

# STATES OF JERSEY



Jersey

## **DRAFT MARRIAGE AND CIVIL PARTNERSHIP (DISSOLUTION AND SEPARATION) (JERSEY) LAW 202-**

---

**Lodged au Greffe on 14th October 2025  
by the Minister for Justice and Home Affairs  
Earliest date for debate: 25th November 2025**

---

**STATES GREFFE**



Jersey

## **DRAFT MARRIAGE AND CIVIL PARTNERSHIP (DISSOLUTION AND SEPARATION) (JERSEY) LAW 202-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Justice and Home Affairs has made the following statement –

In the view of the Minister for Justice and Home Affairs, the provisions of the Draft Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy M.R. Le Hegarat of St. Helier North**

*Minister for Justice and Home Affairs*

Dated: 10th October 2025

## REPORT

---

### Introduction

#### Summary

1. The draft Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202- (the “draft Law”), if approved, will repeal the [Matrimonial Causes \(Jersey\) Law 1949](#) (the “1949 Law”) and Parts 3 and 4 of the [Civil Partnership \(Jersey\) Law 2012](#) (the “2012 Law”). It will implement a previous States Assembly, in principle, decision in [P.77/2015 Same-Sex Marriage, Divorce and Dissolution](#) to introduce the principle of “no fault” dissolution of a marriage (and a civil partnership) into Jersey’s legislation.
2. This report and accompanying draft Law are predicated on a clear and simple message, that marriage and civil partnership, whether between same-sex or opposite-sex couples are valued institutions within our society. The policy behind the attached draft Law focuses on reducing conflict when such relationships break down. The aim of a good divorce (and dissolution law) should remain, as described by the English Law Commission in 1966 as –  
*“To buttress, rather than undermine, the stability of marriage, and when, regrettably, a marriage has irretrievably broken down, to enable the empty legal shell to be destroyed with the maximum fairness and the minimum bitterness, distress and humiliation.”*
3. Since the introduction of same-sex marriage in Jersey in 2018, and amendments to the Civil Partnership Law in 2023 which enable opposite sex individuals to form a civil partnership, there is now no legal distinction between a marriage and a civil partnership. Both same-sex and opposite-sex couples may enter into either form of union. As a result, it is now no longer necessary for the dissolution of marriages and civil partnerships to be governed by separate pieces of legislation. The draft Law addresses this by consolidating the processes for dissolving both marriages and civil partnerships into a single unified legal framework.
4. If approved, the draft Law will not only establish the principle of “no-fault” dissolution for both marriages and civil partnerships, it will also match modern practices used in other jurisdictions as reflected in **Appendix 1**, and:
  - allow couples to apply for dissolution at any time following the formation of their marriage or civil partnership;
  - harmonise terminology by using the word “dissolution” for the legal ending of both a marriage and a civil partnership (it is acknowledged that people will still use the word “divorce” when referring to the legal ending of a marriage);
  - permit either or both parties to apply for a dissolution;
  - remove the ability to contest a dissolution application;
  - enable future consideration to be given to pension matters including “pension sharing;” and
  - enable the Court to refer couples to alternative dispute resolution services.
5. The States Assembly has previously endorsed recommendations from the Violence Against Women Taskforce, and the move to “no-fault” dissolution is a positive step in support of this work, removing the need for applicants to disclose any reason for a dissolution application. Under the current Law abusive partners can also contest or defend a divorce or the dissolution of a civil partnership, potentially subjecting partners to more trauma. The draft Law enables either spouse or civil partner to request a dissolution of their marriage or

civil partnership by simply declaring that they no longer wish to remain in the marriage or civil partnership. The Court has discretion to shorten the period before a dissolution is made final in appropriate cases and potentially for those where there is a need to support and protect vulnerable individuals.

6. In further support of the work undertaken by the Violence Against Woman Taskforce, the draft Law includes provisions empowering the Court to order that either party to a marriage or civil partnership, whether they have dependent children or not, may remain on an interim basis in their accommodation, potentially providing additional protection and stability for those at risk.

## Background

7. In September 2015, the States Assembly agreed, in principle, in [P.77/2015 Same-Sex Marriage, Divorce and Dissolution](#) that new divorce legislation should be introduced with consideration given to:
- moving to “no fault” divorce;
  - removing the three-year bar on divorce;
  - introducing joint filing for divorce;
  - removing the ability to contest a divorce.
8. In early 2019 a public consultation was undertaken to establish views on divorce with the outcomes produced and summarised in the [Divorce Reform, Future of Civil Partnerships & Age of Marriage Consultation Report of April 2019](#).
9. In summary, the responses to this consultation were:

Proposed amendment	Agree	Do not agree	Do not know/had no preference
Remove the three-year bar*	75%	17%	8%
Move to “no-fault” divorce	71%	25%	4%
Introduce joint filing	94%	3%	3%
Remove the ability to contest divorce	59%	32%	9%
Remove divorce based on a period of separation	53%	41%	6%
Increase the minimum timeframe for divorce	11%	64%	25%

Percentages based on number of respondents that answered the particular question, in some cases the respondent did not reply to the question.

\* 69% of survey respondents did not know that there was a 3-year bar to applying to get divorced.

10. The feedback from the public consultation process provided valuable insight into respondents' views about divorce reform but it is important to note that it reflected the views of people who responded to the consultation, likely to be those who had professional involvement with Jersey's current system of divorce and developments made in other jurisdictions, and those who had been affected by the process. The UK Ministry of Justice also consulted on similar matters in England and Wales shortly after Jersey's consultation results were published. The results of the UK consultation on divorce reform were similar to those in Jersey. Both consultations were carried out with the aim of identifying changes to reduce family conflict from the divorce process.
11. While research into no-fault divorce was conducted prior to the COVID-19 pandemic – which subsequently shifted policy priorities – the delay in introducing the draft Law does not reflect any reservations about the principle of no-fault divorce or related issues. On the contrary, recent legislative changes in England, Wales and Guernsey have further reinforced the case for reform.
12. Dissolution of a marriage or civil partnership is a matter of great significance to many people in Jersey. The table below indicates the numbers of divorces and dissolutions of civil partnerships over the period 2015 – 2024.

<b>Year</b>	<b>Number of divorces/dissolutions of civil partnerships</b>
2015	221
2016	231
2017	219
2018	200
2019	211
2020	175
2021	186
2022	169
2023	161
2024	151

Although the number of divorces and dissolution of civil partnerships have fallen the overall percentage of marriages and civil partnerships which end in this has over the last few years remained consistent at approximately 40%. Children and the families of divorcing and separating spouses, and those where civil partnerships break down, inevitably get caught up in the process and are affected by outcomes, especially if there are prolonged and contested court proceedings. Depending on the circumstances, divorce may impact on housing, social security, health and education services. Divorce, dissolution and separation are likely to have a detrimental effect on people's incomes, wealth, and emotional well-being, and it is important that the Law does not cause more stress and confrontation to those affected than is necessary.

13. Jersey's Matrimonial Causes Law dates back to 1949 and, though the Law has been much amended, reform is required to fully reflect the changes in social attitudes since that time.

A new Law is required to address inconsistencies caused by changes to legislation governing marriage and civil partnerships. There is now no legal difference in Jersey between a marriage and civil partnership in civil societal terms. Opposite and same sex couples may marry, and opposite and same sex couples may enter a civil partnership. (The legislation in this area recognises that the church has its own views as to which people can be married in a religious setting). There are currently differences between the legislative processes for divorcing and the dissolution of a civil partnership which do not reflect this fact.

14. The concept of no-fault dissolution of marriage or civil partnership does not undermine the value of these institutions nor is it incompatible with a desire to support marriages and civil partnerships wherever possible. The opposition to no fault dissolution has always been that it would make the dissolution of a marriage (and now a civil partnership) too easy and would undermine the importance of marriage (and civil partnerships) and family life. In fact, by the time a couple (or one of them) decides the marriage or civil partnership is over, it will almost always be possible for there to be a divorce or dissolution, even under the current fault-based system. The change to a no-fault basis for dissolution is unlikely to increase the rates of couples who choose to legally end their marriage or civil partnership.
15. The preparation of the draft Law has provided the opportunity to consolidate provisions relating to the recognition of divorce and the dissolution of civil partnerships approved under laws of other jurisdictions. As a result, it will be necessary to repeal the [Recognition of Divorces and Legal Separations \(Jersey\) Law 1973](#) and Part 4 of the 2012 Law when the draft Law is enacted.
16. If the draft Law is approved, new Court Rules must be prepared to replace the existing ones. These updated Rules will unify the procedures for legally ending a marriage and civil partnership, which are currently governed separately by the [Matrimonial Causes Rules 2005](#)
17. Reform of Jersey's divorce process has the support of the Jersey Law Commission, which published a report on [Divorce reform in 2014](#) (see comment in italics below), and the Jersey and Guernsey Law Review which recommended that there should be a new "Family Law." As the Law Commission stated in its 2014 report:

*"Divorce law in Jersey needs to be reformed. A move to a no-fault system would be in keeping with the general trend towards a more conciliatory approach to divorce law across the world and the encouragement of non-court forms of resolution of financial matters and arrangements for children. The promotion of conciliation and mediation will benefit individuals and also lessen the amount of court time needed to deal with what are personal matters which, in most cases will be better dealt with by the parties themselves, not by the Court."*

## The draft Law

### PART 1 – Interpretation and Jurisdiction

18. The draft Law addresses all areas of the formal processes available to couples seeking to legally end their marriage or civil partnership. This includes dissolution, separation, annulment, and presumption of death and other matters including those relating to finances and children.
19. The long title of the draft Law outlines its purpose: *"to empower the Royal Court to make orders dissolving marriages (formerly referred to as a decree of divorce) and orders dissolving civil partnerships, to make separation orders, and to make provision for incidental matters."* Notably, the word "divorce" appears in the long title whereas the rest

of the Law uses “dissolution” to describe the legal ending of a marriage or a civil partnership, aligning with terminology already used in Jersey’s existing Civil Partnership legislation. Although the word “divorce” will undoubtedly remain in common usage for the legal ending of a marriage, it will be removed from formal legal text if this draft Law is adopted.

20. As is standard in most Jersey legislation, **Article 1** defines key terms used throughout the draft Law.
21. **Article 2** outlines the jurisdiction of the Family Division of the Royal Court which includes authority to make and deal with a:
- dissolution order;
  - separation order;
  - annulment order;
  - an order presuming death; and
  - any other related matter (including those related to finances and children).

Dissolution, annulment, and separation orders alter or end the legal status of a marriage or civil partnership and may have further legal implications. The Family Judge, who leads the Royal Court of Jersey’s Family Division, may also make decisions on financial arrangements, (such as property division and maintenance) and child related issues (such as living arrangements and their contact with parents), ensuring fairness and legal enforceability where appropriate.

22. Article 2 also grants the Court authority to deal with applications if either of the parties to the marriage or civil partnership (or the surviving party in presumption of death cases) is domiciled in Jersey at the time of the application or has been habitually resident in Jersey for a period of one year prior to the application.
23. For annulment orders, jurisdiction is slightly different. An annulment may be sought after the death of a spouse or civil partner, provided the applicant is domiciled or habitually resident in Jersey for at least one year prior to the death.
24. It is important to distinguish between habitually resident and domicile. Habitual residence refers to the place where a person lives regularly and has the centre of their day-to-day life with a degree of permanence. It is based on factual circumstances—where someone actually resides—and can change relatively easily. Domicile is a legal concept that refers to a where a person considers their permanent home, which they intend to return to and remain in indefinitely. It’s harder to change and is more legalistic in its interpretation than habitual residency.
25. The draft Law updates existing domicile requirements. Under the 1949 Law and the 2012 Law, both parties to a marriage or a civil partnership had to be domiciled in Jersey. This reflected the then customary law that a wife’s domicile followed that of her husband’s – this is why the legislation required both parties to be domiciled in Jersey. This requirement was repealed in 2023 by virtue of the introduction of Article 77A of the Marriage and Civil Status (Jersey) Law 2001.

### **Marriage and Civil Status (Jersey) Law 2001**

#### **Article 77A Abolition of wife’s domicile of dependence**

- (1) Subject to paragraph (2), the domicile of a married woman as at any time after the coming into force of this Article, instead of being the same as her husband’s by virtue only of marriage, is to be ascertained by reference to

the same factors as in the case of any other individual capable of having an independent domicile.

- (2) Where immediately before this Article came into force a woman was married and then had her husband's domicile by dependence, she is to be treated as retaining that domicile (as a domicile of choice) unless and until it is changed by acquisition or revival of another domicile either on or after the coming into force of this Article.

26. To mitigate any risk of “dissolution tourism”\*, the Court will have discretion, through Court Rules, to define what constitutes a valid application. This may include requiring applicants to demonstrate factors such as their place of residence, location of family, property ownership, and long-term residency intentions before any application is accepted. It should also be noted that the new domicile requirements follow those used in other jurisdictions including those that have also introduced the concept of “no-fault” divorce.

\* “Dissolution tourism” refers to individuals choosing Jersey as the jurisdiction for the dissolution of their marriage or civil partnership due to a perception of a comparatively simpler legal processes and domicile criteria.

## **PART 2 – Dissolution of Marriage or Civil Partnership**

### **Division 1 – Dissolution and Separation**

27. **Article 3** forms the foundation of the draft legislation and introduces a no-fault framework for the dissolution of a marriage and civil partnership. There is no requirement to assign blame for a marriage or civil partnership ending. Applications for dissolution may be submitted at any point following the formation of a marriage or civil partnership, without the need for the parties to be separated for a minimum period or for a time bar to be met.
28. To help minimise potential conflict during the dissolution process, Article 3 also allows either party, or both jointly, to initiate an application to dissolve a marriage or civil partnership. This is consistent with the approach followed by other jurisdictions across the British Isles.
29. As part of the dissolution application process, the applicant(s) must submit a signed statement confirming that they no longer wish to remain married or in a civil partnership, indicating that the relationship has irretrievably broken down. Upon receipt of a valid application, including this signed statement, the Court will make a conditional dissolution order. This order may only be made final after a minimum period of six months, or another timeframe specified by the Court.
30. The draft Law empowers Jersey's Royal Court to issue Rules which will set out the detailed procedures for dissolution. These Rules will specify the required content of an application, outline the necessary steps that must be completed prior to its submission, and define the criteria for an application to be considered valid.
31. As previously noted, Article 3 marks a significant shift to a “no-fault” dissolution model, moving away from the fault-based approach of the 1949 Law and 2012 Law with applicants no longer required to declare any fault as the basis of their application. Under the current framework, an applicant is required to assign blame, citing grounds such as adultery, desertion, unreasonable behaviour, being of unsound mind or a prison sentence exceeding 15 years (or life). Similar provisions apply to the dissolution of a civil partnership, with the exception that adultery is not a specified ground for dissolution. Alternatively, parties can demonstrate a period of separation to justify divorce or dissolution.

32. The approach reflected in Article 3 recognises the reality that legally formed relationships can break down despite the best intentions of those involved. When they do, it is usually an extremely stressful and traumatic process for those directly and indirectly involved. It is neither constructive nor compassionate to compel individuals to remain in an unhappy marriage or civil partnership or to make the dissolution process unnecessarily burdensome.
33. Fault-based grounds for dissolution often increase conflict by requiring one partner to allege wrongdoing by the other. In reality, the so-called “innocent party” may have also contributed to the breakdown of the marriage or civil partnership – they are merely the person who filed for dissolution and cited fault.

Currently, a respondent may contest that a marriage or civil partnership has broken down by disputing the fault cited in the application for the divorce or dissolution. Defended divorces or defended dissolution of civil partnerships in any jurisdiction are extremely rare, including in Jersey, largely due to the cost and lack of financial advantage to be gained. Contrary to popular belief, the Court does not award a greater share of finances to the “wronged party.” The draft Law eliminates the requirement to assign fault, thereby rendering such provisions unnecessary. While some may argue that removing the ability to contest undermines the opportunity to fight for a marriage or civil partnership, this perspective contrasts with findings from the 2019 research, which suggests that once one party believes that the relationship has broken down, that belief is typically sufficient to confirm its end. The draft Law still allows for legal challenges, such as questioning the legal validity of the marriage or civil partnership.

