is proved on the balance of probabilities that—

(a) a person named in the application is or is not the mother,

(b) a person so named is or is not the father or second parent, or

(c) persons so named are or are not the parents,

of the person concerned, the Court shall make the declaration accordingly.”.

Amendment of section 37 of Act of 1987

81. Section 37 of the Act of 1987 is amended by—

(a) the deletion of the definitions of “blood samples” and “blood test”, and

(b) the insertion of the following definitions:

“‘Act of 2015’ means the Children and Family Relationships Act 2015;

‘bodily sample’ means any of the following taken or to be taken from a person for the purpose of a DNA test:

(a) a swab from the mouth;

(b) a sample of saliva or hair (other than pubic hair);

(c) a blood sample;

‘DNA’ means deoxyribonucleic acid;

‘DNA test’ means any test carried out under this Part with the object of examining and analysing a bodily sample in order to derive, in relation to the person from whom the sample is taken, information comprising a set
of identification characteristics of that person’s DNA;

‘DAHR procedure’ has the same meaning as in section 20 of the Act of 2015;

‘donor-conceived child’ has the same meaning as in Part 2 of the Act of 2015;

‘parent’ means—

(a) in relation to a person who is not a donor-conceived child, his or her mother or father, and

(b) in relation to a donor-conceived child, a person who—

(i) provided a gamete that was used in the DAHR procedure that resulted in the child’s birth, and

(ii) is the mother of the child or is a parent of the child under section 5(1)(b) of the Act of 2015;”.

Amendment of section 38 of Act of 1987

82. Section 38 of the Act of 1987 is amended—

(a) by the substitution of “bodily samples” for “blood samples” wherever it appears, and

(b) in subsection (1), by the substitution of “DNA tests” for “blood tests”.

Amendment of section 39 of Act of 1987

83. Section 39 of the Act of 1987 is amended—

(a) by the substitution of “bodily sample” for “blood sample” wherever it appears, and

(b) in subsection (3)(b), by the substitution of “DNA tests” for “blood tests”.

Amendment of section 40 of Act of 1987

84. Section 40 of the Act of 1987 is amended—

(a) by the substitution of “bodily samples” for “blood samples” wherever it appears, and

(b) in subsection (6)—

(i) in paragraph (a), by the substitution of “DNA tests” for “blood tests”, and

(ii) in paragraph (b), by the substitution of “DNA test” for “blood test”, and by the substitution of “bodily sample” for “blood sample”.

73
Amendment of section 41 of Act of 1987
85. Section 41 of the Act of 1987 is amended in subsection (2)—

(a) in paragraph (a), by the substitution of “bodily samples” for “blood samples”,
(b) in paragraph (b), by the substitution of “bodily sample” for “blood sample”, and
(c) by the substitution of the following paragraph for paragraph (c):

“(c) require any person from whom a bodily sample that is a blood sample is to be taken or, in such cases as may be prescribed by the regulations, such other person as may be so prescribed, to state in writing whether he had during such period as may be specified in the regulations—

(i) suffered from any such illness as may be so specified, or

(ii) received a transfusion of blood or such other medical treatment as may be so specified;.”.

Amendment of section 42 of Act of 1987
86. Section 42 of the Act of 1987 is amended—

(a) in subsection (2), by the substitution of “bodily samples” for “blood samples”, and

(b) in subsection (4), by the substitution of “bodily sample” for “blood sample”.

Amendment of section 43 of Act of 1987
87. Section 43 of the Act of 1987 is amended—

(a) by the substitution of “bodily sample” for “blood sample”,

(b) by the substitution of “a class C fine” for “a fine not exceeding £1,000”, and

(c) by the substitution of “a fine not exceeding €5,000” for “a fine not exceeding £2,500”.

Amendment of section 46 of Act of 1987
88. Section 46 of the Act of 1987 is amended—

(a) by the substitution of the following subsection for subsection (2):

“(2) Notwithstanding subsection (1) of this section, where a married woman, being a woman who is living apart from her husband, gives birth to a child more than ten months after the date of her separation from her husband, then her husband shall be presumed not to be the father of the child unless the contrary is proved on the balance of probabilities.”,

(b) by the insertion of the following subsection after subsection (2):
“(2A) For the purposes of subsection (2) of this section, the date of the separation of a married woman from her husband shall be deemed to be—

(a) the date on which a decree of divorce _a mensa et thoro_ was granted in relation to them,

(b) the date on which a decree of judicial separation was granted in relation to them,

(c) the date on which a deed of separation was executed in relation to them,

(d) the date on which a separation agreement was entered into by them, or

(e) such other date as may be established by the woman.”,

(c) in subsection (3), by the substitution of the following paragraph for paragraph (a):

“(a) the birth of a child is registered in a register maintained under the Civil Registration Act 2004, and”,

and

(d) by the insertion of the following subsection after subsection (4):

“(5) In this section, ‘decree of judicial separation’ means a decree under section 3 of the Judicial Separation and Family Law Reform Act 1989.”.

PART 8

AMENDMENTS TO FAMILY LAW ACT 1995

Amendment of section 2 of Act of 1995

89. Section 2 of the Act of 1995 is amended by the insertion of the following definition:

“‘cohabitant’ shall be construed in accordance with section 172(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 and includes a former cohabitant;”.

Amendment of section 41 of Act of 1995

90. Section 41 of the Act of 1995 is amended—

(a) in paragraph (a), by the substitution of “that other spouse,” for “that other spouse, or”,

(b) in paragraph (b)(ii), by the substitution of “of the family, or” for “of the family,”,

(c) by the insertion of the following paragraph after paragraph (b):
“(c) by a cohabitant to a parent of the child, or to another person specified in the order, of periodical payments for the support of a child,”,

and

(d) by the substitution of “order the person liable” for “order the spouse or parent liable”.

Amendment of section 42 of Act of 1995

91. Section 42 of the Act of 1995 is amended—

(a) in subsection (1), by the substitution of “paragraph (a), (b) or (c) of section 41” for “paragraph (a) or (b) of section 41”, and

(b) by the insertion of the following subsection after subsection (2):

“(2A) Where the court makes an order under subsection (1) that is for the benefit of a child, the court may specify in the order the manner in which, or purpose for which, the payment or payments referred to in that subsection are to be applied, including in providing suitable accommodation for the child to whom the order relates.”.

PART 9

AMENDMENTS TO CIVIL REGISTRATION ACT 2004

Amendment of section 2 of Act of 2004

92. Section 2(1) of the Act of 2004 is amended—

(a) by the insertion of the following definitions:

“‘Act of 2015’ means the Children and Family Relationships Act 2015;

‘donor-conceived child’ has the same meaning as it has in Part 2 of the Act of 2015;

‘parent’, in relation to a donor-conceived child, means the parent or parents of that child under section 5 of the Act of 2015;”,

and

(b) in the definition of “the required particulars”, by—

(i) the substitution of the following for paragraphs (a) and (b):

“(a) in relation to a birth or a living new born child found abandoned, the particulars specified in Part 1 of the First Schedule in relation to the child, the mother of the child and, as applicable, the father or other parent of the child;
(b) in relation to a stillbirth the particulars specified in Part 2 of the
First Schedule in relation to the child, the mother of the child and,
as applicable, the father or other parent of the child;”;

and

(ii) the substitution of the following for paragraph (e):

“(e) in relation to a death, the particulars specified in Part 5 of the First
Schedule in relation to the deceased and, as applicable, the mother,
father, parent and guardian of the deceased;”.

Special provisions in relation to registration of birth of donor-conceived child

93. The Act of 2004 is amended by the insertion of the following after section 19:

“19A. (1) Where a child who is a donor-conceived child is born, the person
referred to in paragraph (a) or (b) of section 19(1) shall comply with
that section in relation to the birth, and shall also give the following to
the registrar—

(a) the certificate furnished to the person under section 27(5) of the Act
of 2015,

(b) a statutory declaration referred to in subsection (2).

(2) A statutory declaration referred to in subsection (1)(b) shall be in the
form for the time being standing approved by an tArd-Chláraitheoir,
and shall state—

(a) the parent or parents of the child consented, in accordance with
Part 2 of the Act of 2015, to being the parents, under section 5 of
that Act, of the child, and

(b) no person, other than the parent or parents referred to in paragraph
(a), is the parent of the child.

(3) Where section 19(3) applies in relation to a birth referred to in
subsection (1), the qualified informant concerned shall comply with
that section, and shall also give the following to the registrar—

(a) the certificate referred to in subsection (1)(a), and

(b) such evidence in his or her possession or within his or her power to
so furnish relating to the consent by the parent or parents, or any
other person, under Part 2 of the Act of 2015, to being the parents,
under section 5 of that Act, of the child.

(4) Where the mother of a child referred to in subsection (1) was married
at the date of the birth of the child or at some time during the period of
10 months ending immediately before such birth, and another person
would, but for this subsection fall to be registered as a parent of the
child under section 19, that person shall not be so registered unless the
person complies with subsection (3) and subsections (3A) to (3H) of section 22(3).

(5) Where—

(a) paragraphs (i) to (iii) of section 19(1) and subsection (1), or

(b) as the case may be, paragraphs (a) to (c) of section 19(3) and subsection (3),

have been complied with in relation to a birth to which subsection (1) applies, the registrar concerned shall register the birth in accordance with this section and in such manner as an tArd-Chláraitheoir may direct.

