



DÁIL ÉIREANN

AN BILLE UM PÁIRTNÉIREACHT SHIBHIALTA 2009 CIVIL PARTNERSHIP BILL 2009

LEASUITHE TUARASCÁLA REPORT AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM PÁIRTNÉIREACHT SHIBHIALTA 2009 —AN TUARASCÁIL

CIVIL PARTNERSHIP BILL 2009 —REPORT

Leasuithe Amendments

1. In page 13, line 13, after “Partnership” to insert “and Certain Rights and Obligations of Cohabitants”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

2. In page 13, line 13, after “Partnership” to insert “and Cohabitants”.
—Charles Flanagan.

3. In page 13, to delete lines 14 to 22 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.

4. In page 13, lines 20 and 21, to delete “Social and Family Affairs” and substitute “Social Protection”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

5. In page 13, line 29, to delete “Justice, Equality and Law Reform” and substitute “Justice and Law Reform”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

6. In page 14, between lines 2 and 3, to insert the following:

“Presence in the State.

3.—For the purposes of this Act, a reference to the presence of any person in the State or co-habitation in the State shall include presence or co-habitation while abroad in the service of the State.”

—Brendan Howlin.

7. In page 14, to delete lines 31 to 33 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.

8. In page 15, line 24, to delete “may” and substitute “shall, on the commencement of this Act”.

—Charles Flanagan.

9. In page 15, line 25, after “into” to insert the following:

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

—Brendan Howlin.

10. In page 15, between lines 43 and 44, to insert the following:

“(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 1 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.

11. In page 21, line 44, to delete “shall make” and substitute “shall orally make”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

12. In page 22, line 30, to delete “declarations are made orally in” and substitute “declarations are made in”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

13. In page 22, to delete lines 33 to 40 and substitute the following:

- “(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.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

14. In page 26, lines 48 to 50, to delete “consultant psychiatrist within the meaning of section 2(1) of the Mental Health Act 2001” and substitute “registered medical practitioner”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

15. In page 27, to delete lines 1 to 37, and substitute the following:

“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.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

16. In page 37, between lines 13 and 14, to insert the following:

“Creation of joint tenancy in shared home exempt from fees.

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.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

17. In page 37, between lines 13 and 14, to insert the following:

“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.

18. In page 42, between lines 6 and 7, to insert the following:

“Lump sum maintenance orders.

50.—(1) The court may, on making a maintenance order under *section 44*, 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.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

19. In page 42, between lines 6 and 7, to insert the following:

“Secured orders.

51.—The court may, on making a maintenance order under *section 44* 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.”

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

20. In page 48, line 28, to delete “subject to subsections (3) to (7),”.

—Brendan Howlin.

21. In page 48, to delete lines 34 to 40 and in page 49, to delete lines 1 to 29.

—Charles Flanagan, Brendan Howlin.

22. In page 48, lines 34 to 37, to delete all words from and including “of one” in line 34 down to and including “of” in line 37 and substitute the following:

“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”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

23. In page 49, line 2, to delete “provision for that issue” and substitute “provision for that child”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

24. In page 49, line 5, to delete “requirements of that issue” and substitute “requirements of that child”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

25. In page 50, line 14, to delete “Subject to section 117(3A),”.

—Charles Flanagan, Brendan Howlin.

26. In page 50, to delete lines 34 to 41.

—Brendan Howlin.

27. In page 50, lines 34 to 41, to delete all words from and including “inserting” in line 34 down to and including “order.” in line 41 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.

28. In page 54, between lines 4 and 5, to insert the following:

“(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,”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

29. In page 63, line 4, to delete “of *section 127*” and substitute “of *section 128*”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

30. In page 70, line 40, to delete “of the net estate” and substitute “of the estate”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

31. In page 72, between lines 3 and 4, to insert the following:

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

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

32. In page 85, line 22, to delete “adults” and substitute “persons”.

—Brendan Howlin.

33. In page 85, line 23, to delete “and committed”.

—Charles Flanagan, Brendan Howlin.

34. In page 86, lines 7 to 12, to delete all words from and including “if—” in line 7 down to and including “Act.” in line 12 and substitute the following:

“if sexual activity between them would be an offence having regard to their age or the fact that they are relatives.”.

—Brendan Howlin.

35. In page 86, to delete lines 21 to 29.

—Charles Flanagan, Brendan Howlin.

36. In page 86, between lines 29 and 30, to insert the following:

“Duty on court.

170.—It shall be the objective of the court in exercising powers under this Part, insofar as possible, to make such orders as will finally determine the financial arrangements between the parties and avoid further proceedings between them.”.

—Brendan Howlin.

37. In page 100, line 29, to delete “6 months” and substitute “12 months”.

—Charles Flanagan.

38. In page 102, between lines 21 and 22, to insert the following:

“Jurisdiction and venue.

193.—(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 170* and orders for provision from the estates of deceased cohabitants under *section 191*.

(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 170* and orders for provision from the estates of deceased cohabitants under *section 191*, 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 170* 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 191* 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 172* 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 171, 172* or *184* 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 171, 172* or *184*, the order was made, an application under *section 170(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 170(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 170*, 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.”

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

39. In page 104, to delete lines 1 to 5 and substitute the following:

“200.—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 169* of the *Civil Partnership Act 2010* for a continuous period of not less than three years.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

40. In page 117, after line 60, to insert the following:

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24.	Registration of Deeds and Title Act 2006	Definition of “deed” in section 32(1)	(a) insert “or under <i>section 36</i> of the <i>Civil Partnership Act 2010</i> ” after “Act 1976” in paragraph (j); (b) insert “or under <i>section 28(12)</i> of the <i>Civil Partnership Act 2010</i> ” after “Act 1976” in paragraph (k).
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—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[*Note: A Printer error has resulted in incorrect line references in page 117 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 117 of the Bill.*]