34. Fault-based proceedings do little to promote forgiveness or co-operation – both are essential if a couple have children and are to successfully co-parent in future.
35. Since the States Assembly endorsed the principle of no-fault proceedings, several support services have been established to ensure that there is greater focus on supporting couples. These services assist individuals navigating divorce, dissolution, or separation particularly in resolving financial and childcare matters.
36. The draft Law does not specify a minimum duration for a marriage or a civil partnership before a dissolution can be requested. Under the 1949 Law and the 2012 Law, couples must wait three years before filing for a divorce or dissolution. However, in both Laws there is provision to enable a divorce or dissolution to be granted within the three-year period in cases involving exceptional hardship suffered by the applicant or exceptional depravity on part of the respondent. Abuse alone does not necessarily constitute exceptional depravity under the current Law. In granting leave to file a divorce or dissolution petition within the three-year period, the Court must consider the interests of any children and assess the likelihood of reconciliation before the three-year threshold is reached.
37. In comparison, the waiting period is one year in England & Wales, while Scotland, Guernsey and New Zealand impose no such restriction. The current three-year requirement can be a long and unhappy time for individuals, prolonging distress to those who are stuck in a marriage or civil partnership that has irreparably broken down. Legal barriers which force individuals to remain in such relationships do nothing to strengthen the institution of marriage or support reconciliation.
38. It has been argued that the rationale for having any time bar was to safeguard against irresponsible marriages and to increase stability in the early years of married life. However, in today’s context, where couples frequently cohabit for lengthy periods of time before formalising their relationship, this rationale is less relevant. Some have argued that the non-inclusion of a time bar could lead to “sham” or unlawful marriages. There is no proof that this would be the case especially in Jersey, where existing laws already require rigorous proof before a marriage and civil partnership can be entered.

39. Article 3 retains the present two-stage dissolution process but updates the existing terminology. The terms “decree nisi” and “decree absolute” from the 1949 Law are replaced with the terms “conditional order” and “final order”. This is consistent with the terminology currently used for the dissolution of a civil partnership in the Civil Partnership (Jersey) Law 2012. Under the draft Law a dissolution order would, in the first instance, be a conditional order which could not be made final before at least six months have passed, or a date set by the Court. This allows time to resolve financial and other matters.
40. This contrasts with Rules issued under the 1949 Law, which set a theoretical minimum period of 6 weeks to move from filing for divorce to being divorced (in practice it takes much longer than this minimum period). This allows little time for reflection, in a legal process that currently fails to encourage either reconciliation or mediation. Under the draft Law there is no automatic assumption that a conditional order will be made final once the six months (or date set by the Court) has passed, the court will require confirmation from the relevant applicant(s) that they wish to proceed.
41. **Article 4** outlines the process for applying for a separation order (formerly referred to as “judicial separation” in the 1949 Law and “legal separation” in the 2012 Law). Individuals who separate under the terms of this Article are still formally married or in a civil partnership and are not able to enter into another marriage or civil partnership.
42. It has been argued that the removal of the three-year bar eliminates the need to have formal separation provisions. While such cases have been rare under the 1949 Law and the 2012 Law, retaining an option for separation ensures inclusivity for couples who, for religious or financial reasons or other reasons, prefer formal separation over dissolution.
43. This Article also provides the circumstances under which a separation order can be revoked, recognising that individuals can and do change their minds about remaining separated. The draft Law supports such changes in circumstances, allowing couples to reconcile without unnecessary legal barriers.
44. As a further indication of the intent to remove as much conflict as possible from the separation process, Article 4 ensures that the proposals for separation align with those for the dissolution of a marriage and civil partnership by:
  - allowing either or both of the parties to apply for a separation order; and
  - removing the requirement for the parties to prove facts or assign fault as justification for why they wish to be legally separated.
45. Article 4 further aligns with the no-fault approach with no provision for contesting a separation order under the draft legislation. This reflects the intention to reduce adversarial proceedings and promote a more constructive legal process.
46. **Article 5** allows either or both parties to apply for the dissolution or annulment of their marriage or civil partnership after a separation order has been made. This ensures a clear legal pathway for those who initially choose separation but later decide to legally end their relationship.

## Division 2 – Annulment

47. This division of the draft Law deals with the process and the legal paperwork required to secure an annulment order. A person who has been granted an annulment order is then able to marry or enter a civil partnership if they wish. An annulment is a legal process that declares a marriage or civil partnership invalid – as though it never happened – and is not the same as a dissolution order, which ends a valid marriage or civil partnership.

48. When considering annulment, it is important to distinguish between marriages and civil partnerships which are void and those which may be voidable. A void marriage or civil partnership is one that is considered never to have legally existed due to a fundamental legal flaw or defect from the outset. This may be for reasons including one party being underage; the parties being too closely related; one party already being married; or their lacking the mental capacity to consent. These conditions are set out in the Marriage and Civil Status (Jersey) Law 2001 and in the 2012 Law. In contrast, a marriage or civil partnership may be voidable if it was entered into under specific circumstances, such as fraud, threats, or duress.
49. In cases where a marriage or civil partnership is legally void, that is deemed never to have been valid from the outset, the Court is required to make an annulment order. The draft Law facilitates this process by providing a mechanism for the parties to gain the necessary documentation. An annulment may also be granted on voidable grounds. However, the Court may refuse to grant an annulment on voidable grounds, if the respondent can demonstrate that the applicant led them to believe an annulment would not be sought, and that proceeding with it would be unjust.
50. **Article 6** provides the interpretation of certain terms which are related to the annulment of a marriage or civil a partnership and which are only used in those Articles concerning annulment.
51. **Articles 7 to 9** outline updated grounds for annulment which reflect current social attitudes. These provisions replace the outdated criteria found in the 1949 Law and the 2012 Law (including non-consummation, impotency, pregnancy by another person, venereal disease, mental disorder, and epilepsy) which are no longer considered appropriate reasons. In addition to modernising the grounds for annulment, these Articles ensure consistency between marriage and civil partnership. They also guarantee that the provisions apply equally to both same sex and opposite sex marriages and civil partnerships.
52. Although requests for a marriage or civil partnership to be annulled are extremely rare, there will always be a need for provisions that enable a “void” marriage or civil partnership to be annulled. There is an argument that the introduction of no-fault dissolution negates the need for annulment based on “voidable” reasons, but it is acknowledged that there may be instances related to fraud, threats, or duress where annulment should be an option. The draft Law recognises that in certain “voidable” instances the Court may not grant an annulment but if the Court is unable to accept a request for an annulment there is nothing to prevent an applicant from applying for a dissolution order.
53. Article 7 also provides that annulment orders can be submitted singularly or jointly by the parties, following the process for dissolution orders, with these initially being conditional orders which may be made final in certain situations. Subject to the necessary agreement, a final annulment order may be granted three months (or after a shorter time period) after the conditional order has been granted. It is expected that Rules of Court will, in certain cases, enable orders for a “void” annulment to be made simultaneously. There is a provision that a person, including the Attorney General, may submit evidence as to why a conditional order may not be made final.
54. **Article 10** specifies how the annulment of a marriage that has been converted from a civil partnership or a civil partnership that has been converted from a marriage should be dealt with.

### Division 3 – Presumption of death

55. **Articles 11 and 12** outline the circumstances under which a spouse or civil partner may apply to the Court for a presumption of death order and the dissolution of the marriage or civil partnership. If the Court is satisfied that there are reasonable grounds to believe the

other party is deceased, it may make a presumption of death order. The Court may presume the other party is dead where a person has been continually absent for a period of seven years or more, during which the applicant has had no contact with the other party and there is no reason to believe they are alive and unless evidence to the contrary is presented.

56. A dissolution based on a presumption of death is initially granted as a conditional order. This order cannot be made final until three months have passed and the applicant confirms their intention to proceed. However, the Court may shorten this period if it deems it appropriate. Any person, including the Attorney General, may challenge a dissolution order on the grounds that it was obtained through collusion or that the Court was unaware of key facts.

### **PART 3 – Procedure and Powers of the Court**

57. Currently Jersey's legislation enables only one party to a marriage or civil partnership to request a divorce or dissolution. Sometimes the decision to divorce or dissolve a marriage or a civil partnership is made jointly, this approach is more conducive towards a conciliatory approach to proceedings, but the application for the divorce or dissolution can only be made by one party.
58. With this in mind and where both parties to a marriage or civil partnership mutually agree that the relationship has irretrievably broken down and they no longer wish to be in the relationship, Article 13 of the draft Law allows them to make a joint application for a dissolution order if they wish. Alternatively, either party may apply individually. Recognising that circumstances may change during the dissolution process, Article 13 also provides flexibility: a joint application can be converted to a sole application, and a sole application can be converted into a joint one. This approach is in line with that followed in other jurisdictions such as England and Wales, Scotland, New Zealand, and Guernsey.
59. **Article 14** sets out the responsibilities of the Attorney General in cases where the Court determines that full legal argument is necessary. This applies particularly in proceedings seeking an annulment order or a dissolution based on the presumption of death, where the facts of the case must be formally established.
60. **Article 15** complements Article 14 by allowing the Attorney General to recover costs associated with legal proceedings. It outlines how any income from these proceedings should be accounted for and permits the Law Officers' Department to charge any shortfall in recovered costs as part of its official expenses.
61. **Article 16** introduces the requirement to participate in alternative dispute resolution in certain circumstances. As part of the application process the Court may require the parties to the marriage or civil partnership to have taken action to avoid all or part of the proceedings, including through engaging in any form of alternative dispute resolution. Dispute resolution services may include mediation, non-court dispute resolution, non-court financial dispute resolution and early neutral resolution services. It also empowers the Court to adjourn proceedings and require evidence that the parties have taken reasonable steps to avoid litigation. If the Court finds that insufficient efforts have been made, it may order the parties to participate in alternative dispute resolution. The Court also has discretion to allocate any related costs between the parties as it sees fit. However, this is discretionary as there may be cases in which forms of alternative dispute resolution would be inappropriate, including where there is evidence of domestic abuse.
62. It must be noted that the processes reflected in this draft Law aim to ensure a more conciliatory approach to dissolution through the removal or reduction of as much conflict as possible from the process. It is essential, however, that any requirement to engage in alternative dispute resolution does not obstruct access to the judicial system.

63. The aim of this provision is not to encourage reconciliation, as it is generally accepted that once a request for a dissolution, annulment or separation has been made, the parties are unlikely to seek reconciliation. Instead, evidence shows that all disputes during the dissolution process centre around children and/or finances – issues that are of direct concern to the Court. This is why the use of any form of dispute resolution service is considered highly beneficial before court proceedings have commenced.
64. Dispute resolution services offer a cost-effective and constructive way to manage conflict. In Jersey, several such services are available and all are well-regarded services that regularly receive referrals from legal professionals, and other relevant agencies. These services are typically less expensive, (some are free) than traditional legal proceedings and are designed to reduce conflict and promote co-operation.
65. The Family Division of the Royal Court, along with the Island’s family law practitioners, are expected to continue to encourage parties to consider non-adversarial alternative dispute resolution services at all stages of the dissolution process, including at the application stage, as well as promoting non-adversarial dispute resolution services as part of the dissolution process.
66. The inclusion of this provision also supports the use of collaborative law, where both parties and their lawyers commit to resolving matters without going to court. Negotiations take place through structured meetings, allowing all relevant matters to be addressed in a non-confrontational setting. Agreements reached through these processes can be formalised into court orders, making them legally enforceable if necessary.
67. Evidence strongly supports the effectiveness of alternative dispute resolution, especially in resolving issues related to children.
68. **Article 17** stipulates that if one party to the marriage or civil partnership dies before a final order for dissolution or annulment is made, the proceedings must be discontinued.
69. **Article 18** provides that a person may enter a new marriage or a civil partnership once a final dissolution, annulment, or presumption of death order has been made, providing there is no outstanding right of appeal.
70. In the case of an annulment order, if no appeal is lodged within the permitted time frame, or if an appeal is dismissed, the individual is free to marry or enter a new civil partnership. The draft Law also allows religious representatives to decide whether to solemnise the marriage of someone who has been previously married or in a civil partnership at their place of worship.
71. **Article 19** introduces protections for children in proceedings. It empowers the Court to delay issuing a separation order or a final dissolution or annulment order until it has fully considered the welfare and circumstances of any children involved, reflecting Jersey’s commitment to upholding children’s rights.
72. When a relationship ends, conflict centres around:
  - children (for example, custody, residence, and access arrangements); and
  - finances (for example division of assets and financial support).

The draft Law is founded on the principle of minimising conflict during the dissolution processes, not only to reduce emotional strain on adults, but also to protect children. Reports show that parental conflict can negatively impact children’s wellbeing, increasing the risk of anxiety, depression, aggression, and antisocial behaviour\*. Providing legal clarity on these matters can help reduce disputes. The welfare and upbringing of children should remain the paramount consideration and underpin all decisions, especially when parental circumstances change, made by separating spouses and civil partners.

\* [Social Justice: transforming lives](#)

73. **Article 20** confirms that the standard rights of succession end once a marriage or civil partnership has been dissolved or annulled, unless a valid will explicitly states otherwise.

## **PART 4 – Financial Relief**

### **Division 1 – Financial Orders**

74. Part 4 of the draft Law addresses the treatment of financial matters following the dissolution and annulment of a marriage or civil partnership and the separation of spouses and civil partners. The draft Law deliberately avoids prescribing rigid formulas for dividing assets. Instead, it provides the Court with the discretion and flexibility to assess each case on its own merits, considering the specific needs and circumstances of both parties.
75. Financial arrangements are often a major source of conflict when spouses or civil partners separate. The Court has the authority to address financial issues, including maintenance payments, asset division, and property ownership following dissolution, annulment, and legal separation. While proceedings for financial support can begin after a conditional order is made, the Court cannot make a final financial order until a final order is granted. Interim financial arrangements may be made during the dissolution process to cover maintenance for a spouse, civil partner, or child.
76. The draft Law allows the parties and the Court to determine financial arrangements, recognising that each relationship is unique. There is no legal presumption of a 50/50 asset split. Although not explicitly stated in the draft Law, the principle of fairness underpins financial settlements, with the Court assessing the competing needs of the parties, contributions of the parties to the marriage or civil partnership and an assumption that marital or civil partnership assets will be shared. There is extensive case law which governs the legal principles that the Court will continue to follow when determining financial arrangements following the dissolution of a marriage or civil partnership.
77. **Article 21** provides that, upon or following the issuance of a conditional dissolution order, an annulment order, or a separation order, the Court may require either party to contribute to the maintenance of any children. This provision extends to adult children over the age of eighteen in some circumstances, recognising that financial support may still be necessary in cases where they are in education or facing other special conditions.
78. **Article 22** introduces provisions relating to nuptial agreements, including pre-nuptial and post-nuptial agreements, and nuptial trusts which is a new feature compared with the existing legislation.
79. One of the main challenges in current divorce or dissolution proceedings is a lack of predictability of financial orders. The draft Law gives the Court wide discretion in financial matters, making outcomes difficult to foresee when there are no binding agreements in place. This Article proposes a presumption that the terms of nuptial agreements and trusts are binding on the parties, subject to certain safeguards. These safeguards are designed to ensure that agreements are entered into freely, with independent legal advice, with full disclosure of assets, and without causing undue hardship to either party or any child. If any of these conditions are not met, the Court retains the authority to vary the terms of the agreement.
80. Pre-nuptial agreements can play a valuable role in protecting specific assets, such as those intended for children from previous relationships. At the same time, some may see them as undermining the institution of marriage or civil partnership, suggesting an expectation of eventual breakdown. Nevertheless, they provide a further way to try to reduce conflict in the dissolution process, offering clarity and protection when entered into responsibly.

81. The Jersey Law Commission supports a presumption that nuptial agreements should be binding on the parties, provided that the necessary safeguards were in place at the time the agreement was entered.
82. **Article 23** outlines the Court’s authority regarding property held by spouses or civil partners. The Court may order the transfer of any property, whether movable or immovable, from one party to the other, to a child of the family, or to another person specified in the order for the benefit of that child. Additionally, the Court may direct the creation of a settlement for the benefit of the other party or of any child of the family.
83. **Article 24** sets out the financial arrangements the Court may impose once a final dissolution and annulment order, or separation order has been made. The Court may order one party pay to the other:
- an annual or other periodic sum; or
  - a lump sum or multiple lump sums
- for maintenance and support, as the Court deems reasonable. The Court may also require security to be provided for the payment of these sums. In making these orders, the Court must consider the benefits accruing to the party in whose favour the order is made.
84. As previously noted, there is a widespread misconception that the law requires an equal 50/50 division of assets upon the dissolution of a marriage or civil partnership. In reality, the principle of equal division of marital assets, originally established through case law in England and subsequently followed in Jersey, serves only as a starting point. The Court departs from this presumption by applying what are known as the “Section 25 factors” set out in the Matrimonial Causes Act 1973 with particular emphasis on assessing the needs of the parties, the contribution to the marriage or civil partnership and the sharing of marital assets. To reinforce this approach, the relevant provisions from Article 25 of the England and Wales Act have been incorporated into Article 31 of the draft Law.
85. **Article 25** empowers the Court to order the sale of property in which either or both parties have a beneficial interest. This may occur when the Court makes an order under Articles 23, 24 or 35, either at the time of that order or at a later stage. The Court may include specific provisions in such an order, including:
- directing how proceeds from the sale are to be distributed;
  - requiring the property to be offered for sale to a specified person or group; and
  - specifying when the order is to take effect.
86. No order to sell property may take effect until a final order for the dissolution or annulment has been made. Article 25(5) provides that if a Court order includes a provision for the proceeds from a property sale to be used to secure periodic payments to one party, that provision will cease to have effect upon the party’s marriage, entry into a civil partnership, or death. Article 25(6) further ensures that any third party with a beneficial interest in the property must be given an opportunity to make representations before the Court finalises the order.