(6) In registering the birth of a child under this section, the registrar shall note on the register that the child is a child to whom subsection (1) applies.

(7) A note referred to in subsection (6) shall not be shown on any birth certificate issued to the child.

(8) Where—

(a) the birth of a child has been registered other than under this section, and

(b) the registrar receives information from the Minister for Health to the effect that the child is a child to whom subsection (1) applies,

the registrar shall contact the persons who complied with section 19(1) in relation to the birth of the child and such other persons as he or she considers necessary, and make the enquiries necessary to determine whether the birth of the child should be re-registered under this section.

(9) Where the registrar, having made the enquiries referred to in subsection (8), is of the opinion that the child concerned is a child to whom subsection (1) applies, he or she shall re-register the birth of the child under this section and enter in the register the name of the person who is, or persons who are, under section 5 of the Act of 2015, the parent or parents of the child.

(10) Where a person whose birth was registered in accordance with this section and who has attained the age of 18 years applies for a birth certificate, the registrar shall contact that person to inform him or her that further information relating to him or her is available from the National Donor-Conceived Person Register.”.

Sections 23 and 23A of Act of 2004 not to apply to donor-conceived child

94. Sections 23 and 23A of the Act of 2004 shall not apply to a donor-conceived child (within the meaning of Part 2).
Re-registration of birth of donor-conceived child on foot of court order

The Act of 2004 is amended by the insertion of the following section after section 23A:

“23B. (1) Where the birth of a child has been registered under this Act or the repealed enactments a registrar shall re-register the birth in such manner as an tArd-Chláraitheoir may direct and shall enter in the register the name of a person (‘the person’) as the parent of the child if the mother, the person or the child to whose birth the registration relates and who has attained the age of 18 years so requests and gives to the registrar a document purporting to be a copy of a declaration made by the District Court under section 21 of the Act of 2015, or by the Circuit Court under section 22 of the Act of 2015, and to be certified by or on behalf of the court to be a true copy of the order finding that the person is the parent of the child.

(2) Where the birth of a donor-conceived child has been registered, whether or not anybody other than the child’s mother has been registered as a parent of the child, under this Act or the repealed enactments a registrar shall re-register the birth in such manner as an tArd-Chláraitheoir may direct and shall enter in the register the name of a person (‘the person’) as the parent of the child if the mother, the person or the child to whose birth the registration relates and who has attained the age of 18 years so requests and gives to the registrar a document purporting to be a copy of a declaration made by the Circuit Court under section 35 of the Status of Children Act 1987, and to be certified by or on behalf of the court to be a true copy of the order finding that the person is the parent of the child.

(3) A birth shall not be re-registered under this section without the consent of a Superintendent Registrar of the registration area to which the registrar is assigned.

(4) Where a birth is re-registered under this section, the surname of the child entered in the register shall be—

(a) that which was previously registered, or

(b) a surname determined in accordance with Part 1 of the First Schedule.

(5) Where one of the persons to whom subsection (1) applies makes a request to a registrar under that provision, the registrar shall notify any other persons referred to in that provision capable of making a request.

(6) Where one of the persons to whom subsection (2) applies makes a request to a registrar under that provision, the registrar shall notify any other persons referred to in that provision capable of making a request and anybody registered as a parent, other than the mother, of the child, as the case may be.
(7) When a birth is being re-registered under this section, the register shall be signed by—

(a) the mother of the child, if she has made, or joined in the making of, the request under subsection (1) or (2),

(b) the person declared by the court referred to in subsection (1) or (2) to be the parent of the child, if he or she has made, or joined in the making of, the request under that subsection, and

(c) the child to whom the registration relates, if he or she has reached the age of 18 where he or she has made, or joined in the making of the request concerned under subsection (1) or (2).

(8) The registrar shall notify the Superintendent Registrar of the registration area to which the registrar is assigned, who shall advise an tArd-Chláraitheoir of a request in that behalf, and an tArd-Chláraitheoir, on production to him or her of such evidence as he or she considers adequate to show that exceptional circumstances exist such that it is necessary for the relief of undue hardship, may direct the Superintendent Registrar to cause the birth to be re-registered notwithstanding that a person referred to in paragraph (a), (b) or (c) of subsection (7) has not signed the register.

(9) When a birth is re-registered under this section, the then existing entry relating to the birth shall be retained in the register.

(10) Where the person declared by the court referred to in subsection (1) or (2) to be the parent of the child is a male, he may be registered as the father of the child.”.

Miscellaneous amendments to Act of 2004

96. (1) Section 22 (1K) of the Act of 2004 is amended by the substitution of “(1B)(ii)” for “(1B)(b)(ii)”.

(2) Section 25A of the Act of 2004 is amended by the substitution of “(1K)” for “(1J)” in subsections (2) and (3).

Registrar may take and receive statutory declaration under Guardianship of Infants Act 1964

97. The Act of 2004 is amended by the insertion of the following section after section 27:

“27A. For the purposes of section 1(1)(d) of the Statutory Declarations Act 1938, a registrar may, during the period of 14 days immediately following the date on which the birth of a child is registered or re-registered, take and receive a statutory declaration made under section 2(4)(e) or 6B(4)(c) of the Guardianship of Infants Act 1964 in respect of the child.”.
Amendment of section 44C(2) of Act of 2004

98. Section 44C(2) of the Act of 2004 is amended by the insertion of the following subparagraph after subparagraph (xii):

“(xiiA) forename and birth surname of parent of deceased;”.

Amendment of First Schedule to Act of 2004

99. The First Schedule to the Act of 2004 is amended—

(a) by the insertion in Part 1 of the following after “Birth surname of father’s mother”:

“Forename(s) (if any) of parent.
Date of birth of parent.
Civil status of parent.
Personal public service number of parent.
Birth surname of parent’s mother.”,

and

(b) by the insertion in Part 2 of the following after “Birth surname of father’s mother”:

“Forename(s) (if any) of parent.
Date of birth of parent.
Civil status of parent.
Personal public service number of parent.
Birth surname of parent’s mother.”,

and

(c) by the insertion in Part 5 of the following after “Forename(s) and birth surname of mother of deceased”:

“Forename(s) and birth surname of parent of deceased”.

PART 10

Amendment to Passports Act 2008

Amendment to Passports Act 2008

100. Section 14 of the Passports Act 2008 is amended—

(a) by the substitution of the following for subsection (1):

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“(1) Subject to this section, the Minister shall, before issuing a passport to a child, be satisfied on reasonable grounds that—

(a) where the child has 2 guardians, each guardian of the child, and

(b) where the child has more than 2 guardians, not fewer than 2 of those guardians,

consents to the issue of a passport to the child.”,

(b) in subsection (5)—

(i) by the insertion after “other guardian” in each place where it occurs of “or, if appropriate, the other guardians”, and

(ii) in paragraph (a), by the substitution of “any other guardian” for “that other guardian”,

and

(c) by the insertion of the following subsection after subsection (5):

“(5A) (a) Subject to this Act, and on application in that behalf to him or her in accordance with section 6 by a guardian of the child, the Minister may, without the consent to such issue of the other guardian or, if appropriate, the other guardians of the child, issue a passport to a child who is ordinarily resident outside the State, where—

(i) a court or competent judicial or administrative authority of the state of ordinary residence of the child takes a measure directing that a passport may be issued to the child without the consent to such issue of the other guardian or, if appropriate, the other guardians of the child, or

(ii) by operation of the law of the state of ordinary residence of the child, the requirements relating to the consent of the other guardian or, if appropriate, the other guardians of the child have been fulfilled.

(b) Paragraph (a) is without prejudice to paragraph 2 of Article 23 of the Convention.

(c) In this subsection—


‘Convention’ has the meaning it has in section 1 of the Act of 2000;

‘guardian’, in relation to a child, includes a person exercising parental responsibility in respect of the child, within the meaning of paragraph 2 of Article 1 of the Convention;

‘measure’ has the meaning it has in section 1 of the Act of 2000;
‘state’ means a state that is another contracting state, within the meaning of section 1 of the Act of 2000.

PART 11

AMENDMENTS TO ADOPTION ACT 2010

Definition (Part 11)

101. In this Part, “Principal Act” means the Adoption Act 2010.

Amendment of section 3 of Principal Act

102. Section 3 of the Principal Act is amended in subsection (1)—

(a) by the insertion of the following definitions:

“‘Act of 2010’ means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;


‘civil partner’ shall be construed in accordance with section 3 of the Act of 2010;

‘cohabitant’ shall be construed in accordance with section 172(1) of the Act of 2010;

‘cohabiting couple’ means 2 adults who are cohabitants of each other and who have been living together as cohabitants for a continuous period of not less than 3 years;

‘donor-conceived child’ has the same meaning as it has in Part 2 of the Act of 2015;

‘father’, in relation to a child, includes a man who is, under section 5 of the Act of 2015, a parent of the child where that child is a donor-conceived child;

‘second female parent’, in relation to a child, means a woman (other than the mother) who is, under section 5 of the Act of 2015, a parent of the child where that child is a donor-conceived child;”;

(b) in the definition of “guardian”, by the substitution of the following paragraph for paragraph (a):

“(a) is a guardian of the child pursuant to the Guardianship of Infants Act 1964 other than a guardian appointed—

(i) under section 6C of that Act where subsection (9) of that section applies to that appointment but the court has not made an order that that person enjoys the rights and responsibilities specified in subsection (11)(f) of that section, or

(ii) under section 6E of that Act or”,
(c) by the substitution of the following definition for the definition of “parent”:

“'parent’, in relation to a child, means the mother, father or second female parent of the child;”,

and

(d) in the definition of “relative” by the substitution of “relationship to the child being traced through a parent of that child” for “relationship to the child being traced through the mother or the father”.

