



DÁIL ÉIREANN

AN BILLE UM PÁIRTNÉIREACHT SHIBHIALTA 2009 CIVIL PARTNERSHIP BILL 2009

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM PÁIRTNÉIREACHT SHIBHIALTA 2009 —ROGHCHOISTE

CIVIL PARTNERSHIP BILL 2009 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 1

1. In page 13, subsection (1), line 13, after “Partnership” to insert “and Cohabitants”.

—Charles Flanagan.

2. In page 13, lines 14 to 22, to delete subsections (2) and (3) and substitute the following:

“(2) This Act shall come into operation on the day that is 3 months after the passing of this Act.”.

—Charles Flanagan.

SECTION 4

3. In page 14, subsection (2)(c), lines 31 to 33, to delete subparagraph (ii) and substitute the following:

“(ii) prior to the death had ever been ordinarily resident in the State for a period of one year.”.

—Brendan Howlin.

SECTION 5

4. In page 15, subsection (1), line 24, to delete “may” and substitute “shall, on the commencement of this Act”.

—Charles Flanagan.

5. In page 15, subsection (1), line 25, after “into” to insert the following:

“(including a relationship entered into prior to the commencement of this section)”.

—Brendan Howlin.

6. In page 15, subsection (1), lines 31 to 34, to delete paragraph (c).

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

7. In page 15, after line 47, to insert the following subsection:

“(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*).”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 5]

8. In page 15, after line 47, to insert the following subsections:

“(3) Notwithstanding *subsection (2)*, where—

- (a) one of the persons in the civil partnership dies before the commencement of this section and before a declaration that a civil partnership of that class is entitled to be recognised,
- (b) the foreign civil partnership was entered into after 1st January 2004,
- (c) the foreign civil partnership was between persons both or either of whom were or was citizens or a citizen of Ireland, or residents or a resident of Ireland, on the day of the registered foreign relationships,

then the foreign relationships to which this section applies shall be and shall be deemed always to have been valid as to form if it would have been so valid had it been registered in the State.

(4) An tArd-Chláraitheoir may, on production of such evidence as appears to him to be satisfactory, cause a registered foreign relationship to which this section applies to be registered in a register to be maintained in Oifig an Ard-Chláraitheoir.”

—Brendan Howlin.

SECTION 7

9. In page 17, lines 31 to 41, to delete all words from and including “Courts” in line 31 down to and including “Schedule.” in line 41 and substitute the following:

“Courts Service,”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 13

10. In page 19, before section 13, to insert the following new section:

“Amendment of section 37 of Act of 2004.

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

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Acceptance of this amendment involves the deletion of section 13 of the Bill.*]

SECTION 16

11. In page 22, line 7, to delete “or over and” and substitute the following:

“or over. The declarations shall be made and the signature of the civil partnership registration form shall be”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

12. In page 22, line 48, to delete “in any other manner” and substitute “in a manner”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

13. In page 22, after line 49, to insert the following:

[SECTION 16]

“(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.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

14. In page 23, line 1, to delete “(7) The Minister” and substitute the following:

“(8) The Minister”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

15. In page 23, line 6, to delete “(8) Where an” and substitute the following:

“(9) Where an”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

16. In page 23, line 21, after “registrar” to insert the following:

“or a place referred to in section 59D(1)(b)”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 22

17. In page 29, lines 30 and 31, to delete “registration form.” and substitute “registration form,”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 25

18. In page 30, lines 16 to 33, to delete paragraph (c).

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 38

19. In page 37, before section 38, to insert the following new section:

“Creation of joint tenancy in family home exemption from stamp duty and fees.

38.—No stamp duty, 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.”.

—Charles Flanagan.

SECTION 70

20. In page 49, line 12, to delete “subject to subsections (3) to (7),”.

—Brendan Howlin.

21. In page 49, to delete lines 18 to 44 and in page 50, to delete lines 1 to 9.

—Brendan Howlin, Charles Flanagan.

[SECTION 78]

SECTION 78

22. In page 50, line 37, to delete “Subject to section 117(3A),”.

—Brendan Howlin, Charles Flanagan.

SECTION 83

23. In page 51, lines 18 to 25, to delete all words from and including “inserting” in line 18 down to and including “order.” in line 25 and substitute the following:

“substituting the following subsection for subsection (3):

“(3) An order under this section shall not affect the legal right of a surviving spouse or civil partner, or any share to which the spouse or civil partner is entitled on intestacy, or any devise or bequest to the parent of the applicant for an order under this section.”.

—Charles Flanagan.

Section opposed.

—Brendan Howlin.

SECTION 97

Section proposed to be deleted.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 98

24. In page 54, lines 37 to 46 and in page 55, lines 1 and 2, to delete paragraph (a).

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 108

25. In page 61, paragraph (a), line 30, to delete “and” and to substitute the following:

“(b) there is no reasonable prospect of reconciliation between the civil partners,”.

—Charles Flanagan.

SECTION 109

26. In page 61, before section 109, to insert the following new section:

“Safeguards to ensure Civil Partner’s awareness of alternatives to a Decree of Dissolution and to assist attempts at reconciliation.