## Division 2 – Pensions

87. This division of the draft Law addresses pensions, which can be overlooked yet can be a significant asset in the dissolution of a marriage or a civil partnership. While parties typically focus on dividing bank accounts, savings, and the family home, pensions may

represent a substantial portion of future financial security and should be carefully considered during the process.

88. In Jersey, where many individuals are employed in the finance sector, it is common for one party in a marriage or a civil partnership to hold significant pension assets. Currently, when dividing assets, the Court may use a method known as “offsetting” to deal with a pension, whereby one party retains their pension while the other receives assets of equivalent value (based on the pension’s actuarial value), such as property or cash. However, offsetting is not always a practical solution. In many cases, there are insufficient assets to match the actuarial value of the pension, or the arrangement can potentially leave one party without access to sufficient funds until they can draw their pension – this may be many years in the future.
89. Whilst the value of a pension(s) can be offset against other assets without the need for a specific statutory structure, formal pension sharing requires dedicated legal provisions to be in place. Introducing pension sharing into Jersey’s dissolution legislation would provide an alternative way of dealing with pensions and offer a valuable solution to some of the challenges associated with offsetting, enabling a fairer division of financial resources. Pension sharing is a legal mechanism that allows pension assets to be divided, typically as a percentage of pension value based on actuarial valuation, upon the dissolution of a marriage or civil partnership. Through this mechanism, a pension is valued, and a portion of one party’s pension is transferred to the other partner as part of a financial settlement. This transfer is formalised through a court made pension sharing order, which legally binds both the pension holder and the pension scheme. The Court determines the proportion of the pension to be allocated to each party. Once the order takes effect, the receiving spouse or civil partner may choose to retain their share within the existing pension scheme in their own name (if the terms of the scheme permit) or transfer it to a new pension provider. This flexibility facilitates a clean financial break, enabling the receiving partner to manage their pension independently.
90. Unfortunately, introducing legislation to enable pension sharing as identified in the previous paragraph is a complex undertaking. To avoid delaying the introduction of “no fault” dissolution, the draft Law includes provisions that:
- codify existing practices for lump sum payments for pensions (see **Article 27**); and
  - empower the Minister for Justice and Home Affairs to introduce further provisions in relation to pensions including the introduction to pension sharing at a later stage (see **Article 29**).
91. The complexity of implementing pension sharing in Jersey is compounded by the absence of dedicated pension legislation. At present, definitions of what constitutes a pension and other rules relating to pensions are embedded within the [Income Tax \(Jersey\) Law 1961](#), rather than being governed by a standalone legal framework. Work will continue on the necessary legislative amendments to support the implementation of pension sharing. Any changes will be brought forward in Regulations by the Minister for Justice and Home Affairs under the provisions of Article 29.
92. **Article 26** defines key pension related terms for the purposes of dividing assets on the dissolution of a marriage or civil partnership. It specifies that the Court may only make a pension order once a final dissolution or annulment order has been granted. Valuing and splitting pension assets can be a complex undertaking for pension scheme managers. Article 28 authorises the Court to apportion any costs charged by the scheme manager between the parties, ensuring a fair distribution of associated fees.

**Division 3 – Additional functions of the Court relating to financial relief**

93. The draft Law broadly reflects the procedures for handling financial assets established in the 1949 Law and the 2012 Law. There are also new provisions that enhance the Court's powers and promote a fairer distribution of assets. These additions are designed to ensure full financial disclosure by both parties during dissolution proceedings and to prevent any actions intended to obstruct the effective allocation of financial assets.
94. Under Article 30, the Court is required to consider all relevant circumstances of the case, with particular attention to the matters identified in Article 31 (Ascertainment of assets and liabilities) and Article 32 (clean break considerations).
95. Article 31 expands on the provisions under the 1949 Law and the 2012 Law and reflects the provisions of section 25 of the Matrimonial Causes Act 1973, outlining the factors the Court must consider when issuing financial orders, including:
- each party's income, earning capacity, property, and foreseeable financial resources;
  - their financial needs, obligations, and responsibilities;
  - the standard of living enjoyed by the family prior to the relationship breakdown;
  - the age of each party and the duration of the marriage or civil partnership; and
  - contributions made or to be made by each party to the support of any children (this does not only mean financial contributions but also includes care giving).

The welfare of children under eighteen remains the Court's paramount consideration.

96. Article 31 reinstates the current requirement which enables the Court to request both parties to submit sworn declarations detailing their assets, liabilities and any charges secured against those assets. Detailed procedures for dealing with financial matters will be dealt with in Rules of Court. It is intended that the Rules will retain current procedures for financial and other matters. These include:
- preliminary directions hearings;
  - filing and exchange of Sworn affidavits of means;
  - questionnaires and responses;
  - schedules of deficiencies and replies; and
  - referral to court based financial dispute resolution or stay for non-court dispute resolution.
97. **Article 32** introduces the requirement for the court to consider a "clean financial break". Thereby allowing the Court to end future financial claims whilst preserving obligations toward any children of the marriage or civil partnership. A clean financial break at the end of proceedings is generally preferred as it provides clarity, and certainty, and allows parties to move on with their lives. Jersey's current law does not enable such an order to be made. The draft Law aligns with English and Welsh matrimonial law which requires courts to consider ending financial obligations as soon as is fair and reasonable.
98. **Article 33** empowers the Court to make an interim maintenance order, providing financial support to a dependent spouse or civil partner, and/or children, to meet living expenses during the dissolution or annulment process. The interim order remains in effect until it is either replaced or discharged by a final order.
99. **Article 34** introduces a significant new provision in the draft Law concerning interim occupation orders. These orders provide an essential mechanism for managing living

arrangements when a dissolution, annulment or separation order has been applied for. They aim to improve the safety and well-being of all parties while the legal process is on-going. In other jurisdictions, these orders are commonly used in cases involving domestic abuse or where there are disputes about who should remain in the family home during the dissolution process. An interim occupation order sets out temporary arrangements regarding who may reside in a family home and the conditions under which it may be occupied, offering a short-term solution until a final settlement is reached. When considering these orders, the Court will typically consider such factors as each party's housing needs, financial resources and the potential impact on any children involved.

100. **Article 35** supports individuals who are lacking capacity under the [Capacity and Self-Determination \(Jersey\) Law 2016](#), by allowing payments to be made to a Court nominated third party, who must act in the individual's best interests.
101. **Article 36** introduces a new provision to enable a party to a marriage or civil partnership to seek financial support to obtain access to legal services during financial proceedings. It aims to offer support for individuals who lack sufficient income or assets to cover these costs. It reflects similar arrangements included in the Matrimonial Causes Act 1973. Before granting an order, the Court must be satisfied that the applicant cannot reasonably afford legal services, is unable to secure a loan to cover costs, and is unlikely to obtain services by charging future assets recovered through the proceedings.
102. **Article 37** empowers the Court to vary, suspend, or re-instate any financial order under Part 4 (Articles 21 – 39), based on changes in either party's financial circumstances.
103. **Article 38** allows the Court to appoint someone to execute legal documents on behalf of a non-compliant party, at that party's expense.
104. **Article 39** provides that if one party dies after a final dissolution order has been made but before a financial order is made, the Court may still make a financial order as if the death had not occurred. This should ensure that one party does not unfairly benefit or is disadvantaged by the death.
105. **Article 40** represents a significant addition to the draft Law to deter spouses or civil partners from concealing or disposing of assets in an attempt to frustrate financial proceedings at any time. Full and honest financial disclosure is essential to ensure fair and equitable financial relief. This Article enables the Court to take protective measures to prevent or take into account improper disposal of assets. Notably, Jersey Law has, until now, lacked a mechanism to reverse asset transfers or disposals made to avoid financial orders. Article 40 addresses this gap by granting the Court the authority to counteract such actions and uphold the integrity of the financial settlement process.
106. Similar provisions exist in the England and Wales Matrimonial Causes Act 1973, but this only enables the Court to deal with disposals in the last three years. This new provision does not set any time bar in Jersey.

## **PART 5 – Recognition of Overseas Dissolution, Annulment or Separation**

107. Part 5 of the draft Law provides that any order for dissolution, annulment and separation obtained in any part of the British Islands, or another country can be recognised in Jersey.
108. To consolidate all matters relating to dissolution, annulment, and separation, including the recognition of such orders from outside Jersey, this Part of the draft Law incorporates provisions currently found in the Recognition of Divorces and Legal Separations (Jersey) Law 1973. This Law will be repealed if the draft Law is enacted.
109. A key provision within this Part is Article 47 which confirms that once an overseas dissolution or annulment is recognised in Jersey, either spouse or civil partner is legally permitted to marry or enter a civil partnership in Jersey.

110. Article 49 includes a savings provision that ensures that rights acquired under the previous legal framework, such as property rights, will remain valid and enforceable after the enactment of the draft Law.

#### **PART 6 – Administrative Provisions**

111. This Part addresses administrative matters, which will be covered in more detail in Rules issued by the Court. **Article 50** of the draft Law requires the Court to maintain an official seal. Any document bearing this seal is considered to be official proof of the authenticity of the document and carries legal authority.
112. **Article 51** governs the regulation of reports and prohibits the publishing of certain information related to Court proceedings concerning the dissolution or annulment of a marriage or civil partnership or the separation of spouses or civil partners.
113. **Article 52** concerns the service of documents. Detailed procedures for serving documents will be set out in Rules issued by the Court.
114. **Article 53** empowers the Court to order the exclusion of individuals from the courtroom at specified times and whilst certain evidence is given.

#### **PART 7 – Rules of Court, Regulations and Orders, Transitional and Closing**

115. Part 7 of the draft Law sets out provisions for the administration and implementation of the draft Law, including:
- the issuance of Rules of Court, which will establish detailed administrative procedures for matters relating to dissolution, annulment, separation and presumption of death and related matters;
  - a mechanism allowing future amendments to the Law to be made by the States Assembly through Regulations;
  - transitional provisions to ensure continuity, allowing proceedings for divorce, dissolution, annulment, or separation initiated under the 1949 Law and the 2012 Law to continue under those respective frameworks. Financial proceedings associated with such cases will also be governed by the existing legislation;
  - consequential amendments to align and update the terminology used for the dissolution, annulment of marriage and civil partnership and separation of spouses and civil partners, across more than twenty pieces of legislation; and
  - a provision enabling the Law to be brought into force by Order of the Minister for Justice and Home Affairs on a specified date, allowing flexibility in setting the commencement date to ensure that the Rules of Court and other administrative arrangements are in place at the same time.

#### **Financial and staffing implications**

116. The work required of the Judicial Greffe will need to be prioritised and resources allocated as and when available for drafting a new set of Rules of Court that reflect the changes introduced by the draft Law. These Rules will consolidate procedures for the dissolution of marriage and civil partnership into a single document, making the administration of these matters clearer and more accessible.
117. Existing fees and charges for divorce and the dissolution of civil partnerships are set in the [Stamp Duties and Fees \(Jersey\) Law 1998](#). These fees and charges will remain in place for proceedings initiated under the 1949 Law and the 2012 Law. However, new fees and

charges will be required to cover new processes introduced under the draft Law. These will be considered as part of the development of the new Rules of Court to ensure consistency with existing charges and transparency in the cost of services provided. The necessary legislative amendments to address these new fees will be brought forward before the draft Law is enacted.

118. In England and Wales, the initial implementation of “no-fault” divorce in April 2022 resulted in a temporary surge in applications attributed to couples delaying proceedings until the new legislation was in place. However, subsequent data indicates a notable decline in applications for divorce thereafter. This increase placed some additional strain on the court system in that initial time period. It is anticipated that the introduction of this draft Law may result in couples delaying proceedings until the new legislation is in place, but there should be no overall increase in applications.

### **Human Rights Notes**

119. The notes on the human rights aspects of the draft Law in **Appendix 2** have been prepared by the Law Officers’ Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

### **Children’s Rights Impact Assessment**

120. A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

## APPENDIX 1 TO REPORT

## Basis for Divorce/Dissolution – Comparison

	<b>Proposed Jersey – Marriages and Civil Partnerships</b>	<b>Current Jersey – Marriages and Civil Partnerships</b>	<b>Guernsey</b>	<b>Isle of Man</b>	<b>England and Wales</b>	<b>Scotland</b>	<b>New Zealand</b>
<b>Grounds for divorce or dissolution</b>	No fault – irretrievable breakdown	Adultery*, Unreasonable behaviour, desertion, unsound mind, and separation – 1 year with consent and 2 years without consent	Irretrievable breakdown	Irretrievable breakdown	Irretrievable breakdown	Irretrievable breakdown based on adultery, unreasonable behaviour, and separation – 1 year with consent and 2 years without; or interim gender recognition certificate has been issued	No fault divorce following 2 years separation (supported by an agreement as to how any children are cared for)
<b>Time bar</b>	No time bar	3-year time bar	No time bar	1-year time bar	1-year time bar	No time bar	No time bar
<b>Domicile</b>	At least one party to be domiciled	Both parties to be domiciled	At least one party to be domiciled	At least one party to be domiciled	At least one party to be domiciled	At least one party to be domiciled	At least one party to be domiciled
<b>Contested divorce or dissolution</b>	No	Yes	No	No	No	No	No
<b>Single and joint filing</b>	Yes	No	Yes	Yes	Yes	Yes	Yes

\*Adultery is not a reason for dissolution of a civil partnership

## APPENDIX 2 TO REPORT

**Human Rights Notes on the Draft Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202-**

These Notes have been prepared in respect of the Draft Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202- (the “draft Law”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“ECHR”).

**These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.**

The draft Law, if passed, will, inter alia, replace Matrimonial Causes (Jersey) Law 1949 (“1949 Law”) and Parts §3 and §4 of the Civil Partnership (Jersey) Law 2012 (“2012 Law”). The full list of repeals and consequential amendments are set out in the schedule to the draft Law.

The key reforms can be broadly categorised as follows:

- (a) Removal of restrictions on petitions for dissolution of marriage or civil partnership during the first 3 years after marriage or creation of civil partnership;
- (b) Permitting couples to obtain a dissolution of marriage or civil partnership without the need to prove fault or wrongdoing by either party and allowing signed statement from a party or parties as conclusive evidence that the party or parties seek a dissolution of the marriage or civil partnership or seek to be separated (Articles §3 and §4 of the draft Law);
- (c) Permitting joint filing for dissolution of divorce or civil partnership;
- (d) Removal of the ability of a party to contest a dissolution of marriage or civil partnership (currently a defended petition is allowed, but is very rare);
- (e) Inclusion of an opt-in requirement: a religious representative cannot be compelled to solemnise a remarriage or permit a remarriage to be solemnised in the place of worship of the religious representative;
- (f) Empowering the Court to order alternative dispute resolution; and
- (g) Introduction of provisions for the sharing of pension.

The draft Law principally engages Articles §6 (right to a fair trial), §8 (right to respect for private and family life), 9 (right to freedom of thought, conscience and religion), §12 (right to marry), §14 (non-discrimination) and Article §1 Protocol §1 (right to enjoy possessions) (“A1P1”) of the ECHR and the corresponding provisions in the Human Rights Jersey Law 2000 (“2000 Law”).

Other than the matters addressed in these notes, it is considered that there are no other substantial human rights issues engaged. It is considered that the provisions of the draft Law are compatible with the Convention rights as set out below.