Amendment of section 4 of Principal Act

Section 4 of the Principal Act is amended in paragraph (k) by the substitution of “parents” for “birth parents” in each place it occurs.

Amendment of section 11 of Principal Act

Section 11 of the Principal Act is amended by the insertion of the following definition:

“‘second female parent’, in relation to a child, includes a woman who believes herself to be the second female parent of the child.”.

Amendment of section 12 of Principal Act

Section 12 of the Principal Act is amended by the substitution of the following subsection for subsection (2):

“(2) For the purposes of this section, ‘guardian’ does not include a parent of the child.”.

Amendment of section 16 of Principal Act

The Principal Act is amended by the substitution of the following section for section 16:

“Right to be consulted

16. (1) The father or second female parent of a child, by notice to the Authority, may advise the Authority of his or her wish to be consulted in relation to—

(a) a proposal by an accredited body to place the child for adoption, or

(b) an application by the mother or a relative of the child for an adoption order in respect of the child.

(2) A notice under subsection (1) shall be in writing, be in such form and contain such information as is specified by the Authority and may be given to the Authority before the birth of the child concerned.”.

Amendment of section 17 of Principal Act

Section 17 of the Principal Act is amended—
(a) in subsection (1)(a), by the substitution of “the father or second female parent” for “the father”,

(b) by the substitution of the following subsection for subsection (2):

“(2) Subject to this section, sections 18 and 18A (inserted by section 109 of the Act of 2015), where an accredited body proposes to place a child for adoption, the accredited body, before placing the child for adoption, shall take such steps as are reasonably practicable to consult the father or second female parent, as the case may be, for the purposes of—

(a) informing him or her of the proposed placement,

(b) explaining the legal implications of, and the procedures related to, adoption, and

(c) ascertaining whether or not he or she objects to the proposed placement.”,

(c) in subsection (3)—

(i) by the substitution of “Where the father or second female parent, as the case may be, indicates to the accredited body that he or she” for “Where the father indicates to the accredited body that he”, and

(ii) in paragraph (b), by the substitution of the following subparagraph for subparagraph (i):

“(i) notify the father or second female parent, as the case may be, and mother in writing in the prescribed manner that the accredited body is deferring the placement for the period specified in the notice, not being less than 21 days, commencing on the date of the notice, for the purpose of affording the father or second female parent, as the case may be, an opportunity to make an application to court under section 6A or 11(4) of the Guardianship of Infants Act 1964, and”,

and

(d) in subsection (5)(b), by the substitution of “the father or second female parent, as the case may be,” for “the father” in each place it occurs.

Amendment of section 18 of Principal Act

108. Section 18 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “the father or second female parent, as the case may be,” for “the father”,

(b) in subsection (2), by the substitution of “the father or second female parent, as the case may be,” for “the father”,
(c) in subsection (3), by the substitution of “the father or second female parent, as the case may be, indicating that he or she” for “the father indicating that he”, and

(d) in subsection (4)—

(i) by the substitution of “the father or second female parent, as the case may be,” for “the father” in each place it occurs, and

(ii) by the substitution of the following paragraph for paragraph (b):

“(b) the circumstances of the conception of the child, other than where the child is a donor-conceived child.”.

No pre-placement consultation required

109. The Principal Act is amended by the insertion of the following section after section 18:

“No pre-placement consultation required

18A. (1) Where an accredited body proposes to place a child for adoption and the mother or guardian of the child has furnished evidence to the accredited body that the child—

(a) is a donor-conceived child, and

(b) has no parent other than the mother,

the accredited body shall furnish evidence of the matters referred to in paragraphs (a) and (b) to the Authority in such form and manner as the Authority specifies.

(2) Where, having considered any evidence furnished by an accredited body under subsection (1), the Authority is satisfied that a child the accredited body proposes to place for adoption—

(a) is a donor-conceived child, and

(b) has no parent other than the mother,

it may authorise that accredited body to place that child for adoption.”.

Amendment of section 20 of Principal Act

110. Section 20 of the Principal Act is amended by the substitution of “a married couple, a couple who are civil partners of each other or a cohabiting couple” for “a married couple” in each place it occurs.

Amendment of section 21 of Principal Act

111. Section 21 of the Principal Act is amended in subsection (2) by the substitution of “parents” for “birth parents”.

Amendment of section 30 of Principal Act

112. Section 30 of the Principal Act is amended—
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(a) by the substitution of the following subsection for subsection (1):

“(1) In this section—

‘father’, in relation to a child, includes a person who believes himself to be the father of the child;

‘second female parent’, in relation to a child, includes a woman who believes herself to be the second female parent of the child.”,

(b) in subsection (2) by the substitution of “the father or second female parent” for “the father”,

(c) in subsection (3) by the substitution of “the father or second female parent, as the case may be,” for “the father”,

(d) by the insertion of the following subsection after subsection (3):

“(3A) Where the Authority is satisfied under subsection (2) of section 18A of the matters referred to in paragraphs (a) and (b) of that subsection, it may make the adoption order.”,

and

(e) in subsection (4)—

(i) by the substitution of “the father or second female parent, as the case may be,” for “the father” in each place it occurs, and

(ii) by the substitution of the following paragraph for paragraph (b):

“(b) the circumstances of conception of the child, other than where the child is a donor-conceived child.”.

Amendment of section 32 of Principal Act

113. Section 32 of the Principal Act is amended—

(a) by the substitution of the following paragraph for paragraph (b):

“(b) the child’s mother, if the child is born of parents not married to each other or is the child of parents who are not civil partners of each other,”,

and

(b) by the substitution of “a married couple, a couple who are civil partners of each other or a cohabiting couple” for “a married couple”.

Amendment of section 33 of Principal Act

114. Section 33 of the Principal Act is amended—

(a) in subsection (1)(a)—

(i) by the insertion of the following subparagraphs after subparagraph (i):

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“(ia) the applicants are civil partners of each other who are living together,

(ib) the applicants are a cohabiting couple,”,

and

(ii) by the substitution of the following subparagraph for subparagraph (ii):

“(ii) the applicant is a parent or a relative of the child, or”,

(b) by the insertion of the following subsections after subsection (3):

“(3A) Where an applicant—

(a) for an adoption order, or

(b) for the recognition of an intercountry adoption effected outside the State, other than an applicant who is a person referred to in paragraph (a) or (c) of section 90(3),

is a civil partner of another person who is not an applicant, the Authority shall not make the adoption order, or recognise the intercountry adoption effected outside the State, without the consent of that applicant’s civil partner, given in the manner determined by the Authority unless—

(i) the applicant and the applicant’s civil partner are living apart under a separation agreement,

(ii) the civil partner has deserted the applicant, or

(iii) conduct on the part of the civil partner results in the applicant, with just cause, leaving the civil partner and living separately and apart from him or her.

(3B) Where an applicant—

(a) for an adoption order, or

(b) for the recognition of an intercountry adoption effected outside the State, other than an applicant who is a person referred to in paragraph (a) or (c) of section 90(3),

is a cohabitant of another person who is not an applicant, the Authority shall not make the adoption order, or recognise the intercountry adoption effected outside the State, without the consent of that other person given in the manner determined by the Authority.”,

(c) in subsection (4)—

(i) in paragraph (a), by the substitution of “a married couple, a couple who are civil partners of each other or a cohabiting couple” for “a married couple”,

(ii) in paragraph (b):
(I) by the substitution of “a married couple, a couple who are civil partners of each other or a cohabiting couple” for “a married couple”, and

(II) by the substitution of “a parent” for “the mother or father”,

d in subsection (5), by the substitution of “a married couple living together, a couple who are civil partners of each other living together or a cohabiting couple” for “a married couple living together”, and

e in subsection (6), by the substitution of “a married couple living together, a couple who are civil partners of each other living together or a cohabiting couple” for “a married couple living together”.

Amendment of section 34 of Principal Act

115. Section 34 of the Principal Act is amended by the substitution of “a married couple living together, a couple who are civil partners of each other living together or a cohabiting couple” for “a married couple living together”.

Amendment of section 37 of Principal Act

116. Section 37 of the Principal Act is amended in subsection (1) by the substitution of “a married couple married to each other, a couple who are civil partners of each other or a cohabiting couple” for “a married couple married to each other”.

Amendment of section 38 of Principal Act

117. Section 38 of the Principal Act is amended in subsection (2) by the substitution of “each parent of the child” for “the birth parents of the child”.

Amendment of section 40 of Principal Act

118. Section 40 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “a person, a married couple married to each other, a couple who are civil partners of each other or a cohabiting couple” for “a person or a married couple married to each other”,

(b) in subsection (2), by the substitution of “a married couple living together, a couple who are civil partners of each other living together or a cohabiting couple” for “a married couple living together” in each place it occurs, and

(c) in subsection (4), by the substitution of “the person, married couple, civil partners or cohabiting couple” for “the person or married couple”.

