

SCOTTISH STATUTORY INSTRUMENTS

2021 No. 75

Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (Miscellaneous) 2021

Amendment of the Rules of the Court of Session 1994

2.—(1) The Rules of the Court of Session 1994⁽¹⁾ are amended in accordance with this paragraph.

(2) For rule 49.91(1) (action for declarator in relation to certain foreign decrees)⁽²⁾, substitute—

“(1) This rule applies to an action for declarator of recognition, or non-recognition, of a decree of divorce, nullity or separation granted outwith the United Kingdom, the Channel Islands or the Isle of Man.”.

(3) In the appendix (forms)—

(a) in Form 49.73-A (form of simplified divorce application under section 1(2)(d) of the Divorce (Scotland) Act 1976)⁽³⁾—

(i) in the Notes on Section 3, omit—

(aa) the definition of “the Council Regulation”;

(bb) the list of Contracting States;

(ii) in the Notes on Section 4, for “General Register Office (Scotland)” substitute “National Records of Scotland”;

(iii) in Part 1, for Section 3 (jurisdiction), substitute—

3. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

(i) I am domiciled in Scotland on the date I signed this application

(ii) My spouse is domiciled in Scotland on the date I signed this application

(iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

(iv) My spouse was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

(b) in Form 49.73-B (form of simplified divorce application under section 1(2)(e) of the Divorce (Scotland) Act 1976)⁽⁴⁾—

⁽¹⁾ The Rules of the Court of Session 1994 are in schedule 2 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443), last amended by S.S.I. 2021/22.

⁽²⁾ Rule 49.91(1) was amended by S.S.I. 2014/302.

⁽³⁾ Form 49.73-A was last amended by S.S.I. 2017/132.

⁽⁴⁾ Form 49.73-B was last amended by S.S.I. 2017/132.

- (i) in the Notes on Section 4—
 - (aa) for “GENERAL REGISTER OFFICE” substitute “NATIONAL RECORDS OF SCOTLAND”;
 - (bb) for “General Register Office” where it occurs and “General Register Office (Scotland)” substitute “National Records of Scotland”;
- (ii) in the Notes on Section 5, omit—
 - (aa) the definition of “the Council Regulation”;
 - (bb) the list of Contracting States;
- (iii) in Part 1, for Section 5 (jurisdiction), substitute—

5. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

- (i) I am domiciled in Scotland on the date I signed this application
 - (ii) My spouse is domiciled in Scotland on the date I signed this application
 - (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
 - (iv) My spouse was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
- (c) in Form 49.73-C (form of simplified divorce application under section 1(1)(b) of the Divorce (Scotland) Act 1976)(5)—
- (i) in the direction for making application, in direction 3(i), for “General Register Office” substitute “National Records of Scotland”;
 - (ii) in the Notes on Section 4—
 - (aa) for “GENERAL REGISTER OFFICE” substitute “NATIONAL RECORDS OF SCOTLAND”;
 - (bb) for “General Register Office” where it occurs and “General Register Office (Scotland)” substitute “National Records of Scotland”;
 - (iii) in the Notes on Section 5, omit—
 - (aa) the definition of “the Council Regulation”;

- (bb) the list of Contracting States;
(iv) in Part 1, for Section 5 (jurisdiction), substitute—

5. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

- (i) I am domiciled in Scotland on the date I signed this application
- (ii) My spouse is domiciled in Scotland on the date I signed this application
- (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
- (iv) My spouse was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

- (d) in Form 49.80B-A (form of simplified dissolution of civil partnership application under section 117(3)(c) of the Civil Partnership Act 2004)(6)—
- (i) in the Notes on Section 4, for “General Register Office (Scotland)” substitute “National Records of Scotland”;
- (ii) in Part 1, for Section 3 (jurisdiction), substitute—

(6) Form 49.80B-A was inserted by [S.S.I. 2005/632](#) and last amended by [S.S.I. 2017/132](#).

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3. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

PART A

- (i) I am domiciled in Scotland on the date I signed this application
- (ii) My civil partner is domiciled in Scotland on the date I signed this application
- (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
- (iv) My civil partner was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

If you have ticked one of the boxes in Part A, you do not have to complete Part B. You should complete Part B if you have not ticked any of the boxes in Part A.

PART B

- (i) My civil partner and I are registered as civil partners of each other in Scotland

AND

- (ii) No court has, or is recognised as having, jurisdiction

AND

- (iii) It is in the interests of justice for the Court of Session to assume jurisdiction in the case

(Please give reasons below)

”

(e) in Form 49.80B-B (form of simplified dissolution of civil partnership application under section 117(3)(d) of the Civil Partnership Act 2004)(7)—

(i) in the directions for making application, in direction 3(i), for “General Register Office” substitute “National Records of Scotland”;

(ii) in the Notes on Section 4—

(aa) for “GENERAL REGISTER OFFICE” substitute “NATIONAL RECORDS OF SCOTLAND”;

(bb) for “General Register Office” where it occurs and “General Register Office (Scotland)” substitute “National Records of Scotland”;

(iii) in Part 1, for Section 5 (jurisdiction), substitute—

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5. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

PART A

- (i) I am domiciled in Scotland on the date I signed this application
- (ii) My civil partner is domiciled in Scotland on the date I signed this application
- (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
- (iv) My civil partner was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

If you have ticked one of the boxes in Part A, you do not have to complete Part B. You should complete Part B if you have not ticked any of the boxes in Part A.

PART B

- (i) My civil partner and I are registered as civil partners of each other in Scotland

AND

- (ii) No court has, or is recognised as having, jurisdiction

AND

- (iii) It is in the interests of justice for the Court of Session to assume jurisdiction in the case

(Please give reasons below)

”

(f) in Form 49.80B-C (form of simplified dissolution of civil partnership application under section 117(2)(b) of the Civil Partnership Act 2004)(8)—

(i) in the directions for making application, in direction 3(i), for “General Register Office” substitute “National Records of Scotland”;

(ii) in the Notes on Section 4—

(aa) for “GENERAL REGISTER OFFICE” substitute “National Records of Scotland”;

(bb) for “General Register Office” where it occurs and “General Register Office (Scotland)” substitute “National Records of Scotland”;

(iii) in Part 1, for Section 5 (jurisdiction), substitute—

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5. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

PART A

- (i) I am domiciled in Scotland on the date I signed this application
- (ii) My civil partner is domiciled in Scotland on the date I signed this application
- (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
- (iv) My civil partner was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

If you have ticked one of the boxes in Part A, you do not have to complete Part B. You should complete Part B if you have not ticked any of the boxes in Part A.

PART B

- (i) My civil partner and I are registered as civil partners of each other in Scotland

AND

- (ii) No court has, or is recognised as having, jurisdiction

AND

- (iii) It is in the interests of justice for the Court of Session to assume jurisdiction in the case

(Please give reasons below)

”