*(a) removal of three-year bar*

The right to respect for private and family life under Article §8 has been held not to include a right to divorce. Similarly, Article §12 only covers the formation of marital relationships but not

their dissolution. It does not distinguish marriage from remarriage [*Johnston v Ireland* (1986) 9 EHRR 203, paras §52 & 57].

Whilst the three-year bar is not thought to raise any ECHR issues, a divorced persons' right to remarry should not be hampered by unreasonable restrictions or unreasonably lengthy proceedings [*F v Switzerland* (1987) 10 EHRR 411, §38].

#### *Time limits*

It is not considered that the time limits contemplated in the draft Law (Articles §3 and §4) between the conditional orders and the final orders are an unreasonable restriction on the parties' right to remarry under Article §12, an unjustifiable interference with the right to respect for private and family life under Article §8, or amount to an unreasonable delay in the hearing by the Court for the determination of the parties' civil rights and obligations under Article §6.

#### *(b) No-fault dissolution, (c) joint filing and (d) removal of right to contest a dissolution*

Article §6 is engaged because the ECHR has held that outcome of judicial separation proceedings is decisive for private rights and obligations [*Airey v Ireland*, (1979-80) 2 E.H.R.R. 305, §21].

The right to marry under Article §12 does not also include any protection from the dissolution of the marriage or immunity against annulment proceedings provided that the parties have a fair opportunity to make representations to put forward their respective cases [*Slimani v France*, Application no. 33597/96, §2]. Articles 8 and 12 cannot be interpreted to guarantee a favourable outcome in the divorce proceedings either [*Babiarz v Poland* [2017] 1 WLUK 55, §56-58]. The ECHR jurisprudence is clear that the forced maintenance of a spouse in the union despite a finding of irreparable alteration of the marital bond may, in certain circumstances, excessively impair his or her rights. Given that it will still be open to the parties to challenge a single application for divorce on the grounds of jurisdiction, procedure, and subsistence or otherwise of a valid marriage, and given also that the parties will be able to participate and/or be represented in the proceedings, make representations and have recourse to appeal rights ensure that the requirements under Article §6 are met. Sufficient flexibility is also built into the judicial process to ensure fairness in that the Court has case management powers to consider all the circumstances of the individual cases in deciding when and what orders to make. Consequently, it is considered that these provisions are in accordance with Article §6(1).

As such, Jersey enjoys a wide margin of appreciation in framing its divorce laws, in determining how the balance between the competing interests is to be struck and in the implementation of these laws. On balance, it is considered that the draft Law provisions referred to above are compatible with ECHR.

#### *(e) Opt-in provisions for religious representatives*

The draft Law provides that a religious representative may, but is not compelled to, to solemnise the marriage of a person whose former marriage or civil partnership has been dissolved and whose former spouse or civil partner is still living or to permit the place worship for this purpose (Article §18(3)).

This engages Article §9 of ECHR, which guarantees the freedom of thought, conscience and religion. Any compulsion of a religious representative to partake in the solemnisation in breach of their doctrinal beliefs would engage their Article §9 rights. Jersey enjoys a certain margin of appreciation in deciding whether and to what extent a restriction on the right to manifest one's religion or beliefs is necessary. Although this enables a religious representative to discriminate on the basis of a person's beliefs, Article §14 (non-discrimination) is not an absolute right. Neither

is it a free standing right and it can only be used in conjunction with another right protected by the Convention. It only prohibits difference of treatment of persons in comparable circumstances and where it is not objectively justified. It is considered that any potential engagement of Article §14 (non-discrimination) taken together with Article §9 (freedom of religion) and §12 (right to marry) is justified by Jersey's obligation to protect the Article §9 rights and to strike a fair balance between the competing interests.

*(f) Power of court to order alternative dispute resolution*

Whilst this power may engage Article §6, as there is no obligation on the parties to settle and they remain free to choose between settlement and continuing the proceedings, then no significant human rights concerns arise. The importance of encouraging early settlement of disputes, and the saving of time and costs in this regard has been long recognised as a legitimate aim for States to pursue [*Momcilovic v Croatia* (2019) 69 EHRR 14, §41-§46].

*(g) Financial Relief Provisions*

A1P1 guarantees the right to the peaceful enjoyment of his or her possessions subject to the authority of the States to enforce such laws as it deems necessary to control the use of property in accordance with the general interest. It does not confer a right to future property and applies only to a person's existing possessions [*Marckx v Belgium* (1979) 2 EHRR 330, §50]. To the extent that it may apply, to at least one of the parties if not both, Jersey enjoys a wide margin of appreciation in determining what is in the general interest of the community in implementing such proportionate laws as it deems necessary to control the use of property in the context of dissolution of marriage or civil partnership [*HM Attorney General v Akhter & Ors* [2020] 2 WLR 1183, §70-73]. It is considered that the relevant draft Law provisions achieve a fair balance and are compliant with the ECHR.

Overall, the draft Law is considered compliant with the provisions of the ECHR.

## EXPLANATORY NOTE

---

The draft Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202-, if adopted, will replace the Matrimonial Causes (Jersey) Law 1949 (the “1949 Law”) and Parts 3 and 4 of the Civil Partnership (Jersey) Law 2012 (the “2012 Law”) to provide for dissolution and annulment of marriages and civil partnerships, separation agreements, orders presuming death of a party to a marriage or civil partnership, and matters concerning financial provision for parties to a marriage or civil partnership.

In particular –

### *Part 1*

*Article 1* is an interpretation provision.

*Article 2* sets out the jurisdiction of the Family Division of the Royal Court (the “court”) in relation to the matters covered by the Law.

### *Part 2*

*Division 1* provides for dissolution or separation of a marriage or civil partnership.

*Article 3* provides the manner in which an application for an order dissolving a marriage or a civil partnership can be made (referred to as a “divorce” in the 1949 Law). It states that the applicant or applicants must provide a statement to the effect that the applicants no longer wish to be married or in a civil partnership. On receipt of the application the court must make a conditional dissolution order, which may be made final in the circumstances described.

*Article 4* provides for the manner in which a party to a marriage or a civil partnership may apply for a separation order (referred to as a “judicial separation” in the 1949 Law or a “legal separation” in the 2012 Law). It further provides for the circumstances in which the court may make or revoke a separation order.

*Article 5* provides that either party to a marriage or civil partnership may apply for dissolution or annulment of the marriage or civil partnership at any time after a separation order is made.

*Division 2* provides for annulment of a marriage or civil partnership.

*Article 6* is an interpretation provision.

*Article 7* provides the manner in which a person may apply for an annulment order.

*Article 8* provides for the grounds on which a marriage or civil partnership is void and the court must make an annulment order.

*Article 9* provides for the grounds on which a marriage or civil partnership is voidable and the court may make an annulment order.

*Article 10* gives the grounds for annulment of a marriage that has been converted from a civil partnership, or a civil partnership that has been converted from a marriage.

*Division 3* deals with presumption of death.

*Article 11* provides for the circumstances in which a party to a marriage or civil partnership may apply to the court for an order presuming that the other party to the marriage or civil partnership has died.

*Article 12* provides that an order presuming death is conditional in the first instance, and may be made final in the specified circumstances. It also provides that a person, including the Attorney General, may submit evidence as to why a conditional order presuming death should not be made final.

*Part 3* deals with the procedure and powers of the court.

*Article 13* provides that a joint application for an order may be converted to a sole application or vice versa.

*Article 14* imposes duties on the Attorney General in the case of an annulment order or an order presuming death. If the court considers that the application for an order contains a question that would merit full argument, the Attorney General must argue those matters before the court. If a person gives papers to the Attorney General that are material to the outcome of a case, the Attorney General may take the steps they consider necessary.

*Article 15* provides for the payment of the Attorney General's costs.

*Article 16* gives the court a power to adjourn proceedings and order alternative dispute resolution, and to require evidence that the parties have taken action to avoid all or part of the proceedings.

*Article 17* provides that an application for dissolution is discontinued if a party to the marriage or civil partnership dies before a final order is made.

*Article 18* provides for marriage or entering into a civil partnership after an order under this Law has been made. It further provides that a religious representative is not compelled to solemnise a marriage in certain circumstances.

*Article 19* provides that in certain circumstances involving children the court may direct that a final order under this Law is not to be made until it has given further consideration to the case.

*Article 20* provides that rights of succession cease on the dissolution of a marriage or civil partnership.

*Part 4* deals with financial relief.

*Division 1* provides for the making of financial orders.

*Article 21* provides that, after the court has made a conditional dissolution order, conditional annulment order or separation order, it may order either party to pay a gross or periodic sum of money for the benefit of a child of the family, which, in the stated circumstances, includes a child over the age of 18.

*Article 22* provides that court may cancel, vary or modify a nuptial agreement or a nuptial trust in the given circumstances.

*Article 23* provides that, after making an order, the court may order a party to a marriage or civil partnership to transfer property to the other party, a child of the family or another person. The court may also order that a party make a settlement of property for the benefit of the other party or a child. In certain circumstances this order may be made even if the child is already 18 or over.

*Article 24* provides that, having made a conditional order, a party may apply for an order of the court that 1 party to a marriage or civil partnership to pay a periodic or lump sum of money to the other party. It further provides that the court must, before making an order, consider any benefits that will accrue to a party in whose favour an order is made. The court cannot make an order under this Article unless a separation order, a final dissolution order or a final annulment order has been made.

*Article 25* provides that if a financial order is made under this Law, the court may further order the sale of property specified in the order, and that a payment from the proceeds of the sale be

made. An order may specify that the property sale is to take place only after the expiry of a given period, or the occurrence of a given event.

*Division 2* deals with pensions

*Article 26* is an application and interpretation provision.

*Article 27* provides that, if a party to a marriage or civil partnership is a holder of a pension that provides for a lump sum payment, the court may order that all or part of the lump sum is paid to the other party to the marriage or civil partnership. It further provides that the court must, before making an order, consider the pension benefits that a party has or will lose the chance of acquiring.

*Article 28* provides that the court may apportion between the parties to a marriage or civil partnership any fees that may arise as a result of complying with an order under *Article 27* or under Regulations made under *Article 29*.

*Article 29* gives the States a power to make Regulations amending this Law and any other enactment to make further provision in relation to the sharing of pension rights and benefits.

*Division 3* provides for additional functions of the court

*Article 30* provides that the court must consider all circumstances of a case when making a financial order.

*Article 31* sets out the matters that the court must consider when ascertaining the assets and liabilities of parties to a marriage or civil partnership.

*Article 32* provides that the court must consider the benefit of a “clean break” to the parties.

*Article 33* provides that interim financial orders may be made.

*Article 34* provides that, in certain circumstances, an interim order relating to occupancy of a dwelling may be made.

*Article 35* provides for support for people lacking capacity under the Capacity and Self-Determination (Jersey) Law 2016.

*Article 36* provides that the court may make an order relating to the payment of legal services.

*Article 37* gives the court the power to discharge, vary, suspend or revive orders or provisions of orders made under Part 4.

*Article 38* provides for the action that may be taken by the court to enforce an order made under this Part.

*Article 39* provides that if a party dies after a final order has been made under Part 2, but before a financial order has been made under Part 4, the court may make a financial order as if the death had not occurred.

*Article 40* gives the court power to prevent or set aside a financial disposition if the court believes that it is made with the intention of impeding a financial order under Part 4.

*Part 5* deals with recognition of overseas dissolution, annulment or separation.

*Article 41* provides that an order for dissolution, annulment or separation obtained from any part of the British Islands is recognised in Jersey subject to the exceptions set out in *Article 48*.

*Articles 42-45* set out the circumstances in which an order for dissolution, annulment or separation obtained from a country outside the British Islands is recognised in Jersey.

*Article 46* preserves some existing rules for recognition of the validity of orders for dissolution, annulment or separation.

*Article 47* provides that if an order for dissolution or annulment is recognised in Jersey, either spouse or civil partner may marry or enter into a subsequent civil partnership in Jersey.

*Article 48* sets out exceptions in which an order for dissolution, annulment or separation is not recognised in Jersey.

*Article 49* is a saving provision relating to *Part 5*.

*Part 6* deals with administrative provisions.

*Article 50* provides that the court must maintain a seal.

*Article 51* provides that publication of particulars of an order under this Law is an offence unless the provisions of this Article are complied with.

*Article 52* states that Rules of Court may prescribe requirements for service of documents.

*Article 53* provides that the court may, if it considers it appropriate in the circumstances, direct that people be excluded from the court while certain evidence is taken.

*Part 7* provides for Rules of Court, secondary legislation, consequential amendments, savings and commencement.

*Article 54* provides for the making of Rules of Court.

*Article 55* provides for the making of Regulations and Orders under this Law.

*Article 56* contains saving provisions.

*Article 57* introduces the Schedule, which contains consequential amendments.

*Article 58* gives the citation and provides that the Law will commence on a day to be specified by the Minister for Justice and Home Affairs by Order.

---

### **Re-issue Note**

This proposition has been re-issued to make a correction on page 48 in Article 31(3). The reference to “not the child of either of the parties” has been corrected to “not the child of 1 of the parties”.



Jersey

## DRAFT MARRIAGE AND CIVIL PARTNERSHIP (DISSOLUTION AND SEPARATION) (JERSEY) LAW 202-

### Contents

#### Article

<b>PART 1</b>		<b>32</b>
<hr/>		
	INTERPRETATION AND JURISDICTION	32
1	Interpretation .....	32
2	Jurisdiction of court .....	33
<b>PART 2</b>		<b>34</b>
<hr/>		
	DISSOLUTION OF MARRIAGE OR CIVIL PARTNERSHIP	34
	DIVISION 1 – DISSOLUTION AND SEPARATION	34
3	Application for dissolution order .....	34
4	Application for separation order .....	35
5	Application for dissolution or annulment after making of separation order .....	35
	DIVISION 2 – ANNULMENT	36
6	Interpretation of Division 2.....	36
7	Application for annulment order .....	36
8	Grounds for annulment – marriage or civil partnership is void .....	37
9	Grounds for annulment – marriage or civil partnership is voidable.....	37
10	Grounds for annulment if marriage or civil partnership has been converted.....	37
	DIVISION 3 – PRESUMPTION OF DEATH	38
11	Order of dissolution of marriage or civil partnership on presumption of death.....	38
12	Conditional orders presuming death.....	38
<b>PART 3</b>		<b>39</b>
<hr/>		
	PROCEDURE AND POWERS OF COURT	39
13	Joint application may be converted to sole, or vice versa.....	39
14	Duties of Attorney General.....	39
15	Costs of Attorney General .....	40
16	Power of court to order alternative dispute resolution .....	40
17	Proceedings discontinued on death of party.....	40
18	Marriage or civil partnership after dissolution, annulment or presumption of death	40
19	Restrictions on final order affecting children .....	41

20	Rights of succession cease on dissolution of marriage or civil partnership .....	41
<b>PART 4</b>		<b>42</b>
FINANCIAL RELIEF		42
DIVISION 1 – FINANCIAL ORDERS		42
21	Provision for children.....	42
22	Power of court to vary nuptial agreements and nuptial trusts .....	42
23	Power of court to order transfer or settlement of property .....	43
24	Financial provision for party to marriage or civil partnership in case of dissolution ..	44
25	Power of court to order sale of property .....	44
DIVISION 2 – PENSIONS		45
26	Application and interpretation of this Division .....	45
27	Power of court to order lump sum from pension arrangement .....	45
28	Apportionment of fees .....	47
29	Further provisions regarding pensions.....	47
DIVISION 3 – ADDITIONAL FUNCTIONS OF COURT RELATING TO FINANCIAL RELIEF		47
30	Duty of court to consider circumstances.....	47
31	Ascertainment of assets and liabilities of parties .....	47
32	Court to consider ‘clean break’ .....	48
33	Interim financial orders .....	48
34	Interim occupation orders .....	48
35	Support for people lacking capacity .....	50
36	Orders for payment in respect of legal services .....	50
37	Power to vary orders .....	51
38	Execution of instruments by order of court .....	51
39	Death of party before final financial order or sale of property order .....	52
40	Transactions intended to prevent or reduce payment under financial order or sale of property order .....	52
<b>PART 5</b>		<b>53</b>
RECOGNITION OF OVERSEAS DISSOLUTION, ANNULMENT OR SEPARATION		53
41	Recognition of dissolution, annulment and other proceedings granted in the British Islands .....	53
42	Overseas dissolution, annulment and separation .....	53
43	Grounds for recognition .....	53
44	Cross-proceedings and dissolution or annulment following legal separation .....	54
45	Proof of facts relevant to recognition.....	54
46	Certain existing rules of recognition to continue in force .....	54
47	Non-recognition of dissolution or annulment by third country does not prevent subsequent civil partnership or marriage of either party .....	55
48	Exceptions from recognition.....	55
49	Recognition of dissolution, annulment or legal separation obtained before commencement of this Law .....	55
<b>PART 6</b>		<b>56</b>
ADMINISTRATIVE PROVISIONS		56