Amendment of section 41 of Principal Act

119. Section 41 of the Principal Act is amended by the substitution of “the person, the married couple, the civil partners or the cohabiting couple” for “the person or married couple” in each place it occurs.
Amendment of section 43 of Principal Act
120. Section 43 of the Principal Act is amended—

(a) in subsection (1)—

(i) by the insertion of the following paragraph after paragraph (d):

“(da) the second female parent of the child or a woman who believes herself to be the second female parent of the child;”,

and

(ii) in paragraph (e), by the substitution of “any guardian” for “the guardian”, and

(b) by the insertion of the following subsection after subsection (5):

“(6) In this section, ‘guardian’ includes any guardian of a child who stands appointed under the Guardianship of Infants Act 1964.”.

Amendment of section 58 of Principal Act
121. Section 58 of the Principal Act is amended—

(a) by the substitution of the following paragraph for paragraph (a):

“(a) the child concerned shall be considered, with regard to the rights and duties of parents and children in relation to each other—

(i) as the child of the adopter or adopters born to him, her or them in lawful wedlock,

(ii) where the adopters are a couple who are civil partners of each other, as the child of those adopters, or

(iii) where the adopters are a cohabiting couple, as the child of those adopters,”,

and

(b) in paragraph (b), by the substitution of “the child’s father or second female parent, as the case may be” for “the child’s father”.

Amendment of section 59 of Principal Act
122. Section 59 of the Principal Act is amended by the substitution of “parents” for “birth parents” in each place it occurs.

Amendment of section 60 of Principal Act
123. Section 60 of the Principal Act is amended—

(a) in subsection (2)—

(i) by the substitution of “the adopter or adopters” for “the adopters”, and
(ii) by the substitution of the following paragraph for paragraph (a):

“(a) (i) the child of the adopter or adopters born to him, her or them in lawful wedlock;

(ii) where the adopters are a couple who are civil partners of each other, the child of those adopters; or

(iii) where the adopters are a cohabiting couple, the child of those adopters, and”,

(b) in subsection (3)—

(i) in paragraph (b), by the substitution of “parent or parents” for “birth parent or parents”, and

(ii) in paragraph (c), by the substitution of the following subparagraph for subparagraph (i):

“(i) (I) the child of the adopter or adopters born to him, her or them in lawful wedlock;

(II) where the adopters are a couple who are civil partners of each other, the child of those adopters; or

(III) where the adopters are a cohabiting couple, the child of those adopters, and”,

(c) in subsection (4)—

(i) in subparagraph (i), by the substitution of “whole blood,” for “whole blood, and”, and

(ii) by the insertion of the following subparagraphs after subparagraph (i):

“(ia) where the adopters are civil partners of each other and the other person is the child or adopted child of both civil partners, as brother or sister of the whole blood,

(ib) where the adopters are a cohabiting couple and the other person is the child or adopted child of that couple, as brother or sister of the whole blood, and”,

and

(d) by the insertion of the following subsections after subsection (7):

“(8) In this section references to adopters being a couple who are civil partners of each other shall be read as including references to adopters who were civil partners of each other at the time the adoption order concerned was made or the intercountry adoption effected outside the State concerned was recognised, as the case may be, but who are no longer civil partners of each other at the time of the disposition of the property concerned.

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(9) In this section references to adopters being a cohabiting couple shall be read as including references to adopters who were living together as a cohabiting couple at the time the adoption order concerned was made or the intercountry adoption effected outside the State concerned was recognised, as the case may be, but who are no longer living together as a cohabiting couple at the time of the disposition of the property concerned.”.

Amendment of section 61 of Principal Act
124. The Principal Act is amended by the substitution of the following section for section 61:

“61. For the purposes of stamp duties chargeable on conveyances or transfers of land, an adopted person shall be considered—

(a) as the child of the adopter or adopters born to him, her or them in lawful wedlock,

(b) where the adopters are a couple who are civil partners of each other, as the child of the adopters born while the adopters were civil partners of each other, or

(c) where the adopters are a cohabiting couple, as the child of the adopters born while the adopters were a cohabiting couple.”.

Amendment of section 62 of Principal Act
125. Section 62 of the Principal Act is amended by the substitution of “a parent” for “the birth parent” in each place it occurs.

Amendment of section 68 of Principal Act
126. Section 68 of the Principal Act is amended in subsection (2)(b) by the substitution of “a parent” for “a birth parent”.

Amendment of section 69 of Principal Act
127. Section 69 of the Principal Act is amended in subsection (2)(b) by the substitution of “a parent” for “a birth parent”.

Amendment of section 78 of Principal Act
128. Section 78 of the Principal Act is amended in subsection (2)(b) by the substitution of “a parent” for “a birth parent”.

Amendment of section 79 of Principal Act
129. Section 79 of the Principal Act is amended in subsection (2)(b) by the substitution of “a parent” for “a birth parent”.

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Amendment of section 97 of Principal Act

Section 97 of the Principal Act is amended in subsection (1) by the substitution of the following paragraph for paragraph (b):

“(b) governing the consultation that is required by this Act to be carried out with the father, or the person who believes himself to be the father, or the second female parent, or the person who believes herself to be the second female parent, of a child before the child is placed for adoption or before an adoption order is made in respect of the child.”.

Amendment of section 125 of Principal Act

Section 125 of the Principal Act is amended—

(a) in subsection (2)(b)—

(i) in subparagraph (ii), by the substitution of “child,” for “child, or”,

(ii) in subparagraph (iii), by the substitution of “child,” for “child.”, and

(iii) by the insertion of the following subparagraphs after subparagraph (iii):

“(iv) the civil partner of a parent of the child, or

(v) the cohabitant of a parent of the child where the cohabitant and that parent are a cohabiting couple.”,

and

(b) in subsection (3)—

(i) in paragraph (c), by the substitution of “child,” for “child, or”, and

(ii) by the insertion of the following paragraphs after paragraph (c):

“(ca) the civil partner of a parent of the child,

(cba) the cohabitant of a parent of the child where the cohabitant and that parent are a cohabiting couple, or”.

Amendment of section 144 of Principal Act

Section 144 of the Principal Act is amended—

(a) by designating the section as subsection (1), and

(b) by the insertion of the following subsection after subsection (1):

“(2) In this section, ‘guardian’ includes any guardian of a child who stands appointed under the Guardianship of Infants Act 1964.”.

Amendment of section 145 of Principal Act

Section 145 of the Principal Act is amended by the insertion of the following subsection
after subsection (5):

“(6) In this section, ‘guardian’ includes any guardian of a child who stands appointed under the Guardianship of Infants Act 1964.”.

Amendment of Schedule 3 to Principal Act

134. Schedule 3 to the Principal Act is amended by the substitution of “Civil status (within the meaning of section 2(1) (amended by section 7 of the Act of 2010) of the Civil Registration Act 2004) of adopter or adopters” for “Marital status of adopter or adopters”.

PART 12

AMENDMENTS TO CIVIL PARTNERSHIP AND CERTAIN RIGHTS AND OBLIGATIONS OF COHABITANTS ACT 2010

Amendment of section 2 of Act of 2010

135. Section 2 of the Act of 2010 is amended by the insertion of the following definitions:

“‘dependent child’ means a child who is—

(a) under the age of 18 years, or

(b) 18 years of age or over and—

(i) is, or will be or, if an order were made under this Act providing for periodical payments for his or her support, would be receiving full-time education or instruction at any university, college, school or other educational establishment and is under the age of 23 years, or

(ii) is suffering from mental or physical disability to such extent that it is not reasonably possible for him or her to maintain himself or herself fully;

‘dependent child of the civil partners’, in relation to a couple who are civil partners of each other, or either of those civil partners, means a dependent child—

(a) of both civil partners, or adopted by both civil partners under the Adoption Act 2010, or in relation to whom both civil partners are in loco parentis, or

(b) of either civil partner, or adopted by either civil partner under the Adoption Act 2010, or in relation to whom either civil partner is in loco parentis, where the other civil partner, being aware that he or she is not the parent of the child, has treated the child as a member of the family;”.
Amendment of section 29 of Act of 2010
136. Section 29 of the Act of 2010 is amended in subsection (2) by the substitution of the following paragraph for paragraph (a):

“(a) the respective needs and resources of the civil partners and of any dependent child of the civil partners, and”.

Amendment of section 30 of Act of 2010
137. Section 30 of the Act of 2010 is amended—

(a) in subsection (1)—

(i) by the substitution of “depriving the applicant or a dependent child of the civil partners of his or her residence” for “depriving the applicant of his or her residence”, and

(ii) by the substitution of “in the interest of the applicant or such child” for “in the interest of the applicant”,

and

(b) in subsection (2)—

(i) by the substitution of “deprived the applicant or a dependent child of the civil partners of his or her residence” for “deprived the applicant of his or her residence”, and

(ii) by the substitution of “to compensate the applicant or such child” for “to compensate the applicant”.

Amendment of section 34 of Act of 2010
138. Section 34 of the Act of 2010 is amended—

(a) in subsection (1), by the substitution of “make it difficult for the applicant or a dependent child of the civil partners to reside” for “make it difficult for the applicant to reside”, and

(b) in subsection (4)—

(i) by the substitution of “place the applicant or a dependent child of the civil partners” for “place the applicant”; and

(ii) in paragraph (b), by the substitution of “make it difficult for the applicant or a dependent child of the civil partners to reside” for “make it difficult for the applicant to reside”.

Amendment of section 43 of Act of 2010
139. Section 43 of the Act of 2010 is amended in subsection (1), in the definition of “maintenance creditor”, by the substitution of “means the person who” for “means the civil partner who”.