109.—If a solicitor is acting for either of the civil partners, the solicitor shall, prior to the institution of the proceedings concerned under *section 108*—

(a) discuss with the civil partner the possibility of a reconciliation and give to him or her the names and addresses of persons qualified to help to effect a reconciliation between the civil partners who have become estranged, and

[SECTION 109]

- (b) discuss with the civil partner the possibility of engaging in mediation to help to effect decree of dissolution on a basis agreed between the civil partner and the other civil partner and give to the civil partner the names and addresses of persons qualified to provide a mediation service for civil partners who have become estranged.”.

—Charles Flanagan.

SECTION 127

27. In page 74, subsection (2)(d), lines 38 and 39, to delete “after registration of their civil partnership”.

—Charles Flanagan.

28. In page 74, subsection (2)(f), line 47, after “home” to insert the following:

“or caring for any child whom either of the civil partners owes an obligation of support”.

—Charles Flanagan.

29. In page 75, subsection (2)(g), line 5, after “home” to insert the following:

“or care for any child whom either of the civil partners owes an obligation of support”.

—Charles Flanagan.

SECTION 146

30. In page 82, before section 146, to insert the following new section:

“Application and amendment of Pensions Act 1990.

146.—(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 119 to 124 and 185 to 190* 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 119 to 124 and sections 185 to 190*;
- (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 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 119(1), (2) and (5), 121(1), (2), (3), (4), (5) and (7) and 124(2), or sections 185 (1), (2) and (5), 187(1), (2), (3), (4), (5) and (7) and 190*, as the case may be, of the *Civil Partnership 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 107 or 185*.

[SECTION 146]

(2) Subsection 10(1)(cc) (as amended by section 5 of the Pensions (Amendment) Act 1996 and section 47(c) of the Family Law (Divorce) Act 1996) of the Pensions Act 1990, is amended by substituting “and on the provisions of the Family Law Act 1995, the Family Law (Divorce) Act 1996 and the *Civil Partnership Act 2010*, relating to pension schemes (within the meaning of section 2 of the Family Law Act 1995, section 2 of the Family Law (Divorce) Act 1996 and *section 107 and 185 of the Civil Partnership Act 2010*)” for “and on the provisions of the Family Law Act 1995, and the Family Law (Divorce) Act 1996, relating to pension schemes (within the meaning of section 2 of the Family Law Act 1995 and section 2 of the Family Law (Divorce) Act 1996)”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[Acceptance of this amendment involves the deletion of section 146 of the Bill.]

SECTION 170

31. In page 86, subsection (1), line 15, to delete “and committed”.

—Brendan Howlin, Charles Flanagan.

32. In page 86, subsection (2), lines 18 and 19, to delete all words from and including “In” in line 18 down to and including “court” in line 19 and substitute the following:

“Save in the case of any application taken under the Domestic Violence Act 1996, the court, in determining whether or not 2 adults are cohabitants,”.

—Charles Flanagan.

33. In page 86, subsection (2), line 18, to delete “In” and substitute the following:

“Save for the purposes of the Domestic Violence Act 1996, in”.

—Brendan Howlin.

34. In page 86, subsection (2), lines 32 and 33, to delete paragraph (g).

—Charles Flanagan.

35. In page 87, lines 9 to 17, to delete subsection (6).

—Brendan Howlin, Charles Flanagan.

SECTION 171

36. In page 87, subsection (3), lines 37 to 39, to delete paragraph (e).

—Charles Flanagan.

37. In page 88, between lines 33 and 34, to insert the following subsection:

“(7) The Court may, on application to it in that behalf by either of the qualifying cohabitants concerned, during the lifetime of the other qualifying cohabitants or, as the case may be, the qualifying cohabitants concerned, if it considers it just to do so, make an order that either or both qualifying cohabitants shall not, on the death of either of them, be entitled to apply for an order under *section 192* of this Act.”.

—Charles Flanagan.

SECTION 192

38. In page 101, subsection (1), line 7, to delete “6” and substitute “12”.

—Charles Flanagan.

[SECTION 192]

39. In page 101, subsection (3)(d), line 26, after “*section 171(3)*” to insert “and *section 170(2)*”.

—Charles Flanagan.

SECTION 193

40. In page 102, between lines 13 and 14, to insert the following subsection:

“(2) Proceedings under *section 192* shall only be brought in respect of a qualifying cohabitant who cohabited with the deceased within 2 years immediately prior to the date of death of the deceased.”.

—Charles Flanagan.

SECTION 199

41. In page 103, subsection (3), line 21, after “*section 171*” to insert “and/or *section 192*”.

—Charles Flanagan.

42. In page 103, subsection (4), line 23, after “circumstances” to insert the following:

“insofar as it affects cohabitants rights under *section 171*”.

—Charles Flanagan.

SECTION 203

43. In page 104, paragraph (a), line 11, after “months” to insert “immediately”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí, Charles Flanagan.

SCHEDULE

44. In page 116, third column, line 18, to delete “section 46(2),”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: A Printer error has resulted in incorrect line references in page 116 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 116 of the Bill.*]

45. In page 116, third column, lines 25 to 31, to delete “section 59(2) (inserted by section 1 of the Health (Miscellaneous Provisions Act 2001)” and substitute the following:

“section 1(1)(b) of the Health (Miscellaneous Provisions) Act 2001”.

[*Note: A Printer error has resulted in incorrect line references in page 116 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 116 of the Bill.*]

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.