50	Seal of court.....	56
51	Regulation of reports.....	56
52	Service of documents .....	57
53	Evidence.....	57
<b>PART 7</b>		<b>57</b>
<b>RULES OF COURT, REGULATIONS AND ORDERS, TRANSITIONAL AND CLOSING</b>		<b>57</b>
54	Rules of Court .....	57
55	Regulations and Orders .....	58
56	Saving provisions .....	58
57	Consequential amendments.....	58
58	Citation and commencement .....	58
<b>SCHEDULE</b>		<b>59</b>
<b>REPEALS AND CONSEQUENTIAL AMENDMENTS</b>		<b>59</b>
1	Matrimonial Causes (Jersey) Law 1949 repealed .....	59
2	Recognition of Divorces and Legal Separations (Jersey) Law 1973 repealed.....	59
3	Capacity and Self-Determination (Jersey) Law 2016 amended .....	59
4	Child Abduction and Custody (Jersey) Law 2005 amended.....	59
5	Child Custody (Jurisdiction) (Jersey) Law 2005 amended.....	59
6	Children (Jersey) Law 2002 amended.....	60
7	Civil Partnership (Jersey) Law 2012 amended .....	61
8	Civil Partnership (Procedures, Special Circumstances and Approved Locations) (Jersey) Order 2023 amended .....	61
9	Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 amended .....	61
10	Court of Appeal (Jersey) Law 1961 amended .....	62
11	Interpretation (Jersey) Law 1954 amended .....	62
12	Legitimacy (Jersey) Law 1963 amended .....	62
13	Legitimacy (Jersey) Law 1973 amended .....	62
14	Long-Term Care (Benefits) (Jersey) Order 2014 amended .....	62
15	Maintenance Orders (Enforcement) (Jersey) Law 1999 amended.....	62
16	Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000 amended .....	63
17	Marriage and Civil Status (Jersey) Law 2001 amended .....	63
18	Marriage and Civil Status (Jersey) Order 2018 amended .....	63
19	Royal Court (Jersey) Law 1948 amended.....	63
20	Separation and Maintenance Orders (Jersey) Law 1953 amended.....	64
21	Taxation (Land Transactions) (Jersey) Law 2009 amended .....	64
22	Teachers' Superannuation (Existing Members) (Jersey) Order 1986 amended.....	64
23	Wills and Successions (Jersey) Law 1993 amended.....	64



Jersey

## DRAFT MARRIAGE AND CIVIL PARTNERSHIP (DISSOLUTION AND SEPARATION) (JERSEY) LAW 202-

A **LAW** to empower the Royal Court to make orders dissolving marriages (formerly referred to as a decree of divorce) and orders dissolving civil partnerships, to make separation orders, and to make provision for incidental matters.

---

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

**THE STATES**, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

---

### PART 1

#### INTERPRETATION AND JURISDICTION

##### 1 Interpretation

In this Law –

“annulment order” means an order made by the court under Article 7, annulling a marriage or a civil partnership;

“child of the family”, in relation to parties to a marriage or civil partnership, means –

- (a) a child who has both of the parties as parents (as defined in the [Children \(Jersey\) Law 2002](#)); or
- (b) a child, other than a child placed with the parties as foster parents by the Minister for Children and Families or a voluntary organisation, who has been treated by both parties as a child of their family;

“civil partnership” has the definition given in Article 2 of the Civil Partnership Law;

“Civil Partnership Law” means the [Civil Partnership \(Jersey\) Law 2012](#);

“court” means the Family Division of the Royal Court;

“dissolution order” means an order made by the court under Article 3, dissolving a marriage or a civil partnership;

“financial order” means an order made under –

- (a) Article 21, 23, 24, 27, or 36; or
- (b) Regulations made under Article 29;

“interim order” means an order made under Article 33 or 34;

“lack of capacity” has the meaning given in Article 4 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#);

“Marriage Law” means the [Marriage and Civil Status \(Jersey\) Law 2001](#);

“Minister” means the Minister for Justice and Home Affairs;

“order presuming death” means an order made by the court under Article 11 dissolving a marriage or a civil partnership on the presumption of death of either of the parties;

“overseas order” has the meaning given in Article 42(2);

“prescribed” means prescribed by Rules of Court;

“Rules of Court” means Rules made under the [Royal Court \(Jersey\) Law 1948](#) and this Law;

“sale of property order” means an order made under Article 25;

“separation order” means an order made by the court under Article 4 in respect of a marriage or a civil partnership.

## 2 Jurisdiction of court

- (1) The court has jurisdiction to deal with an application for –
  - (a) a dissolution order;
  - (b) a separation order;
  - (c) an annulment order;
  - (d) an order presuming death; or
  - (e) any other matter that may be tried under this Law.
- (2) The court has jurisdiction to deal with applications from a party or parties to a marriage or a civil partnership for a dissolution order or a separation order only if –
  - (a) either of the parties to the marriage or civil partnership are domiciled in Jersey on the date the application is made; or
  - (b) either of the parties to the marriage or civil partnership was habitually resident in Jersey throughout the period of 1 year ending with that date.
- (3) The court has jurisdiction to deal with applications from a party or parties to a marriage or a civil partnership for an annulment order only if –
  - (a) either of the parties to the marriage or civil partnership are domiciled in Jersey on the date the application is made; or
  - (b) either of the parties to the marriage or civil partnership –
    - (i) was habitually resident in Jersey throughout the period of 1 year ending with that date; or
    - (ii) died before that date and either –
      - (A) was at death domiciled in Jersey; or
      - (B) had been habitually resident in Jersey throughout the period of 1 year ending with the date of death.

- (4) The court has jurisdiction to deal with applications from a party to a marriage or a civil partnership for an order presuming death only if –
  - (a) the applicant is domiciled in Jersey on the date the application is made; or
  - (b) the applicant was habitually resident in Jersey throughout the period of 1 year ending with that date.
- (5) If there are proceedings pending for which the court has jurisdiction under paragraph (2) or (3), the court may also consider other proceedings in respect of the same marriage or civil partnership, even if it would not have jurisdiction to do so under paragraph (2) or (3).

## **PART 2**

### **DISSOLUTION OF MARRIAGE OR CIVIL PARTNERSHIP**

#### **DIVISION 1 – DISSOLUTION AND SEPARATION**

### **3 Application for dissolution order**

- (1) Either or both parties to a marriage or civil partnership may apply to the court for a dissolution order, which provides for the dissolution of the marriage or civil partnership.
- (2) To be a valid application, an application must be –
  - (a) made in the prescribed form; and
  - (b) accompanied by a statement, signed by the applicant or applicants, that the applicant or applicants seek the dissolution of the marriage or civil partnership.
- (3) On receipt of a valid application, the court must –
  - (a) take the statement to be conclusive evidence that the party or parties seek the dissolution of the marriage or civil partnership; and
  - (b) make a dissolution order.
- (4) A dissolution order –
  - (a) is, in the first instance, a conditional order; and
  - (b) must not be made final before the expiry of the sooner of –
    - (i) the period of time fixed by the court in the first instance; or
    - (ii) 6 months after the making of the conditional order.
- (5) After the expiry of the period of time specified in paragraph (4)(b), the applicant or applicants may apply for a final dissolution order.
- (6) The court must not make a final dissolution order unless –
  - (a) in the case of an application made by 1 party to the marriage or civil partnership, that party has confirmed to the court that they wish the order to be made final; or
  - (b) in the case of an application made by both parties to the marriage or civil partnership, those parties have confirmed to the court that they wish the order to be made final (but see Article 13).

- (7) If more than 3 months has elapsed since the expiry of the time period specified in paragraph (4)(b), and neither party has confirmed to the court that a final order can be made, either party to the marriage or civil partnership may apply to the court to –
  - (a) make the final order;
  - (b) revoke the conditional order; or
  - (c) make whatever order the court sees fit.
- (8) The Minister may by Order amend this Law to amend the length of time specified in paragraph (4)(b)(ii) or (7).

#### **4 Application for separation order**

- (1) Either or both parties to a marriage or civil partnership may apply to the court for a separation order, which provides for the separation of the parties to the marriage or civil partnership.
- (2) To be a valid application, an application must be –
  - (a) made in the prescribed form; and
  - (b) accompanied by –
    - (i) if the application is by 1 party to the marriage or civil partnership, a statement, signed by the applicant, that they seek to be separated from the other party to the marriage or civil partnership; or
    - (ii) if the application is by both parties to the marriage or civil partnership, a statement, signed by both of them, that they seek to be separated from each other.
- (3) On receipt of a valid application, the court must –
  - (a) take the statement to be conclusive evidence that the party or parties seek to be separated; and
  - (b) make a separation order.
- (4) The court may revoke a separation order at any time after it is made (unless a dissolution order or annulment order has been made in respect of the marriage or civil partnership) on application by both parties to the marriage or civil partnership.
- (5) The revocation of a separation order does not affect the rights or remedies that any other person would have had if the order had not been revoked.

#### **5 Application for dissolution or annulment after making of separation order**

Either or both parties to a marriage or civil partnership may apply under Article 3 for a dissolution order or under Article 7 for an annulment order at any time after –

- (a) a separation order has been made; or
- (b) an order is made under the [Separation and Maintenance Orders \(Jersey\) Law 1953](#).

## DIVISION 2 – ANNULMENT

### 6 Interpretation of Division 2

In this Division –

“respondent”, in relation to an application for an annulment order, means the party to the marriage or civil partnership who did not make the application;

“void” means –

- (a) in relation to a marriage, that –
  - (i) the marriage is void under the Marriage Law; or
  - (ii) at the time the marriage was formed, the applicant lacked capacity to consent to its formation;
- (b) in relation to a civil partnership, that –
  - (i) the civil partnership is void under the Civil Partnership Law; or
  - (ii) at the time the civil partnership was formed, the applicant lacked capacity to consent to its formation;

“voidable”, in relation to a marriage or civil partnership, means that 1 of the circumstances in Article 9 applies.

### 7 Application for annulment order

- (1) Either or both parties to a marriage or civil partnership may apply to the court for an annulment order, which provides for the annulment of the marriage or civil partnership.
- (2) To be a valid application, an application must –
  - (a) be made in the prescribed form; and
  - (b) contain the grounds for annulment under Article 8, 9 or 10.
- (3) On receipt of a valid application –
  - (a) on the grounds specified in Article 8, the court must make an annulment order; or
  - (b) on any other grounds, the court may make an annulment order.
- (4) An annulment order –
  - (a) is, in the first instance, a conditional order; and
  - (b) must not be made final before the expiry of the sooner of –
    - (i) the period of time fixed by the court; or
    - (ii) 3 months after the making of the conditional order.
- (5) After the expiry of the period of time specified in paragraph (4)(b), the applicant or applicants may apply for a final annulment order.
- (6) The court must not make a final annulment order unless –
  - (a) in the case of an application made by 1 party to the marriage or civil partnership, that party has confirmed to the court that they wish the order to be made final; or

- (b) in the case of an application made by both parties to the marriage or civil partnership, those parties have confirmed to the court that they wish the order to be made final.
- (7) After the court has made a conditional order, but before the order is made final, any person (including the Attorney General) may, in the prescribed manner, submit evidence as to why the order should not be made final, by reason of material facts not having been brought before the court.
- (8) In the circumstances specified in paragraph (7), the court may –
  - (a) make the final order;
  - (b) revoke the conditional order;
  - (c) require further enquiry; or
  - (d) otherwise deal with the case as the court thinks fit.
- (9) If more than 3 months has elapsed since the expiry of the time period specified in paragraph (4)(b), paragraphs (7) or (8) do not apply, and neither party has confirmed to the court that a final order can be made, either party to the marriage or civil partnership may apply to the court to –
  - (a) make the final order;
  - (b) revoke the conditional order; or
  - (c) make whatever order the court sees fit.
- (10) The Minister may by Order amend this Law to amend the length of time specified in paragraph (4)(b)(ii) or (9).

## **8 Grounds for annulment – marriage or civil partnership is void**

The court must make an annulment order if the marriage or civil partnership is void.

## **9 Grounds for annulment – marriage or civil partnership is voidable**

- (1) The court may make an annulment order if the marriage or civil partnership was formed because of fraud, threats or duress by the respondent upon the applicant.
- (2) The court must not make an annulment order in the circumstances specified in paragraph (1) if the respondent satisfies the court –
  - (a) that the applicant, knowing that it was open to the applicant to obtain an annulment order, led the respondent to reasonably believe that the applicant would not apply for that order; and
  - (b) that it would be unjust to the respondent to make the order.

## **10 Grounds for annulment if marriage or civil partnership has been converted**

- (1) This Article applies to –
  - (a) a marriage that has been converted, or is purported to have been converted, from a civil partnership under Article 22 of the Marriage Law; or
  - (b) a civil partnership that has been converted, or is purported to have been converted, from a marriage under Article 26AD of the Civil Partnership Law.
- (2) A marriage that results from the purported conversion of a void civil partnership is void.

- (3) A marriage that results from the conversion of a civil partnership is voidable if Article 9 applied at the date from which the marriage is treated as having subsisted under Article 22(15) of the Marriage Law.
- (4) A civil partnership that results from the purported conversion of a void marriage is void.
- (5) A civil partnership that results from the conversion of a marriage is voidable if Article 9 applied at the date from which the civil partnership is treated as having subsisted under Article 26AD(15) of the Civil Partnership Law.

### DIVISION 3 – PRESUMPTION OF DEATH

#### **11 Order of dissolution of marriage or civil partnership on presumption of death**

- (1) If a married person or a civil partner believes that they have reasonable grounds to consider that the other party to the marriage or the civil partnership is dead, the person may apply to the court for an order presuming death on those grounds.
- (2) If the court is satisfied that reasonable grounds exist, the court may make an order presuming death.
- (3) In proceedings under paragraph (1), the other party to the marriage or civil partnership is presumed, in the absence of other evidence, to be dead if –
  - (a) for a period of 7 years or more the other party to the marriage or civil partnership has been continually absent from the applicant; and
  - (b) the applicant has no reason to believe that the other party has been alive within that time.

#### **12 Conditional orders presuming death**

- (1) An order presuming death –
  - (a) is, in the first instance, a conditional order; and
  - (b) must not be made final before the expiry of the sooner of –
    - (i) the period of time fixed by the court; or
    - (ii) 3 months after the making of the conditional order.
- (2) The court must not make a final order unless the applicant has confirmed to the court that they wish the order presuming death to be made final.
- (3) After the court has made a conditional order, but before the order is made final, any person (including the Attorney General) may, in the prescribed manner, submit evidence as to why the order should not be made final, by reason of –
  - (a) the conditional order having been obtained by collusion; or
  - (b) material facts not having been brought before the court.
- (4) In the circumstances specified in paragraph (3), the court may –
  - (a) make the final order;
  - (b) revoke the conditional order;
  - (c) require further enquiry; or
  - (d) otherwise deal with the case as the court thinks fit.

- (5) The Minister may by Order amend the length of time specified in paragraph (1)(b)(ii).

### **PART 3**

#### **PROCEDURE AND POWERS OF COURT**

#### **13 Joint application may be converted to sole, or vice versa**

- (1) This Article applies if the court has made a conditional dissolution order or conditional annulment order in a case.
- (2) If the application was made by the parties to the marriage or civil partnership jointly, and 1 party does not wish to apply jointly for the final order, the other party may apply to the court for leave to submit the application for the final order alone.
- (3) If the application was made by 1 party to the marriage or civil partnership, and both parties agree, the parties may apply to the court for leave to submit the application for the final order jointly.
- (4) Rules of Court may prescribe the procedure to be followed if an application is made under paragraph (2) or (3).

#### **14 Duties of Attorney General**

- (1) This Article applies in the case of an application for an annulment order or an order presuming death.
- (2) If the court considers that there is a question in the application that would benefit from full argument, the court may send the necessary papers to the Attorney General.
- (3) Before a final order is made in a case, any person may give to the Attorney General documents or information that are material to the outcome of the case.
- (4) The Attorney General –
  - (a) must argue before the court the matters contained in the papers sent under paragraph (2);
  - (b) may take whatever steps the Attorney General thinks necessary or expedient in relation to documents or information received under paragraph (3);
  - (c) may charge the costs of the proceedings as part of the expenses of the Attorney General's office.
- (5) When acting under paragraph (4), the Attorney General may intervene and call witnesses if –
  - (a) as a consequence of information received under paragraph (2) or (3), the Attorney General suspects –
    - (i) that an order may be obtained against the justice of the case; or
    - (ii) that material facts are not before the court; and
  - (b) by intervening or calling witnesses the Attorney General may prove any allegations as the Attorney General sees fit.