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Amendment of section 45 of Act of 2010

Section 45 of the Act of 2010 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) (a) Subject to subsection (3), where it appears to the court, on application to it by a civil partner, that the other civil partner has failed to provide maintenance for the applicant civil partner and any dependent child of the civil partners that is proper in the circumstances, the court may make an order that the other civil partner make to the applicant periodical payments for the support of the applicant and the dependent child of the civil partners, for the period during the lifetime of the applicant, of the amount and at the times that the court may consider proper.

(b) Subject to subsection (3), where a civil partner—

(i) is dead,

(ii) has deserted, or has been deserted by, the other civil partner, or

(iii) is living separately and apart from the other civil partner,

and there is a dependent child of the civil partners (not being a child who is being fully maintained by either civil partner), then, if it appears to the court, on application to it by any person, that the surviving civil partner or, as the case may be, either civil partner has failed to provide such maintenance for the dependent child of the civil partners as is proper in the circumstances, the court may make an order that that civil partner make to that person periodical payments, for the support of the dependent child, for such period during the lifetime of that person, of such amount and at such times, as the court may consider proper.

(c) A maintenance order or a variation order shall specify each part of a payment under the order that is for the support of a dependent child of the civil partners and may specify the period during the lifetime of the person applying for the order for which so much of a payment under the order as is for the support of a dependent child of the civil partners shall be made.”,

and

(b) by the substitution of the following subsection for subsection (3):

“(3) The court, in deciding whether to make a maintenance order and, if it decides to do so, in determining the amount of any payment, shall have regard to all the circumstances of the case, including—

(a) the income, earning capacity, property and other financial resources of—
(i) the civil partners and any dependent child of the civil partners, and

(ii) any other dependent child of which either civil partner is a parent,

including income or benefits to which either civil partner or any such child is entitled by or under statute with the exception of a benefit or allowance or any increase in such benefit or allowance in respect of any dependent child granted to either parent of such child,

(b) the financial and other responsibilities of—

(i) the civil partners towards each other and towards any dependent child of the civil partners and the needs of any such child, including the need for care and attention,

(ii) each civil partner as a parent towards any other dependent child, and the needs of any such child, including the need for care and attention, and

(iii) each civil partner towards any former spouse or civil partner, and

(c) in relation to a maintenance order or part of a maintenance order for the benefit of the civil partner, the conduct of each civil partner, if that conduct is such that, in the opinion of the court, it would in all the circumstances be unjust to disregard it.”.

Amendment of section 46 of Act of 2010

141. Section 46 of the Act of 2010 is amended—

(a) in subsection (1), by the substitution of “the person for whose support it provides” for “the maintenance creditor”, and

(b) by the insertion of the following subsections after subsection (3):

“(4) That part of a maintenance order which provides for the support of a dependent child shall stand discharged when the child ceases to be a dependent child by reason of his or her attainment of the age of 18 years or 23 years, as the case may be, and shall be discharged by the court, on application to it under subsection (1) or (2), if it is satisfied that the child has for any reason ceased to be a dependent child for the purposes of the order.

(5) Desertion by, or conduct of, a civil partner shall not be a ground for discharging or varying any part of a maintenance order that provides for the support of a dependent child of the civil partners.”.
Amendment of section 47 of Act of 2010

142. Section 47 of the Act of 2010 is amended by the substitution of “the needs of the persons for whose support the maintenance order is sought and the other circumstances” for “the needs of the applicant and the other circumstances”.

Amendment of section 48 of Act of 2010

143. Section 48 of the Act of 2010 is amended—

(a) in subsection (1), by the substitution of “the interests of the civil partners and any dependent child of the civil partners” for “the interests of the civil partners”,

(b) in subsection (2)(a), by the substitution of “the other civil partner or of any dependent child of the civil partners or of both that other civil partner and any dependent child of the civil partners” for “the other civil partner”, and

(c) in subsection (3), by the substitution of “sections 50 and 51, Part 6 and section 140” for “section 50, Part 6 and section 140”.

Amendment of section 51 of Act of 2010

144. Section 51 of the Act of 2010 is amended—

(a) in subsection (1), by the substitution of “on making a maintenance order or a variation order” for “on making a maintenance order under section 45”, and

(b) by the insertion of the following subsection after subsection (2):

“(2A) Where the court makes an order under subsection (1) that is for the benefit of a child, the court may specify in the order the manner in which, or purpose for which, the payment or payments referred to in that subsection are to be applied, including in providing suitable accommodation for the child to whom the order relates.”.

Amendment of section 52 of Act of 2010

145. Section 52 of the Act of 2010 is amended by the substitution of “on making a maintenance order or a variation order” for “on making a maintenance order under section 45”.

Failure to make payments and certificate of outstanding payments

146. The Act of 2010 is amended by the insertion of the following sections in Part 5 after section 52:

“Failure to make payments to be contempt of court

52A. (1) Subject to this section it shall be contempt of court for a maintenance debtor to fail to make a payment due under an antecedent order.

(2) As respects a contempt of court arising pursuant to this section, a judge of the District Court shall, subject to this section, have such
powers, including the power to impose a sanction, as are exercisable by a judge of the High Court in relation to contempt of court in proceedings before the High Court.

(3) Where a payment under an antecedent order made by the District Court has not been made, the maintenance creditor may apply to the District Court clerk concerned for the issue of a summons directing the maintenance debtor to appear before the District Court.

(4) A summons referred to in subsection (3) shall—

(a) be issued by the District Court clerk concerned,

(b) contain a statement that failure to make a payment in accordance with the order concerned constitutes a contempt of court and giving details of the consequences of the court finding that a contempt of court has taken place including in particular the possibility of imprisonment,

(c) state that the maintenance debtor may be arrested if he or she fails to appear before the District Court as directed in the summons, and

(d) be served on the maintenance debtor personally, or in such other manner authorised by a judge of the District Court.

(5) If the maintenance debtor fails, without reasonable excuse, to appear before the court in answer to the summons, the judge of the District Court, on the application of the maintenance creditor, shall, if satisfied that the debtor was served with the summons, issue a warrant for the arrest of the maintenance debtor.

(6) A maintenance debtor arrested pursuant to a warrant issued under subsection (5) shall be brought as soon as practicable before the District Court.

(7) Where a maintenance debtor is arrested and brought before the District Court under subsection (6), the judge shall fix a new date for the hearing of the summons and direct that the creditor be informed by the District Court by notice in writing of the date so fixed, and shall explain to the debtor in ordinary language—

(a) that he or she is required to attend before the court at the date next fixed for the hearing of the summons,

(b) that failure to attend may in itself constitute a contempt of court and the consequences of such contempt, including in particular the possibility of imprisonment, and that such contempt and the consequences which may follow are in addition to the consequences arising by reason of failure to make a payment under the antecedent order, and

(c) that he or she is entitled to apply for legal advice and legal aid under the Civil Legal Aid Act 1995.
(8) At the hearing of the summons, before hearing evidence from any party the judge shall explain to the debtor in ordinary language—

(a) the consequences, and in particular the possibility of imprisonment, which may follow a failure to make a payment in accordance with an antecedent order, and

(b) unless the maintenance debtor has already been so informed under subsection (7), that he or she is entitled to apply for legal advice and legal aid under the Civil Legal Aid Act 1995.

(9) On the hearing of the summons, having given to the maintenance debtor the explanations referred to in subsection (8), having given the maintenance debtor an opportunity to apply for legal advice and legal aid, and having heard such evidence as may be adduced by the maintenance creditor and the maintenance debtor, if the judge is satisfied that the payment concerned has not been made, and—

(a) that the failure to make the payment concerned is due to—

(i) the inability of the maintenance debtor to make the payment concerned by reason of a change in his or her financial circumstances which occurred since the antecedent order or an order varying that order was last made (whichever is the later), or

(ii) some other reason not attributable to any act or omission of the maintenance debtor,

the judge may, where he or she believes that to do so would improve the likelihood of the payment concerned being made within a reasonable period, adjourn the hearing—

(I) to enable the outstanding payment to be made, or

(II) to enable an application to be made for an attachment of earnings order under section 53,

(b) that the failure to make the payment concerned is due to the inability of the maintenance debtor to make the payment concerned by reason of a change in his or her financial circumstances which occurred since the antecedent order or an order varying that order was last made (whichever is the later) the judge may, where the antecedent order was made by the District Court, treat the hearing as an application to vary the antecedent order, and having heard evidence as to the financial circumstances of both the maintenance debtor and the maintenance creditor, make an order varying the antecedent order.

(10) Where on the hearing of the summons, having given to the maintenance debtor the explanations referred to in subsection (8), having given the maintenance debtor an opportunity to apply for legal
advice and legal aid, and having heard such evidence as may be adduced by the maintenance creditor and the maintenance debtor, the judge is satisfied that the payment concerned has not been made and that the failure to make the payment concerned is not due to—

(a) the inability of the maintenance debtor to make the payment concerned by reason of a change in his or her financial circumstances which occurred since the antecedent order or an order varying that order was last made (whichever is the later), or

(b) some other reason not attributable to any act or omission of the maintenance debtor,

the judge may treat the failure by the maintenance debtor to make the payment concerned as constituting contempt of court and the judge may deal with the matter accordingly.