## 15 Costs of Attorney General

- (1) If the Attorney General acts under Article 14 in relation to a matter, the court may –
  - (a) order a party to the proceedings to pay all or part of the costs incurred by the Attorney General; or
  - (b) order the Attorney General to pay all or part of the costs incurred by a party to the proceedings.
- (2) If an order under paragraph (1)(a) is not made for the full amount of the Attorney General's costs, the difference must be made up from the annual appropriation made in respect of the Law Officers' Department under Article 10 of the [Public Finances \(Jersey\) Law 2019](#).
- (3) If an order is made under paragraph (1)(b), the costs awarded under the order form part of the appropriation referred to in paragraph (2).

## 16 Power of court to order alternative dispute resolution

- (1) On an application under this Law, the court may require the parties to the marriage or civil partnership to provide evidence that the parties have taken action to avoid all or part of the proceedings, including by engaging in alternative dispute resolution.
- (2) If the court is not satisfied that sufficient action has been taken to avoid proceedings, the court may adjourn proceedings and order the parties to attend alternative dispute resolution.
- (3) An order under paragraph (2) may apportion the cost of alternative dispute resolution between the parties in the manner that appears to the court to be equitable.

## 17 Proceedings discontinued on death of party

An application for dissolution of marriage or civil partnership is discontinued if either of the parties to the marriage or civil partnership dies before the final order is made under the relevant Article.

## 18 Marriage or civil partnership after dissolution, annulment or presumption of death

- (1) A person may marry or enter into a civil partnership once a final dissolution order or order presuming death is made.
- (2) In relation to an annulment order, a person may marry or enter into a civil partnership –
  - (a) if there is no right of appeal, once a final annulment order is made under Article 7; or
  - (b) if there is a right of appeal against an annulment order –
    - (i) if no appeal is made, once the time for appeal expires; or
    - (ii) if an appeal is made, once the appeal is dismissed.
- (3) A religious representative may, but is not compelled to –
  - (a) solemnise the marriage of a person whose former marriage or civil partnership has been dissolved and whose former spouse or civil partner is still living; or

- (b) permit the marriage of a person described in sub-paragraph (a) to be solemnised in the place of worship of the religious representative.
- (4) In paragraph (3), a “religious representative” means –
  - (a) a religious organisation;
  - (b) a member of the clergy; or
  - (c) an authorised religious official as defined in Article 1 of the Marriage Law.

## 19 Restrictions on final order affecting children

- (1) This Article applies to –
  - (a) a child of the family who has not yet reached the age of 16 at the date when the court considers the case under this Article; and
  - (b) a child of the family who has reached that age at that date and in relation to whom, having considered the factors set out in paragraph (2), the court directs that this Article applies.
- (2) In considering an application for a dissolution order, an annulment order or a separation order, the court must consider –
  - (a) whether there are any children of the family to whom this Article applies; and
  - (b) if there are children, whether (in the light of the arrangements that have been made, or are proposed to be made, for their upbringing and welfare) it may or must exercise any of its powers under the Children Law with respect to any of them.
- (3) Paragraph (4) applies if it appears to the court that –
  - (a) the circumstances of the case require it, or are likely to require it, to exercise a power under the Children Law with respect to a child;
  - (b) it is not able to exercise that power, without giving further consideration to the case; and
  - (c) there are exceptional circumstances that make it desirable in the interests of the child that the court give a direction under this Article.
- (4) The court may direct that, until it orders otherwise –
  - (a) a separation order is not to be made; or
  - (b) a conditional dissolution order or conditional annulment order is not to be made final.
- (5) In this Article, “Children Law” means the [Children \(Jersey\) Law 2002](#).

## 20 Rights of succession cease on dissolution of marriage or civil partnership

A party to a marriage or civil partnership that has been dissolved or annulled is not entitled, on the death of the other party, to –

- (a) a share or interest in the personal estate of the deceased person;
- (b) in the case of marriage, a right of *franc veuvage* in the real estate of the deceased person; or
- (c) a right of dower in the real estate of the deceased person.

## PART 4

### FINANCIAL RELIEF

#### DIVISION 1 – FINANCIAL ORDERS

#### 21 Provision for children

- (1) The court may, on or after making a conditional dissolution order, conditional annulment order or separation order –
  - (a) order either party to pay, for the benefit of a child of the family, either or both of –
    - (i) a gross sum of money; or
    - (ii) a periodic sum of money; and
  - (b) approve a deed or instrument in relation to an order under sub-paragraph (a) and direct the parties to sign it.
- (2) The court must not secure a sum of money under paragraph (1) for a period that ends after the date of the child's 21st birthday unless it appears to the court that –
  - (a) the child is, will be or (if an order were to be made under paragraph (1)) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or
  - (b) there are special circumstances that justify the making of an order that extends beyond that date.
- (3) The court must not make an order under paragraph (1) in respect of a child of the family who is aged 18 or over unless paragraph (2)(a) or (b) apply.

#### 22 Power of court to vary nuptial agreements and nuptial trusts

- (1) This Article applies if the court has made a dissolution order or annulment order in a case.
- (2) The court may set aside, vary, modify or terminate a nuptial agreement or a nuptial trust in the circumstances set out in paragraph (3) on the application of –
  - (a) either party to the marriage or civil partnership; or
  - (b) another person who is beneficially interested.
- (3) The circumstances are that –
  - (a) the nuptial agreement or nuptial trust was made because of fraud, threats or duress on either of the parties to the nuptial agreement or nuptial trust;
  - (b) either or both parties did not have access to independent legal advice about the nuptial agreement or nuptial trust;
  - (c) either or both of the parties did not provide full and frank financial disclosure before entering into the nuptial agreement or nuptial trust;
  - (d) enforcing the nuptial agreement or nuptial trust would cause substantial hardship to either party or to a child of the family; or

- (e) the nuptial agreement or nuptial trust was entered into during the period of time beginning 4 weeks before the date of the marriage or civil partnership and ending 4 weeks after the date of the marriage or civil partnership.
- (4) In making an order under paragraph (2) the court must consider the provisions of Articles 20 and 30 to 32.
- (5) The court may exercise the powers under this Article even if the marriage or civil partnership was solemnised, or the agreement or trust was entered into, in a jurisdiction other than Jersey.
- (6) In this Article –
  - “nuptial agreement” means an agreement made before or during a marriage or civil partnership to determine how the parties’ assets should be divided in the event of dissolution or separation of the marriage or civil partnership;
  - “nuptial trust” means a trust settled for the benefit of 1 or both parties to a marriage or civil partnership or their children, and that was created in contemplation of, or during, their marriage or civil partnership.

### **23 Power of court to order transfer or settlement of property**

- (1) This Article applies if the court has made –
  - (a) a dissolution order;
  - (b) an annulment order; or
  - (c) a separation order.
- (2) The court may order –
  - (a) that a party to the marriage or civil partnership transfer property (whether movable or immovable) to which they are entitled, to –
    - (i) the other party to the marriage or civil partnership;
    - (ii) a child of the family; or
    - (iii) another specified person, for the benefit of a child of the family;
  - (b) that a party to the marriage or civil partnership make a settlement of property (whether movable or immovable) to which they are entitled, for the benefit of –
    - (i) the other party to the marriage or civil partnership; or
    - (ii) a child of the family.
- (3) In making an order under paragraph (2) the court must consider the provisions of Articles 20 and 30 to 32.
- (4) The court may make an order under this Article in respect of a child of the family if –
  - (a) the child has not attained the age of 21;
  - (b) the child is, will be or (if an order were to be made under this Article) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or
  - (c) there are special circumstances that justify the making of an order.
- (5) If paragraph (4) applies, the court may make an order under paragraph (2) even if the child has already attained the age of majority.

## **24 Financial provision for party to marriage or civil partnership in case of dissolution**

- (1) A person may apply for an order under this Article if the court has made a conditional dissolution order or a conditional annulment order in respect of the person's marriage or civil partnership.
- (2) But the court must not make an order under this Article until the court has made a separation order, a final dissolution order or a final annulment order in respect of the person's marriage or civil partnership.
- (2) The court may order that 1 party to the marriage or civil partnership (the "first party") must pay to the other party to the marriage or civil partnership (the "second party") either or both of –
  - (a) for a specified term (which may be whole life), the periodic sum for the maintenance and support of the second party that the court considers reasonable; or
  - (b) the lump sum or sums that the court considers reasonable.
- (3) When making an order under paragraph (2) –
  - (a) the court may further order that security be given for the payment of the sum ordered; and
  - (b) the court must consider the provisions of Article 20 and Articles 30 to 32.
- (4) An order under this Article that the first party must pay a lump sum to the second party –
  - (a) may be made to enable the second party to meet liabilities or expenses reasonably incurred in maintaining themselves or any child of the family before applying for an order under this Article; and
  - (b) may provide for the payment of that sum by instalments of the amount specified in the order.
- (5) If the court has made an order under this Article that the first party must pay a periodic sum to the second party –
  - (a) the court may vary the order to instead order that the first party must pay a lump sum to the second party; and
  - (b) the lump sum ordered to be paid is in addition to any lump sum that the court has already ordered must be paid by the first party to the second party.

## **25 Power of court to order sale of property**

- (1) At or after the time that a financial order is made the court may make an order for the sale of specified property (a "sale of property order").
- (2) A sale of property order may contain the consequential or supplementary provisions that the court thinks fit and may –
  - (a) require the making of a payment out of the proceeds of sale of a specified property; and
  - (b) require the specified property to be offered for sale to a person, or class of people, specified in the order.
- (3) If a sale of property order is made on or after the making of a conditional dissolution order or conditional annulment order, the order does not take effect unless a final dissolution or final annulment order is made.

- (4) The court may direct that a sale of property order, or part of a sale of property order, does not take effect until –
  - (a) the occurrence of a specified event; or
  - (b) the expiry of a specified period.
- (5) A provision of a sale of property order ceases to have effect if –
  - (a) the provision requires that the proceeds of sale of a specified property are used to secure periodic payments to a party to the marriage or civil partnership; and
  - (b) that party dies, marries or forms a civil partnership.
- (6) Before making a sale of property order, the court must allow representations to be made by a person who is not a party to the marriage or civil partnership (an “affected person”) if –
  - (a) a party to a marriage or civil partnership has a beneficial interest in a specified property or in the proceeds of sale of that property; and
  - (b) the affected person also has a beneficial interest in that property or in the proceeds of sale.
- (7) In this Article, “specified property” means real or personal property in which either or both of the parties to the marriage or civil partnership has or have a beneficial interest, and includes –
  - (a) a beneficial interest in the proceeds of sale of a property; and
  - (b) a reversionary interest in a property.

## DIVISION 2 – PENSIONS

### 26 Application and interpretation of this Division

- (1) A person may apply for an order under this Division if the court has made a conditional dissolution order or a conditional annulment order in respect of the person’s marriage or civil partnership.
- (2) But the court must not make an order under this Division until the court has made a final dissolution order or a final annulment order in respect of the person’s marriage or civil partnership.
- (3) In this Division –
  - “Income Tax Law” means the [Income Tax \(Jersey\) Law 1961](#);
  - “party” means a party to a marriage or civil partnership;
  - “public service pension scheme” means –
    - (a) a pension scheme established by Regulations made under Article 2(1) of the [Public Employees \(Retirement\) \(Jersey\) Law 1967](#); and
    - (b) the Public Employees Pension Scheme established by or under the [Public Employees \(Pensions\) \(Jersey\) Law 2014](#);
  - “scheme manager” has the meaning given in Article 130(1) of the Income Tax Law;

### 27 Power of court to order lump sum from pension arrangement

- (1) This Article applies if –

- (a) a party is a pension holder of a pension arrangement that allows the party to elect that a lump sum payment is paid in a particular circumstance; and
  - (b) the pension arrangement is not subject to an order of the court under Regulations made under Article 29.
- (2) The court may order that –
- (a) the party who is the pension holder must elect for the lump sum payment to be made; and
  - (b) when the lump sum is paid, that party must pay all or part of it to the other party (the “second party”).
- (3) If, under the terms of the pension arrangement, the party who is the pension holder may nominate the person to whom the lump sum or part of it is to be paid, the court may order that they nominate the second party.
- (4) The court may order that, when payment of the lump sum falls due, the pension officer must pay the whole or part of it to the second party instead of to the person to whom it would be paid if the order had not been made.
- (5) The pension officer or the party who is the pension holder (as the case may be) must pay a lump sum in the manner specified in the court order.
- (6) In making an order under this Article the court must consider –
- (a) the benefits under a pension arrangement that a party has or is likely to have;
  - (b) the benefits under a pension arrangement that, by reason of the dissolution or annulment of the marriage or civil partnership, a party to the marriage will lose the chance of acquiring; and
  - (c) Articles 20 and 30 to 32.
- (7) In this Article –
- “pension arrangement” means a fund, scheme or other arrangement, constituted in 1 or more instruments or agreements or under an enactment that is, or is held out as being –
- (a) an approved Jersey scheme, approved drawdown contract or approved trust, as defined in Article 130(1) of the Income Tax Law;
  - (b) an occupational pension scheme for overseas employees approved under Article 131A of the Income Tax Law;
  - (c) a retirement annuity contract for overseas residents approved under Article 131C of the Income Tax Law;
  - (d) a public service pension scheme;
  - (e) a pension scheme established under the [Teachers’ Superannuation \(Jersey\) Law 1979](#);
  - (f) a pension protection fund established by the Pensions Act 2004 of the United Kingdom; or
  - (g) a scheme or contract, equivalent to one falling under sub-paragraphs (a) to (e), that is constituted outside Jersey;
- “pension holder” means –
- (a) in relation to a pension scheme, a member of the scheme;
  - (b) in relation to a retirement annuity contract, the individual by whom the contract was made;
  - (c) in relation to a retirement trust scheme, the primary beneficiary;

“pension officer” includes –

- (a) the scheme manager; and
- (b) any other person who is responsible for determining who is to be paid a lump sum payment payable under the terms of the pension scheme.

## **28 Apportionment of fees**

The court may provide for the apportionment between the parties of any charge levied by the scheme manager as a result of complying with an order under Article 27 or under Regulations made under Article 29.

## **29 Further provisions regarding pensions**

The States may by Regulations amend this or any other enactment to make further provision in relation to orders the court may make regarding pension rights and benefits.

### **DIVISION 3 – ADDITIONAL FUNCTIONS OF COURT RELATING TO FINANCIAL RELIEF**

## **30 Duty of court to consider circumstances**

In making an order under this Part, the court must consider all the circumstances of the case, and particularly those circumstances set out in Articles 31 and 32.

## **31 Ascertainment of assets and liabilities of parties**

- (1) In relation to a party to the marriage or civil partnership, the court must consider –
  - (a) the income, earning capacity, property, pensions and other financial resources that the party has or is likely to have in the foreseeable future;
  - (b) an increase in earning capacity that in the opinion of the court it would be reasonable to expect the party to take steps to acquire;
  - (c) the financial needs, obligations and responsibilities that the party has or is likely to have in the foreseeable future;
  - (d) the standard of living enjoyed by the family before the breakdown of the marriage or civil partnership;
  - (e) the age of the party and the duration of the marriage or civil partnership;
  - (f) any physical or mental disability of the party;
  - (g) the contributions that the party has made or is likely in the foreseeable future to make to the welfare of the family, including a contribution by looking after the home or caring for the family;
  - (h) the conduct of the party, if in the opinion of the court it would be inequitable to disregard it;
  - (i) in the case of proceedings for dissolution or annulment, the value to the party to the marriage or civil partnership of any benefit that, by reason of the dissolution or annulment of the marriage or civil partnership, that party will lose the chance of acquiring; and

- (j) nuptial agreements entered into by the party, or nuptial trusts of which the party is a beneficiary or settlor.
- (2) In relation to a child of the family, the court must consider –
  - (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) the manner in which the child was being, and in which the parties to the marriage or civil partnership expected the child to be, educated or trained.
- (3) In relation to a child of the family who is not the child of 1 of the parties to the marriage or civil partnership, the court must consider –
  - (a) whether the party who is not the parent of the child assumed responsibility for the child's maintenance, and if so –
    - (i) the extent to which the party assumed the responsibility;
    - (ii) the basis upon which the party assumed the responsibility; and
    - (iii) the length of time for which the party discharged the responsibility;
  - (b) whether in assuming or discharging responsibility for the child's maintenance, the party did so knowing that the child was not the party's own; and
  - (c) the liability of any other person to maintain the child.
- (4) The court may require the parties to the marriage or civil partnership to provide a sworn declaration in respect of the matters set out in paragraphs (1) to (3).

### **32 Court to consider 'clean break'**

The court must consider if it would be appropriate to exercise the powers conferred by this Part so that the financial obligations of the parties towards each other will be terminated as soon after the making of the order as the court considers reasonable.

### **33 Interim financial orders**

- (1) The court may make an interim order directing either party to the marriage or civil partnership to pay to the other party to the marriage or civil partnership the amount for the maintenance and support of the other party or a child of the family that the court considers reasonable.
- (2) An interim order remains in force until –
  - (a) it is discharged by the court;
  - (b) the court makes a final order in respect of the matters dealt with in the interim order; or
  - (c) the court refuses the application for financial support.

### **34 Interim occupation orders**

- (1) The court may make an interim occupation order under this Article if a party to a marriage or civil partnership has applied for a dissolution order, an annulment order or a separation order.
- (2) An interim occupation order may –

- (a) specify a dwelling that must be used to provide living accommodation for a child of the family who has not attained the age of 18 years, and grant a party the right (which may be exclusive) to occupy the dwelling with that child of the family; or
  - (b) specify a dwelling that must be used to provide living accommodation for a party to the marriage or civil partnership; and
  - (c) contain the other provisions and conditions that the court thinks fit, which may include –
    - (i) requiring the non-occupying party to leave the dwelling;
    - (ii) regulating the occupation of the dwelling by the occupying party;
    - (iii) permitting the non-occupying party to enter or remain in the dwelling;
    - (iv) excluding the non-occupying party from a specified area in which the dwelling is located;
    - (v) granting the occupying party possession or use of the contents of the dwelling;
    - (vi) requiring the occupying party to take reasonable care of the contents of the dwelling;
    - (vii) requiring the occupying party to take reasonable steps to keep the dwelling or its contents secure.
- (3) Before making an interim occupation order the court must hear from both parties to the marriage or civil partnership, unless the court is satisfied it is not reasonably practicable to do so.
- (4) In making an interim occupation order the court must consider all the circumstances of the case, including –
- (a) the housing needs and housing resources of each of the parties to the marriage or civil partnership and any child of the family, including the particular needs of the child;
  - (b) the financial needs, obligations and responsibilities of the parties to the marriage or civil partnership;
  - (c) the likely effect of an order, or the lack of an order, on the health, safety or well-being of a party to the marriage or civil partnership or a child of the family; and
  - (d) the conduct of the parties, if it would not be equitable to disregard it.
- (5) An interim occupation order remains in force until –
- (a) it is discharged by the court;
  - (b) if the order specifies that it has effect for a specified period or until the occurrence of a specified event, that specified period elapses or specified event occurs; or
  - (c) the court makes a final order in respect of the matters dealt with in the interim occupation order.
- (6) The court must not make an interim occupation order for a period that ends after the date of a child's 21st birthday unless it appears to the court that –
- (a) the child is, will be or (if an order were to be made under paragraph (1)) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

- (b) there are special circumstances that justify the making of an order that extends beyond that date.
- (7) The court must not make an order under paragraph (1) in respect of a child of the family who is aged 18 or over unless paragraph (6)(a) or (b) apply.
- (8) The court must not make an order under this Article that would require or permit the occupation of premises in breach of the [Control of Housing and Work \(Jersey\) Law 2012](#).
- (9) In this Article –
  - “occupying party” means the party to the marriage or civil partnership who is granted a right under paragraph (2)(b);
  - “non-occupying party” means the party to the marriage or civil partnership who is not granted that right.

### **35 Support for people lacking capacity**

- (1) If the court makes an order under this Part in favour of a person who lacks capacity the court may order that payments under the order be made to a person nominated by the court.
- (2) The person nominated by the court must act in the best interests (as defined in Article 6 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#)) of the person lacking capacity.

### **36 Orders for payment in respect of legal services**

- (1) The court may make an order requiring 1 party to pay to another party an amount for the purpose of allowing that other party (the “applicant”) to obtain legal services for the purpose of proceedings for –
  - (a) a dissolution order;
  - (b) an annulment order;
  - (c) a separation order; or
  - (d) a financial order, interim order or sale of property order.
- (2) The court must not make an order under this Article unless it is satisfied that, without the amount, the applicant would not reasonably be able to obtain appropriate legal services for the purposes of the proceedings or part of the proceedings.
- (3) In particular, the court must be satisfied that the applicant –
  - (a) does not have the income or assets available to pay for the services;
  - (b) is not reasonably able to secure a loan to pay for the services; and
  - (c) is unlikely to be able to obtain the services by granting a charge over any assets recovered in the proceedings.
- (4) An order under this Article may be made to enable the applicant –
  - (a) to access legal services of a particular description; or
  - (b) to access legal services within a specified period or for the purposes of a specified part of the proceedings.
- (5) An order under this Article may –

- (a) provide for the payment of all or part of the amount by instalments of specified amounts; and
  - (b) require the instalments to be secured to the satisfaction of the court.
- (6) An order under this Article may direct that payment of all or part of the amount is to be deferred.
- (7) The court may at any time in the proceedings vary an order made under this Article if it considers that there has been a material change of circumstances since the order was made.
- (8) For the purposes of assessing costs in the proceedings, the applicant's costs are to be treated as reduced by any amount paid to the applicant as a result of an order under this Article for the purposes of those proceedings.
- (9) In this Article, "legal services", in relation to proceedings, includes –
  - (a) providing advice as to how the law applies in the particular circumstances;
  - (b) providing advice and assistance in relation to the proceedings;
  - (c) providing other advice and assistance in relation to the settlement or other resolution of the dispute that is the subject of the proceedings;
  - (d) providing advice and assistance in relation to the enforcement of decisions in the proceedings or as part of the settlement or resolution of the dispute; and
  - (e) providing advice and assistance in the form of representation and any form of dispute resolution.

### **37 Power to vary orders**

- (1) In respect of an order made under this Part, the court may –
  - (a) discharge or vary the order;
  - (b) temporarily suspend a provision of the order; or
  - (c) revive a suspended provision of the order.
- (2) In exercising the powers conferred by this Article, the court must consider all the circumstances of the case, including any increase or decrease in the means of either of the parties to the marriage or civil partnership.

### **38 Execution of instruments by order of court**

- (1) This Article applies if a person fails to –
  - (a) comply with an order made under this Part; or
  - (b) take any action required to give effect to an order made under this Part.
- (2) The court may, on the terms and conditions it considers reasonable, order that the action be taken –
  - (a) by a person nominated by the court; and
  - (b) at the cost of the person in default.
- (3) An action taken under paragraph (2) is treated as having been taken by the person originally directed to take it.
- (4) In this Article, "action" includes –
  - (a) the making of a conveyance;

- (b) the making of an assignment; and
- (c) the execution of a document or instrument.

### **39 Death of party before final financial order or sale of property order**

- (1) This Article applies if either of the parties to an application for a dissolution order or an annulment order die –
  - (a) after a final order in that application is made; but
  - (b) before a financial order or a sale of property order is made.
- (2) The court may make a financial order, an interim order or a sale of property order as if the death had not occurred, and the order takes effect as if it had been made immediately before the death.
- (3) The court may make an order under this Article on the application of a person who is, in the opinion of the court, an interested person, if the court is satisfied that notice of the proceedings has been given to every person whose interests may be affected by the order.

### **40 Transactions intended to prevent or reduce payment under financial order or sale of property order**

- (1) A party to a marriage or civil partnership (“person A”) may apply to the court for an order restraining the other party (“person B”) from making a reviewable disposition if –
  - (a) either person has applied to the court for a financial order or a sale of property order in respect of the other person; and
  - (b) person A believes that person B is taking, or is about to take, action to impede the application.
- (2) If the court is satisfied that person B, with the intention of impeding the application, is about to make a reviewable disposition, the court may make an order restraining person B from doing so.
- (3) The court may set aside a disposition, and make a financial order or a sale of property order as if the disposition had not occurred, if the court is satisfied that –
  - (a) the disposition is a reviewable disposition;
  - (b) person B has made the disposition with the intention of impeding the application; and
  - (c) if that disposition had not happened the amount of the financial order or sale of property order would be altered.
- (4) If a financial order or a sale of property order has already been made, and the court is satisfied on application by person A that person B has made a reviewable disposition, the court may make an order setting aside the disposition.
- (5) If the court sets aside an order under paragraph (3) or (4) setting aside a disposition, it must give the directions it thinks fit for giving effect to the order.
- (6) Person B impedes person A’s application if person B, by their actions –
  - (a) prevents a financial order or a sale of property order from being granted to person A;

- (b) prevents a financial order or a sale of property order from being granted to person A for the benefit of a child of the family;
  - (c) reduces the amount of a financial order or sale of property order that might be granted under sub-paragraphs (a) or (b); or
  - (d) frustrates or impedes the enforcement of a financial order or sale of property order that might be or has been made in favour of person A.
- (7) In this Article, “reviewable disposition” means any disposition of real or personal property made by person B, whether before or after the proceedings for financial relief, unless –
- (a) the disposition is made in a will or codicil; or
  - (b) for a disposition that has already been made, the disposition was made for valuable consideration to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of an intention on the part of person B to impede an application for financial relief.

## PART 5

### RECOGNITION OF OVERSEAS DISSOLUTION, ANNULMENT OR SEPARATION

#### **41 Recognition of dissolution, annulment and other proceedings granted in the British Islands**

- (1) An order obtained from a court in any part of the British Islands for the dissolution or annulment of a marriage or civil partnership, or for the legal separation of spouses or civil partners, is recognised as valid in Jersey.
- (2) This Article does not apply in the circumstances described in Article 48.

#### **42 Overseas dissolution, annulment and separation**

- (1) Articles 43, 44 and 45 apply in respect of the recognition in Jersey of the validity of overseas orders (but are subject to Article 48).
- (2) In this Part, “overseas order” means an order for dissolution or annulment of a marriage or civil partnership, or an order for the legal separation of spouses or civil partners, that –
  - (a) has been obtained by means of judicial or other proceedings in any country outside the British Islands; and
  - (b) is effective under the law of that country.

#### **43 Grounds for recognition**

- (1) An overseas order is recognised as valid if, at the date on which the proceedings were instituted in the country in which it was obtained –
  - (a) either party to the marriage or civil partnership was habitually resident in that country; or
  - (b) either party to the marriage or civil partnership was a national of that country.

- (2) If the law of a country uses the concept of domicile as a ground of jurisdiction in matters of dissolution or annulment of marriages or civil partnerships, or in matters of legal separation of spouses or civil partners, paragraph (1)(a) has effect as if the reference to habitual residence included a reference to domicile within the meaning of that law.
- (3) If a country is made up of territories in which different systems of law are in force in matters of dissolution or annulment of marriages or civil partnerships, or in matters of legal separation of spouses or civil partners, the provisions of this Article (except those relating to nationality) have effect as if each territory were a separate country.

#### **44 Cross-proceedings and dissolution or annulment following legal separation**

- (1) If there have been cross-proceedings, an overseas order obtained either in the original proceedings or in the cross-proceedings is valid if the requirements of Article 43(1) are satisfied in relation to the date on which either the original proceedings or the cross-proceedings were instituted.
- (2) If a legal separation that is recognised as valid under Article 43 or paragraph (1) is converted, in the country in which it was obtained, into a dissolution or annulment of the marriage or civil partnership, that dissolution or annulment is recognised as valid whether or not it would itself be recognised under those provisions.

#### **45 Proof of facts relevant to recognition**

- (1) Paragraph (2) applies for the purpose of deciding if an overseas order is entitled to recognition under this Part.
- (2) A finding of fact made, whether expressly or by implication, in the proceedings by which the overseas order was obtained and on the basis of which jurisdiction was assumed in those proceedings is –
  - (a) if both partners took part in the proceedings, conclusive evidence of the fact found; and
  - (b) in any other case, sufficient proof of that fact unless the contrary is shown.
- (3) In this Article, “finding of fact” includes a finding that either party was habitually resident or domiciled in, or a national of, the country in which the overseas order was obtained, and for the purposes of paragraph (1)(a), a party who has appeared in judicial proceedings is treated as having taken part in them.

#### **46 Certain existing rules of recognition to continue in force**

- (1) This Part does not affect the recognition of the validity of dissolutions or annulments of marriages or civil partnerships, and legal separations of spouses or civil partners, obtained outside the British Islands by virtue of –
  - (a) a rule of law relating to dissolutions or annulments, or legal separations, of spouses or civil partners obtained in the country of the parties’ domicile or obtained elsewhere and recognised as valid in that country; or
  - (b) an enactment other than this Law.
- (2) But this type of dissolution, annulment or legal separation is not recognised as valid in Jersey except as provided in this Part.

**47 Non-recognition of dissolution or annulment by third country does not prevent subsequent civil partnership or marriage of either party**

If the validity of a dissolution or annulment of a marriage or civil partnership obtained in a country is entitled to recognition under this Law or under a rule or enactment preserved by Article 46, neither spouse or civil partner is prevented from entering into a subsequent civil partnership or marriage in Jersey on the ground that the validity of the dissolution or annulment of the marriage or civil partnership would not be recognised in another country.

**48 Exceptions from recognition**

- (1) An overseas order or an order described in Article 41 is not recognised as valid in Jersey if it was granted or obtained at a time when, according to the law of Jersey (including its rules of private international law and this Law), there was no subsisting marriage or civil partnership between the parties.
- (2) Recognition of the validity of an overseas order under this Part or under a rule preserved by Article 46 may be refused if –
  - (a) it was obtained by either spouse or civil partner –
    - (i) without reasonable steps having been taken to notify the other spouse or civil partner of the proceedings, having regard to the nature of the proceedings and the circumstances; or
    - (ii) without the other spouse or civil partner having been given, for any reason other than lack of notice, the opportunity to take part in the proceedings that the spouse or civil partner should reasonably have been given; or
  - (b) its recognition would manifestly be contrary to public policy.
- (3) Nothing in this Part is to be read as requiring the recognition of –
  - (a) findings of fault made in proceedings for the dissolution of a marriage or civil partnership or the legal separation of spouses or civil partners; or
  - (b) a maintenance, custody or other ancillary order made in those proceedings.

**49 Recognition of dissolution, annulment or legal separation obtained before commencement of this Law**

- (1) This Part applies to a dissolution or annulment of a marriage or civil partnership, or a legal separation of spouses or civil partners, whether obtained before, on or after the commencement of this Article.
- (2) For dissolutions or legal separations obtained before the commencement date of this Article, this Part –
  - (a) requires or precludes the recognition of its validity for any time before or after that date; but
  - (b) does not affect property rights acquired before that date or those determined by any competent court in the British Islands before that date.

## PART 6

### ADMINISTRATIVE PROVISIONS

#### 50 Seal of court

- (1) The court must maintain a seal, which may be broken, altered and renewed at the discretion of the Superior Number of the Royal Court.
- (2) If an order, document or copy purports to be sealed with the seal of the court, it must be received in evidence without further proof being required.

#### 51 Regulation of reports

- (1) A publisher commits an offence, and is liable to a fine, if they publish particulars in contravention of paragraphs (2) to (4).
- (2) In relation to proceedings for dissolution of a marriage or civil partnership or the separation of parties to a marriage or civil partnership, a publisher must not publish any particulars other than the following –
  - (a) the names and occupations of the parties and witnesses;
  - (b) submissions on points of law arising during the proceedings and the decision of the court in relation to those points of law;
  - (c) the judgment of the court and observations made by members of the court in giving judgment.
- (3) In relation to proceedings for annulment of marriage or civil partnership on a ground other than the ground of lack of capacity, a publisher must not publish any particulars other than the following –
  - (a) the names and occupations of the parties and witnesses;
  - (b) submissions on points of law arising during the proceedings and the decision of the court in relation to those points of law;
  - (c) the judgment of the court and observations made by members of the court in giving judgment.
- (4) In relation to proceedings for annulment of marriage or civil partnership on the ground of lack of capacity, a publisher must not publish any particulars whatsoever.
- (5) In this Article, “publisher” means –
  - (a) if the publication is a newspaper or periodical, the proprietor, editor, master printer or publisher of the newspaper or periodical;
  - (b) in the case of any other publication, the person who publishes it.
- (6) This Article does not apply to –
  - (a) the printing of pleadings, transcript of evidence or other document for use in connection with judicial proceedings, or the communication of those documents to persons concerned in the proceedings;
  - (b) the printing or publishing of copies or reports by direction of the court or of His Majesty or of the Lords of His Privy Council;
  - (c) the printing or publication of a matter in a separate volume or part of a genuine series of law reports that does not form part of another publication, and consists solely of reports of proceedings in courts of law; or

- (d) the printing or publication of a matter in a publication of a technical character that is genuinely intended for circulation among members of the legal or medical profession.