(11) Where a maintenance debtor to whom subsection (7) applies does not attend court on the date fixed for the hearing of the summons the judge may treat such failure to attend court as constituting contempt of court and the judge may deal with the matter accordingly.

(12) In this section ‘financial circumstances’ means, in relation to a person—

(a) the amount of the person’s annual income,

(b) the aggregate value of all property (real and personal) belonging to the person,

(c) the aggregate of all liabilities of the person including any duty (moral or legal) to provide financially for members of his or her family or other persons,

(d) the aggregate of all monies owing to the person, the dates upon which they fall due to be paid and the likelihood of their being paid, and

(e) such other circumstances as the court considers appropriate.

(13) This section does not apply unless the antecedent order concerned was actually made by the District Court.

Certificate of outstanding payments

52B. Where, pursuant to section 50, a court has made a maintenance order, a variation order or an interim order and directed that payments under the order be made to the District Court clerk, in any proceedings under this Act or under the Enforcement of Court Orders Acts 1926 to 2009, a certificate purporting to be signed by the relevant District Court clerk as to the amount of monies outstanding on foot of such order shall, until the contrary is shown, be evidence of the matters stated in the certificate.”.
Birth and funeral expenses of dependent child

147. The Act of 2010 is amended by the insertion of the following section in Part 7 after section 67:

“This Birth and funeral expenses of dependent child

67A. (1) The court may make an order (in this section referred to as a ‘lump sum order’) where it appears to the court on application by a civil partner in relation to a dependent child of the civil partners that the other civil partner has failed to make such contribution as is proper in the circumstances towards the expenses incidental to either or both—

(a) the birth of a child who is a dependent child or who would have been a dependent child were he or she alive at the time of the application for a lump sum order,

(b) the funeral of a child who was a dependent child or who would have been a dependent child had he or she been born alive,

and any lump sum order shall direct the respondent civil partner to pay to the applicant a lump sum not exceeding €4,000, but no such order shall direct the payment of an amount exceeding €2,000 in respect of the birth of a child to whom this section relates or €2,000 in respect of the funeral of such a child.

(2) Subsection (3) of section 45 shall apply for the purpose of determining the amount of any lump sum under this section as it applies for the purpose of determining the amount of any payment under that section.

(3) (a) Nothing in this section, apart from this subsection, shall prejudice any right of a person otherwise to recover moneys expended in relation to the birth or funeral of a child.

(b) Where an application for a lump sum order has been determined, the applicant shall not be entitled otherwise to recover from the respondent moneys in relation to matters so determined.”.

Custody of dependent children of civil partners after decree of nullity

148. The Act of 2010 is amended by the insertion of the following section in Part 11 after section 108:

“This Custody of dependent children of civil partners after decree of nullity

108A. Where the court grants a decree of nullity, it may declare either of the civil partners concerned to be unfit to have custody of any dependent child of the civil partners who is under the age of 18 years and, if it does so and the civil partner to whom the declaration relates is a parent of any dependent child of the civil partners who is under the age of 18 years, that civil partner shall not, on the death of the other civil partner, be entitled as of right to the custody of that child.”.
Amendment of section 109 of Act of 2010

149. Section 109 of the Act of 2010 is amended—

(a) in subsection (1)—

(i) in the definition of “lump sum order”, by the substitution of “paragraph (c) or (ca) of section 117(1)” for “section 117(1)(c)”;

(ii) in the definition of “periodical payments order”, by the substitution of “paragraph (a) or (aa) of section 117(1)” for “section 117(1)(a)”,

(iii) in the definition of “secured periodical payments order”, by the substitution of “paragraph (b) or (ba) of section 117(1)” for “section 117(1)(b)”, and

(iv) by the insertion of the following definition:

“ ‘Act of 1964’ means the Guardianship of Infants Act 1964;”,

and

(b) in subsection (2)—

(i) in paragraph (b), by the substitution of “under this Part,” for “under this Part, and”,

(ii) in paragraph (c), by the substitution of “under this Part, and” for “under this Part.”, and

(iii) by the insertion of the following paragraph after paragraph (c):

“(d) a reference to an application to a court by a person on behalf of a dependent child of the civil partners includes a reference to such an application by such a child and a reference to a payment, the securing of a payment, or the assignment of an interest, to a person for the benefit of a dependent child of the civil partners includes a reference to a payment, the securing of a payment, or the assignment of an interest, to such a child.”.

Amendment of section 110 of Act of 2010

150. The Act of 2010 is amended by the substitution of the following for section 110:

“110. (1) Subject to the provisions of this Part, the court may, on application to it in that behalf by either of the civil partners, grant a decree of dissolution in respect of a civil partnership if it is satisfied that—

(a) at the date of the institution of the proceedings, the civil partners have lived apart from one another for a period of, or periods amounting to, at least two years during the previous three years, and

(b) provision that the court considers proper having regard to the circumstances exists or will be made for the civil partners and any dependent child of the civil partners.
(2) Upon the grant of a decree of dissolution, the court may, where appropriate, give such directions under section 11 of the Act of 1964 as it considers proper regarding the best interests (within the meaning of that Act) or custody of, or right of access to, any dependent child of the civil partners concerned who is under the age of 18 years as if an application had been made to it in that behalf under that section.”.

Amendment of section 113 of Act of 2010

151. Section 113 of the Act of 2010 is amended—

(a) by designating the section as subsection (1), and

(b) by the insertion of the following subsection after subsection (1):

“(2) For the avoidance of doubt, it is hereby declared that the grant of a decree of dissolution shall not affect the rights of the parents of a child, under section 6 or 6B of the Act of 1964, to be guardians of the child jointly.”.

Amendment of section 115 of Act of 2010

152. Section 115 of the Act of 2010 is amended—

(a) in paragraph (a), by the substitution of “of this Act;” for “of this Act; and”,

(b) in paragraph (b), by the substitution of “or section 34; and” for “or section 34.”,

and

(c) by the insertion of the following paragraph after paragraph (b):

“(c) an order under section 11 of the Act of 1964.”.

Amendment of section 116 of Act of 2010

153. Section 116 of the Act of 2010 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) Where an application is made to the court for the grant of a decree of dissolution, the court may make an order requiring either of the civil partners to make to the other periodical payments or lump sum payments for his or her support and, where appropriate, to make to such person as may be specified in the order such periodical payments for the benefit of any dependent child of the civil partners that the court considers proper and specifies in the order.”,

and

(b) by the insertion of the following subsection after subsection (2):

“(3) The court may provide that payments under this section shall be subject to such terms and conditions as it considers appropriate and specifies in the order.”.
Amendment of section 117 of Act of 2010

154. Section 117 of the Act of 2010 is amended—

(a) in subsection (1)—

(i) by the substitution of “by either of the civil partners concerned or by a person on behalf of a dependent child of the civil partners may” for “by either of the civil partners may”,

(ii) by the insertion of the following paragraph after paragraph (a):

“(aa) an order that either of the civil partners make to such person as may be specified in the order for the benefit of any dependent child of the civil partners the periodical payments in the amounts, during the period and at the times that may be specified in the order;”,

(iii) in paragraph (b), by the substitution of “may be specified in the order;” for “may be specified in the order; and”,

(iv) by the insertion of the following paragraph after paragraph (b):

“(ba) an order that either of the civil partners secure, to the satisfaction of the court, to such person as may be specified in the order for the benefit of any dependent child of the civil partners the periodical payments in the amounts, during the period and at the times that may be specified in the order;”,

(v) in paragraph (c), by the substitution of “may be specified in the order; and” for “may be specified in the order.”,

(vi) by the insertion of the following paragraph after paragraph (c):

“(ca) an order that either of the civil partners make to such person as may be specified in the order for the benefit of any dependent child of the civil partners a lump sum payment or lump sum payments in the amount or amounts and at the time or times that may be specified in the order.”,

(b) by the substitution of the following subsection for subsection (2):

“(2) The court may order a civil partner to pay a lump sum—

(a) to the other civil partner to meet any liabilities or expenses reasonably incurred by the other civil partner in maintaining himself or herself or any dependent child of the civil partners before the making of an application by the other civil partner for an order under subsection (1), or

(b) to such person that may be specified in the order to meet any liabilities or expenses reasonably incurred by or for the benefit of a dependent child of the civil partners before the making of an application on behalf of the dependent child of the civil partners for an order under subsection (1).”.
(c) by the insertion of the following subsection after subsection (4):

“(4A) The period specified in an order under subsection (1)(aa) or (ba) shall begin not earlier than the date of the application for the order and shall end not later than the death of the civil partner against whom the order was made or the death of the dependent child of the civil partners in whose favour the order was made, whichever first occurs.”,

and

(d) in subsection (7), by the substitution of “paragraph (a) or (aa) of subsection (1)” for “subsection (1)(a)” wherever it occurs.

Amendment of section 118 of Act of 2010

155. Section 118 of the Act of 2010 is amended in subsection (1)—

(a) by the substitution of “either of the civil partners or by a person on behalf of a dependent child of the civil partners may” for “either of the civil partners may”,

(b) in paragraph (a), by the substitution of “to the other, to any dependent child of the civil partners or to any other specified person for the benefit of such a child” for “to the other”,

(c) in paragraph (b), by the substitution of “of the other and of any dependent child of the civil partners or any or all of those persons” for “of the other”, and

(d) in paragraph (c), by the substitution of “one of the civil partners and of any dependent child of the civil partners or any or all of those persons” for “one of the civil partners”.

Amendment of section 119 of Act of 2010

156. Section 119 of the Act of 2010 is amended—

(a) in subsection (1)—

(i) by the substitution of “either of the civil partners or a person on behalf of a dependent child of the civil partners may” for “either of the civil partners may”,

(ii) in paragraph (d), by the substitution of “Part 9;” for “Part 9; and”,

(iii) by the substitution of the following paragraph for paragraph (e):

“(e) an order under section 31 of the Land and Conveyancing Law Reform Act 2009; and”,

and

(iv) by the insertion of the following paragraph after paragraph (e):

“(f) an order under section 11 of the Act of 1964”,

and
(b) in subsection (2)—

(i) by the substitution of “welfare of the civil partners and any dependent child of the civil partners” for “welfare of the civil partners”, and

(ii) in paragraph (b), by the substitution of “other civil partner and for any dependent child of the civil partners” for “other civil partner”.

Amendment of section 120 of Act of 2010

157. Section 120 of the Act of 2010 is amended—

(a) in subsection (1)—

(i) by the substitution of “in that behalf by either of the civil partners or by a person on behalf of a dependent child of the civil partners” for “in that behalf by either of the civil partners”,

(ii) by the substitution of the following paragraph for paragraph (a):

“(a) an order, on the application of either of the civil partners, requiring the other civil partner to effect a policy of life insurance for the benefit of the applicant civil partner or a dependent child of the civil partners;”,

(iii) by the insertion of the following paragraph after paragraph (a):

“(aa) an order, on the application of a person on behalf of a dependent child of the civil partners, requiring either of the civil partners to effect such a policy of life insurance for the benefit of the dependent child;”,

(iv) by the substitution of the following paragraph for paragraph (b):

“(b) an order, on the application of one civil partner, requiring the other civil partner to assign to the applicant civil partner, or to such person as may be specified in the order for the benefit of a dependent child of the civil partners, the whole or a specified part of the interest in a policy of life insurance that the other civil partner has effected or that both of the civil partners have effected;”,

(v) by the insertion of the following paragraph after paragraph (b):

“(ba) an order, on the application of a person on behalf of a dependent child of the civil partners, requiring either civil partner or both civil partners to assign to a person specified in the order for the benefit of the dependent child of the civil partners the whole or a specified part of the interest in a policy of life insurance that either civil partner has effected or that both of the civil partners have effected; and”,

and
(vi) by the substitution of the following paragraph for paragraph (c):

“(c) an order—

(i) on the application of a civil partner, requiring the other civil
partner, or

(ii) on the application of a person on behalf of a dependent child of
the civil partners, requiring either or both of the civil partners,
to make or to continue to make to the person by whom a policy of
life insurance is or was issued the payments which he or she or
both of the civil partners is or are required to make under the terms
of the policy.”,

(b) in subsection (2)—

(i) in paragraph (a), by the substitution of “applicant civil partner or the
dependent child of the civil partners” for “applicant”, and

(ii) in paragraph (b), by the substitution of “applicant civil partner or the
dependent child of the civil partners, as the case may be,” for “applicant”,

(c) in subsection (3), by the substitution of “for the civil partner concerned or any
dependent child of the civil partners concerned” for “for the civil partner
concerned”, and

(d) in subsection (4), by the substitution of “death of the applicant civil partner in
whose favour the order was made in so far as it relates to him or her” for “death
of the applicant”.

Amendment of section 121 of Act of 2010

158. Section 121 is amended—

(a) by the substitution of the following subsection for subsection (2):

“(2) On granting a decree of dissolution or at any other time after it is
granted, the court, on application to it in that behalf by either of the
civil partners or by a person on behalf of a dependent child of the civil
partners, may during the lifetime of a member civil partner, make an
order providing for the payment, in accordance with this section and
sections 122 to 126, to—

(a) the other civil partner, or

(b) a person specified in the order for the benefit of a dependent child
of the civil partners for so long as that child remains a dependent
child of the civil partners,

of a benefit consisting of the part of the benefit that is payable (or that,
but for the making of the decree, would have been payable) under the
scheme and has accrued at the time of the making of the decree, or of
the part of that part that the court considers appropriate.”,
(b) in subsection (3)(b), by the substitution of “the other civil partner or to the person on behalf of the dependent child of the civil partners, as the case may be” for “the other civil partner”;

(c) by the substitution of the following subsection for subsection (5):

“(5) On granting a decree of dissolution or at any time within one year after it is granted, the court, on application to it in that behalf by either of the civil partners or by a person on behalf of a dependent child of the civil partners, may make an order providing for the payment, on the death of the member civil partner, to—

(a) the other civil partner, or

(b) a person specified in the order for the benefit of a dependent child of the civil partners,

of that part of a contingent benefit that is payable (or that, but for the making of the decree, would have been payable) under the scheme, or of the part of that part, that the court considers appropriate.”,

and

(d) in subsection (7), by the substitution of “member or for a dependent child of the civil partners concerned under” for “member under”.

Amendment of section 122 of Act of 2010

Section 122 of the Act of 2010 is amended—

(a) in subsection (2), by the substitution of “applicant civil partner in whose favour the order was made in so far as the order relates to him or her” for “applicant”, and

(b) by the insertion of the following subsection after subsection (2):

“(2A) Where the court makes an order under section 121(2), or under section 131(3) in relation to an order under section 121(2), for the benefit of a dependent child of the civil partners and the child dies before payment of the designated benefit has commenced, the order shall cease to have effect in so far as it relates to him or her.”.

Amendment of section 123 of Act of 2010

Section 123 of the Act of 2010 is amended—

(a) in subsection (4), by the substitution of “provide for the payment to the person in whose favour the order was made” for “provide for the payment to the other civil partner”,

(b) in subsection (5), by the substitution of the following paragraph for paragraph (a):
“(a) if the trustees and the person in whose favour the order was made so agree, in providing a benefit for or in respect of that person that is of the same actuarial value as the transfer amount, or”,

and

(c) in subsection (9)—

(i) by the substitution of “person in whose favour the order was made” for “civil partner who is not the member”, and

(ii) by the substitution of “that person” for “that civil partner”.

Amendment of section 124 of Act of 2010

161. Section 124 of the Act of 2010 is amended in subsection (2) by the substitution of “to the other civil partner or other person concerned” for “to the other civil partner”.

Amendment of section 125 of Act of 2010

162. Section 125 of the Act of 2010 is amended—

(a) in subsection (1), by the substitution of “including by the member civil partner or by the other person concerned or by both of them” for “including by one or the other of the civil partners or by both of them”, and

(b) in subsection (2)—

(i) by the substitution of “paid by a person” for “paid by a civil partner”,

(ii) by the substitution of “payable to the person” for “payable to the civil partner”,

(iii) by the substitution of the following paragraph for paragraph (a):

“(a) pursuant to an order made under section 121, if the person is the beneficiary of the order; and”,

and

(iv) by the substitution of the following paragraph for paragraph (b):

“(b) pursuant to the scheme, if the person is the member civil partner.”.

Amendment of section 129 of Act of 2010

163. Section 129 of the Act of 2010 is amended—

(a) in subsection (1), by the substitution of “for the civil partners and any dependent child of the civil partners concerned” for “for the civil partners”,

(b) in subsection (2)—

(i) by the substitution of the following paragraph for paragraph (c):
“(c) the standard of living enjoyed by the civil partners and any dependent child of the civil partners before the proceedings were instituted or before the civil partners commenced to live apart;”,

(ii) by the substitution of the following paragraph for paragraph (f):

“(f) the contributions that each of the civil partners has made or is likely to make in the foreseeable future to the welfare of the civil partners and any dependent child of the civil partners, including any contribution made by each of them to the income, earning capacity, property and financial resources of the other, and any contribution made by either of them by looking after the shared home or caring for the other civil partner or any dependent child of the civil partners;”,

and

(iii) in paragraph (g), by the substitution of “the shared home or to care for the other civil partner or any dependent child of the civil partners” for “the shared home”,

and

(c) by the insertion of the following subsection after subsection (3):

“(3A) In deciding whether to make an order referred to in subsection (1) in favour of a dependent child of the civil partners concerned and in determining the provisions of such an order, the court shall, in particular, have regard to the following matters:

(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) any income or benefits to which the child is entitled by or under statute;

(e) the manner in which the child was being, and in which the civil partners concerned anticipated that the child would be, educated or trained;

(f) the matters specified in paragraphs (a), (b) and (c) of subsection (2) and subsection (3);

(g) the accommodation needs of the dependent child.”.

Amendment of section 131 of Act of 2010

164. Section 131 of the Act of 2010 is amended—

(a) in subsection (2)(b), by the substitution of “in the matter or a person on behalf of a dependent child of the civil partners concerned” for “in the matter”,
(b) by the insertion of the following subsection after subsection (4):

“(4A) Without prejudice to the generality of section 116 or 117, that part of an order to which this section applies which provides for the making of payments for the support of a dependent child of the civil partners shall stand discharged if he or she ceases to be a dependent child of the civil partners by reason of his or her attainment of the age of 18 years or 23 years, as the case may be, and shall be discharged by the court, on application to it under subsection (2), if it is satisfied that the child has for any reason ceased to be a dependent child of the civil partners.”,

and

(c) in subsection (7), by the substitution of “civil partner concerned or a dependent child of the civil partners concerned” for “civil partner concerned”.