## 52 Service of documents

Documents relating to an application under this Law must be served in the manner prescribed.

## 53 Evidence

- (1) If the court considers it appropriate, it may direct that people be excluded from the court during the taking of certain evidence.
- (2) The court –
  - (a) may exclude people from the court only if it thinks it necessary in the interest of the administration of justice or of public decency to do so; and
  - (b) must not exclude the following people from the court –
    - (i) members or officers of the court;
    - (ii) the parties to the proceedings; or
    - (iii) other persons directly concerned in the proceedings.

# PART 7

## RULES OF COURT, REGULATIONS AND ORDERS, TRANSITIONAL AND CLOSING

## 54 Rules of Court

- (1) The power to make Rules of Court under the [Royal Court \(Jersey\) Law 1948](#) includes a power to make Rules for the purposes of this Law and the proviso in Article 3 of the [Separation and Maintenance Orders \(Jersey\) Law 1953](#).
- (2) In particular, Rules under paragraph (1) may provide for –
  - (a) applications to be made by applicants without means; and
  - (b) the hearing of urgent applications.
- (3) Rules of Court may authorise the Judicial Greffier or the Family Judge to discharge the prescribed functions of the court under this Law in relation to the prescribed proceedings.
- (4) In the authentication of orders, other documents or copies, the Judicial Greffier may be described as Registrar.
- (5) An order made or direction given by the Family Judge under Rules made under paragraph (3) may be appealed in the first instance to the Inferior Number of the Royal Court.
- (6) In this Article, “Family Judge” means a judge appointed under Article 12A of the [Royal Court \(Jersey\) Law 1948](#).

## 55 Regulations and Orders

- (1) The States may, by Regulations, amend this Law to make further or alternate provision in relation to dissolution, separation or annulment of marriage or civil partnership, and for ancillary purposes.
- (2) A power to make Regulations or Orders under this Law for the purpose of amending a provision of this Law includes the power to make transitional, consequential, incidental or supplementary amendments to any other provision of this Law or any other enactment.

## 56 Saving provisions

- (1) An application or an order made under the [Matrimonial Causes \(Jersey\) Law 1949](#) or Part 3 of the [Civil Partnership \(Jersey\) Law 2012](#) before the commencement of this Law continues as if that Law had not been repealed or that Part had not been deleted.
- (2) Paragraph (3) applies to the following –
  - (a) a divorce, a judicial separation, a decree of nullity or a decree of presumption of death granted under the [Matrimonial Causes \(Jersey\) Law 1949](#);
  - (b) a dissolution order, a separation order, a decree of annulment or a presumption of death order made under Part 3 of the [Civil Partnership \(Jersey\) Law 2012](#).
- (3) An application for financial relief must be made under the following provisions of the [Matrimonial Causes \(Jersey\) Law 1949](#) or Part 3 of the [Civil Partnership \(Jersey\) Law 2012](#) as if that Law had not been repealed or that Part had not been deleted –
  - (a) Articles 25 and 27 to 32 of the [Matrimonial Causes \(Jersey\) Law 1949](#); or
  - (b) Articles 44 and 47 to 52 of the [Civil Partnership \(Jersey\) Law 2012](#).

## 57 Consequential amendments

The Schedule contains consequential amendments.

## 58 Citation and commencement

This Law may be cited as the Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202- and comes into force on a day to be specified by the Minister by Order.

## SCHEDULE

(Article 57)

### REPEALS AND CONSEQUENTIAL AMENDMENTS

**1 [Matrimonial Causes \(Jersey\) Law 1949](#) repealed**

The [Matrimonial Causes \(Jersey\) Law 1949](#) is repealed.

**2 [Recognition of Divorces and Legal Separations \(Jersey\) Law 1973](#) repealed**

The [Recognition of Divorces and Legal Separations \(Jersey\) Law 1973](#) is repealed.

**3 [Capacity and Self-Determination \(Jersey\) Law 2016](#) amended**

In Article 7(1)(a)(iii) of the [Capacity and Self-Determination \(Jersey\) Law 2016](#), “a decree or divorce, or (in relation to a civil partnership)” is deleted.

**4 [Child Abduction and Custody \(Jersey\) Law 2005](#) amended**

In the [Child Abduction and Custody \(Jersey\) Law 2005](#) –

- (a) in Article 2(1)(c) and (d), for “Article 25 of the [Matrimonial Causes \(Jersey\) Law 1949](#)” there is substituted “Article 21 of the Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202-”; and
- (b) Article 2(1)(ca) is deleted.

**5 [Child Custody \(Jurisdiction\) \(Jersey\) Law 2005](#) amended**

(1) This paragraph amends the [Child Custody \(Jurisdiction\) \(Jersey\) Law 2005](#).

(2) in Article 1 –

(a) after the definition “child of the family” there is inserted –

“civil partnership proceedings” means proceedings for the dissolution or annulment of a civil partnership, or the separation (by way of a court order) of civil partners;

(b) for the definition “matrimonial proceedings” there is substituted –

“matrimonial proceedings” means proceedings for the dissolution or annulment of a marriage, or the separation (by way of a court order) of a married couple;

(c) for paragraph (4) there is substituted –

(4) In this Law, references to proceedings in respect of the marriage or civil partnership of the parents of a child include proceedings in respect of a marriage or civil partnership if there is a child who –

- (a) is not a child of both parties to the marriage or civil partnership; but
- (b) is a child of the family of those parties.

(3) In Article 3(1) –

- (a) after “matrimonial proceedings” there is inserted “or civil partnership proceedings”;
  - (b) after “marriage” there is inserted “or civil partnership”;
  - (c) for “whether or not a decree has been granted and whether or not, in the case of a decree of divorce or nullity of marriage, that decree has been made absolute” there is substituted “whether or not a dissolution, annulment or separation order has been granted and whether or not, in the case of a dissolution or annulment order, that order has been made final”.
- (4) In Article 5, at the end of the heading there is inserted “or civil partnership proceedings”.
- (5) In Article 6(2) –
- (a) after “matrimonial proceedings” there is inserted “or civil partnership proceedings”;
  - (b) after “marriage” there is inserted “or civil partnership”.
- (6) In Article 7 –
- (a) at the end of the heading there is inserted “or civil partnership proceedings”;
  - (b) in paragraph (1) –
    - (i) after “matrimonial proceedings” there is inserted “or civil partnership proceedings”;
    - (ii) after “marriage” there is inserted “or civil partnership”;
  - (c) in paragraph (2), for “judicial separation and after the grant of a decree of judicial separation on the relevant date, proceedings for divorce or nullity in respect of the marriage” there is inserted “separation and after the making of a separation order on the relevant date, proceedings for dissolution or annulment in respect of the marriage or civil partnership”;
  - (d) in paragraph (3)(a) after “matrimonial proceedings” there is inserted “or civil partnership proceedings”.
- (7) In Article 9 –
- (a) in paragraph (3) –
    - (i) after “matrimonial proceedings” there is inserted “or civil partnership proceedings”;
    - (ii) after “marriage” there is inserted “or civil partnership”;
  - (b) in paragraph (4)(a) –
    - (i) after “matrimonial proceedings” there is inserted “or civil partnership proceedings”;
    - (ii) after “marriage” there is inserted “or civil partnership”;
    - (iii) for “judicial separation, the decree of judicial separation” there is substituted “separation, the separation order”.

## 6 [Children \(Jersey\) Law 2002](#) amended

- (1) This paragraph amends the [Children \(Jersey\) Law 2002](#).
- (2) For Article 8(4) there is substituted –
  - (4) Unless a contrary intention appears, an appointment under Article 7(3) or (4) (including an appointment made in a will or codicil) is revoked if the person

appointed is the spouse or civil partner of the person who made the appointment and either –

- (a) the court by order dissolves or annuls the marriage or civil partnership; or
  - (b) the marriage or civil partnership is dissolved, and the dissolution is entitled to recognition in Jersey under Part 5 of the Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202-.
- (3) Article 8(4A) is deleted.

## **7 Civil Partnership (Jersey) Law 2012 amended**

- (1) This paragraph amends the [Civil Partnership \(Jersey\) Law 2012](#).
- (2) In Article 2 –
  - (a) for paragraph (3) there is substituted –
  - (3) A civil partnership ends only on dissolution or annulment in accordance with the Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202- or death.
  - (b) paragraph (4) is deleted.
- (3) In Article 21A –
  - (a) for paragraph (1)(b) there is substituted –
  - (b) a dissolution order, an annulment order or an order presuming death in respect of a marriage or civil partnership to which the applicant was a party;
  - (b) paragraph (1)(c) is deleted;
  - (c) in paragraph (6)(b)(i) for “nullity” there is substituted “annulment”.
- (4) Parts 3 and 4 are deleted.

## **8 Civil Partnership (Procedures, Special Circumstances and Approved Locations) (Jersey) Order 2023 amended**

- (1) This paragraph amends the [Civil Partnership \(Procedures, Special Circumstances and Approved Locations\) \(Jersey\) Order 2023](#).
- (2) In Article 12(d)(ii), “divorce or” is deleted.
- (3) For Article 19(3)(b)(i) there is substituted –
  - (i) the dissolution of the marriage or civil partnership; or

## **9 Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 amended**

In the [Control of Housing and Work \(Residential and Employment Status\) \(Jersey\) Regulations 2013](#), for Regulation 4(2)(c) there is substituted –

- (c) the person has had a continuous period of ordinary residence in Jersey for no more than 5 years following the dissolution or annulment of a marriage or civil partnership, or breakdown of an enduring relationship, between the person and a person with Entitled status, Licensed status or Entitled for Work Only status;

**10 [Court of Appeal \(Jersey\) Law 1961](#) amended**

In Article 13(1) of the [Court of Appeal \(Jersey\) Law 1961](#) –

- (a) for sub-paragraph (b) there is substituted –
  - (b) from a final order for the dissolution or annulment of a marriage or civil partnership by a party who, having had time and opportunity to appeal from the conditional order on which the final order is founded, has not appealed;
- (b) in sub-paragraph (e)(ii), for “a decree in a matrimonial cause” there is substituted “an order for the dissolution or annulment of a marriage or civil partnership”.

**11 [Interpretation \(Jersey\) Law 1954](#) amended**

In the Schedule to the [Interpretation \(Jersey\) Law 1954](#), after the definition “dentist” there is inserted –

“dissolution”, in relation to a marriage or civil partnership, includes –

- (a) a dissolution order made under the Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202-;
- (b) a decree of divorce granted under the [Matrimonial Causes \(Jersey\) Law 1949](#);
- (c) a dissolution of a civil partnership made under Part 3 of the [Civil Partnership \(Jersey\) Law 2012](#); and
- (d) a divorce or dissolution made or granted outside Jersey that is recognised as valid in Jersey under Part 5 of the Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202-;

**12 [Legitimacy \(Jersey\) Law 1963](#) amended**

In Article 3(4) of the [Legitimacy \(Jersey\) Law 1963](#) –

- (a) for “Matrimonial Causes” there is substituted “Family”;
- (b) for “a decree of nullity” there is substituted “an annulment order”.

**13 [Legitimacy \(Jersey\) Law 1973](#) amended**

Article 8(1) of the [Legitimacy \(Jersey\) Law 1973](#) is deleted.

**14 [Long-Term Care \(Benefits\) \(Jersey\) Order 2014](#) amended**

In Article 1 of the [Long-Term Care \(Benefits\) \(Jersey\) Order 2014](#), in the definition “breakdown”, for “a divorce,” there is substituted “an”.

**15 [Maintenance Orders \(Enforcement\) \(Jersey\) Law 1999](#) amended**

In Article 1 of the [Maintenance Orders \(Enforcement\) \(Jersey\) Law 1999](#), in the definition “maintenance order” –

- (a) for sub-paragraph (a)(i) there is substituted –

- (i) under Article 21, 24, 33, 35 or 37 of the Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202-;
- (b) sub-paragraph (a)(iii) is deleted.

**16 [Maintenance Orders \(Facilities for Enforcement\) \(Jersey\) Law 2000](#) amended**

In Article 33(5)(a) of the [Maintenance Orders \(Facilities for Enforcement\) \(Jersey\) Law 2000](#) –

- (a) for clause (iv) there is substituted –
  - (iv) in the case of a maintenance order made by reason of a dissolution or annulment of a marriage or civil partnership or a legal separation of a married couple or civil partners, the court is recognised by the law of Jersey as having jurisdiction in that matter.
- (b) clause (v) is deleted.

**17 [Marriage and Civil Status \(Jersey\) Law 2001](#) amended**

In Article 24C of the [Marriage and Civil Status \(Jersey\) Law 2001](#) –

- (a) for paragraph (1)(b) there is substituted –
  - (b) any order for the dissolution of a marriage or civil partnership, annulment of a marriage or civil partnership or presumption of death in respect of a marriage or civil partnership to which the applicant was a party;
- (b) paragraph (1)(c) is deleted;
- (c) in paragraph (5)(b), for “nullity” there is substituted “annulment”.

**18 [Marriage and Civil Status \(Jersey\) Order 2018](#) amended**

- (1) This paragraph amends the [Marriage and Civil Status \(Jersey\) Order 2018](#).
- (2) In Article 37(7)(c)(ii), for “divorce, dissolution of marriage” there is substituted “dissolution or annulment of marriage”.
- (3) In Article 39(d), “divorce or” is deleted.

**19 [Royal Court \(Jersey\) Law 1948](#) amended**

For Article 14 of the [Royal Court \(Jersey\) Law 1948](#) there is substituted –

**14 Family Division**

- (1) The Family Division constituted (as the Matrimonial Causes Division) under Article 3 of the [Matrimonial Causes \(Jersey\) Law 1949](#) is continued.
- (2) The Family Division may, in respect of the matters listed in Article 2(1) of the Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202-, grant any injunction or relief that the Samedi Division of the Royal Court has the power to grant.

- (3) The duties of the following people in relation to the Family Division are analogous to their respective duties in the Samedi Division –
  - (a) the Attorney General;
  - (b) the Viscount;
  - (c) the Solicitor General; and
  - (d) the Judicial Greffier.

## 20 [Separation and Maintenance Orders \(Jersey\) Law 1953](#) amended

In the [Separation and Maintenance Orders \(Jersey\) Law 1953](#) –

- (a) In Article 1 –
  - (i) the definition “habitual drunkard” is deleted;
  - (ii) in the definition “Royal Court”, for “Matrimonial Causes” there is substituted “Family”;
- (b) In Article 7(1), for “either of the husband or of the wife” there is substituted “of either party to the marriage”.

## 21 [Taxation \(Land Transactions\) \(Jersey\) Law 2009](#) amended

In the Schedule to the [Taxation \(Land Transactions\) \(Jersey\) Law 2009](#) –

- (a) in paragraph 6(1)(a), for “Article 28 of the [Matrimonial Causes \(Jersey\) Law 1949](#), or under Article 48 of the [Civil Partnership \(Jersey\) Law 2012](#)” there is substituted “Article 23 of the Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202-”; and
- (b) in paragraph 7(1)(a), for “Article 28 of the [Matrimonial Causes \(Jersey\) Law 1949](#), or under Article 48 of the [Civil Partnership \(Jersey\) Law 2012](#)” there is substituted “Article 23 of the Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202-”.

## 22 [Teachers’ Superannuation \(Existing Members\) \(Jersey\) Order 1986](#) amended

In Article 68(6) of the [Teachers’ Superannuation \(Existing Members\) \(Jersey\) Order 1986](#), “or divorce” is deleted.

## 23 [Wills and Successions \(Jersey\) Law 1993](#) amended

In the [Wills and Successions \(Jersey\) Law 1993](#) –

- (a) in Article 8(1)(b)(ii), for “decree of judicial separation” there is substituted “separation order”;
- (b) in the heading of Article 16, for “divorce or dissolution of civil partnership” there is substituted “dissolution of marriage or civil partnership”.