Restriction in relation to orders for benefit of dependent children of civil partners

165. The Act of 2010 is amended by the insertion of the following section after section 131:

“131A. The court shall not have regard to the conduct of the civil partner or civil partners concerned of the kind specified in section 129(2)(i) in deciding whether—

(a) to include in an order under section 116 a provision requiring the making of periodical payments for the benefit of a dependent child of the civil partners,

(b) to make an order under paragraph (aa), (ba) or (ca) of section 117(1), or

(c) to make an order under section 131 varying, discharging or suspending a provision referred to in paragraph (a) or an order referred to in paragraph (b).”.

Amendment of section 133 of Act of 2010

166. Section 133 of the Act of 2010 is amended by the substitution of “117(1)(a), (aa), (b) or (ba)” for “117(a) or (b)”.

Amendment of section 137 of Act of 2010

167. Section 137 of the Act of 2010 is amended in subsection (1) in the definition of “relief” by the substitution of the following paragraph for paragraph (a):

“(a) preventing the relief being granted to the person concerned, whether for the benefit of the person or of a dependent child of the civil partners concerned,”.

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**Amendment of section 138 of Act of 2010**

168. Section 138 of the Act of 2010 is amended by the substitution of “under this Part or under the Act of 1964, or for a dependent child of the civil partners of such a civil partner” for “under this Part”.

**Amendment of section 140 of Act of 2010**

169. Section 140 of the Act of 2010 is amended in paragraph (a) of subsection (2), by the substitution of “for support of a civil partner or €150 per week for the support of a dependent child of the civil partners” for “for support of a civil partner”.

**Custody of dependent children and social reports**

170. The Act of 2010 is amended by the insertion of the following sections after section 141:

> “Custody of dependent children of civil partners after decree of dissolution

141A. Where the court grants a decree of dissolution (within the meaning of Part 12), it may declare either of the civil partners concerned to be unfit to have custody of any dependent child of the civil partners who is under the age of 18 years and, if it does so and the civil partner to whom the declaration relates is a parent of any dependent child of the civil partners who is under the age of 18 years, that civil partner shall not, on the death of the other civil partner, be entitled as of right to the custody of that child.

**Social reports**

141B. Section 47 of the Family Law Act 1995 shall apply to proceedings under this Act.”.

**Amendment of section 142 of Act of 2010**

171. Section 142 of the Act of 2010 is amended by the substitution of the following subsection for subsection (1):

> “(1) In civil partnership law proceedings under section 45, 46, 47, 50, 117, 118, 119(1)(a) or (b), 120, 121 to 126, 127 or 131 each party to the proceedings shall give to the other party such particulars of his or her financial circumstances, including property and income, and in so far as is practicable, the financial circumstances of his or her dependent children, as may reasonably be required for the purpose of the proceedings.”.

**Orders under Family Law (Maintenance of Spouses and Children) Act 1976**

172. Part 15 of the Act of 2010 is amended by the insertion of the following section after section 196:
“Orders under Family Law (Maintenance of Spouses and Children) Act 1976
196A. The court may, on the application of a party to proceedings under this Part, make an order under section 5A or 5B of the Family Law (Maintenance of Spouses and Children) Act 1976, where applicable, in respect of the other party to the proceedings.”.

PART 13

MISCELLANEOUS CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

Amendment of section 2 of Redundancy Payments Act 1967
173. Section 2 of the Redundancy Payments Act 1967 is amended in subsection (1) by the substitution of the following definition for the definition of “adopting parent”:

“‘adopting parent’ means an employee who is an adopting parent within the meaning of the Adoptive Leave Act 1995.”.

Amendment of section 1 of Unfair Dismissals Act 1977
174. Section 1 of the Unfair Dismissals Act 1977 is amended by the substitution of the following definition for the definition of “adopting parent”:

“‘adopting parent’ means an employee who is an adopting parent within the meaning of the Adoptive Leave Act 1995.”.

Amendment of section 20 of Child Care Act 1991
175. Section 20 of the Child Care Act 1991 is amended in subsection (1)—
(a) in paragraph (b), by the substitution of “1995,” for “1995, or”,
(b) in paragraph (c), by the substitution of “1996, or” for “1996,”, and
(c) by the insertion of the following paragraph after paragraph (c):

“(d) section 110(2), 115(c) or 141A of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,”.

Amendment of Maternity Protection Act 1994
176. The Maternity Protection Act 1994 is amended—
(a) in section 2—
(i) in subsection (1), by the insertion of the following definitions:

‘expectant father’ shall be construed in accordance with subsection (1A) (inserted by section 176 of the Act of 2015);
‘other parent’ means a person (other than the mother) who is, under section 5 of the Act of 2015, a parent of a child;”,

and

(ii) by the insertion of the following subsection after subsection (1):

“(1A) In this Act, a reference to an expectant father includes a person who has given his or her consent in accordance with section 11 of the Act of 2015 to a DAHR procedure (within the meaning of section 4 of that Act) where that procedure results in a pregnancy.”,

(b) in section 16—

(i) by the substitution of “father or other parent, as the case may be,” for “father” in each place it occurs, and

(ii) in subsection (6), by the substitution of “the father’s or the other parent’s” for “the father’s”,

c in section 16A—

(i) by the substitution of “father or other parent” for “father” in each place it occurs, and

(ii) in subsection (2), by the substitution of “the father’s sickness or the other parent’s sickness” for “the father’s sickness”,

d in section 16B—

(i) by the substitution of “father or other parent” for “father” in each place it occurs, and

(ii) in subsection (10), by the substitution of “the father’s leave or the other parent’s leave” for “a father’s leave”,

e in section 21, by the substitution of “father or other parent” for “father” in each place it occurs, and

(f) in section 31, by the substitution in subsection (1)(a)(iii) of “father or other parent” for “father”.

Amendment of section 2 of Adoptive Leave Act 1995

177. Section 2 of the Adoptive Leave Act 1995 is amended—

(a) in subsection (1)—

(i) by the insertion of the following definitions:

“ ‘Act of 2010’ means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;


‘civil partner’ shall be construed in accordance with section 3 of the Act of 2010;
‘cohabitant’ shall be construed in accordance with section 172(1) of the Act of 2010;

‘cohabiting couple’ has the same meaning as it has in section 3(1) (amended by section 102 of the Act of 2015) of the Adoption Act 2010;

‘employed qualifying adopter’ means an employee who is a qualifying adopter in whose care a child (being a child in respect of whom neither the qualifying adopter, nor the civil partner or cohabitant of that qualifying adopter, is the natural mother) has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption;

‘qualifying adopter’ shall be construed in accordance with subsection (1A)(b) (inserted by section 177 of the Act of 2015);

(ii) by the substitution of the following definition for the definition of “adopting father”:

“‘adopting father’, subject to subsection (1A)(a) (inserted by section 177 of the Act of 2015), means a male employee in whose care a child has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption, where the adopting mother has died;”;

(iii) by the substitution of the following definition for the definition of “adopting mother”:

“‘adopting mother’, subject to subsection (1A)(a) (inserted by section 177 of the Act of 2015), means a woman, including an employed adopting mother, in whose care a child (of whom she is not the natural mother) has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption;”;

and

(iv) by the substitution of the following definition for the definition of “employed adopting mother”:

“‘employed adopting mother’, subject to subsection (1A)(a) (inserted by section 177 of the Act of 2015), means a female employee in whose care a child (of whom she is not the natural mother) has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption;”;

and

(b) by the insertion of the following subsection after subsection (1):

“(1A) (a) In this Act—
(i) a reference to ‘adopting father’ shall be construed as including the civil partner or cohabitant of the qualifying adopter where the civil partner or cohabitant, as the case may be, is an employee in whose care a child has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption, where the qualifying adopter has died,

(ii) a reference to ‘adopting mother’ shall be construed as including the qualifying adopter in whose care a child (being a child in respect of whom neither the qualifying adopter, nor the civil partner or cohabitant of that qualifying adopter, is the natural mother) has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption, and

(iii) a reference to ‘employed adopting mother’ shall be construed as including an employed qualifying adopter.

(b) For the purposes of this Act, where a couple are civil partners of each other or are a same sex cohabiting couple and the couple are jointly adopting a child, or have jointly adopted a child, the qualifying adopter is—

(i) where the couple are civil partners of each other, the civil partner chosen by that couple to be that qualifying adopter, or

(ii) where the couple are a cohabiting couple, the cohabitant chosen by that couple to be that qualifying adopter.”.

Amendment of section 6 of Parental Leave Act 1998

178. Section 6 of the Parental Leave Act 1998 is amended in subsection (9) (amended by section 2 of the Parental Leave (Amendment) Act 2006) in the definition of “relevant parent” by the substitution of the following paragraph for paragraph (a):

“(a) the parent, the adoptive parent or the adopting parent in respect of the child, or”.

Amendment of section 3 of Protection of Children (Hague Convention) Act 2000

179. Section 3 of the Protection of Children (Hague Convention) Act 2000 is amended in subsection (2) by the deletion of paragraph (e).

Amendment of section 2 of Student Support Act 2011

180. Section 2 of the Student Support Act 2011 is amended in the definition of “parent” by the substitution of “guardian appointed under the Guardianship of Infants Act 1964, other than a temporary guardian appointed under section 6E of that Act” for “guardian appointed under the Guardianship of Children Acts 1964 to 1997”.

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