



# Civil Partnership Act 2004

## 2004 CHAPTER 33

### PART 3

#### CIVIL PARTNERSHIP: SCOTLAND

### CHAPTER 5

#### DISSOLUTION, SEPARATION AND NULLITY

#### *Nullity*

#### 123 Nullity

[<sup>F1</sup>(1)] Where two people register in Scotland as civil partners of each other, the civil partnership is void if, and only if—

- (a) they were not eligible to do so, <sup>F2</sup> . . .
- (b) though they were so eligible, either of them did not <sup>F3</sup> . . . consent to its formation [<sup>F4</sup>, or.
- (c) at the time of registration one of them who was capable of consenting to the formation of the civil partnership purported to give consent but did so by reason only of duress or error.]

[<sup>F5</sup>(2) In this section “error” means—

- (a) error as to the nature of civil partnership, or
- (b) a mistaken belief held by a person (“A”) that the other person with whom A purported to register a civil partnership was the person with whom A had agreed to register a civil partnership.]

#### Textual Amendments

- F1** S. 123 renumbered as s. 123(1) (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), ss. 33, 46(2), [Sch. 1 para. 10](#); [S.S.I. 2006/212](#), [art. 2](#) (subject to arts. 3-13)

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*Changes to legislation: Civil Partnership Act 2004, Cross Heading: Nullity is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- F2** Word in s. 123(1) repealed (4.5.2006) by Family Law (Scotland) Act 2006 (asp 2), ss. 33, 46(2), **Sch. 1 para. 10(a)**; S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)
- F3** Word in s. 123(1)(b) repealed (4.5.2006) by Family Law (Scotland) Act 2006 (asp 2), ss. 33, 46(2), **Sch. 1 para. 10(b)**; S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)
- F4** S. 123(1)(c) and word inserted (4.5.2006) by Family Law (Scotland) Act 2006 (asp 2), ss. 33, 46(2), **Sch. 1 para. 10(c)**; S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)
- F5** S. 123(2) added (4.5.2006) by Family Law (Scotland) Act 2006 (asp 2), ss. 33, 46(2), **Sch. 1 para. 10(d)**; S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)

## 124 Validity of civil partnerships registered outside Scotland

- (1) Where two people register as civil partners of each other in England and Wales—
  - (a) the civil partnership is void if it would be void in England and Wales under section 49, and
  - (b) the civil partnership is voidable if it would be voidable there under section 50(1)(a), (b), (c) or (e).
- (2) Where two people register as civil partners of each other in Northern Ireland, the civil partnership is—
  - (a) void, if it would be void in Northern Ireland under section 173, and
  - (b) voidable, if it would be voidable there under section 174(1)(a), (b), (c) or (e).
- (3) Subsection (4) applies where two people register as civil partners of each other under an Order in Council under—
  - (a) section 210 (registration at British consulates etc.), or
  - (b) section 211 (registration by armed forces personnel), (“the relevant section”).
- (4) The civil partnership is—
  - (a) void, if—
    - (i) the condition in subsection (2)(a) or (b) of the relevant section is not met, or
    - (ii) a requirement prescribed for the purposes of this paragraph by an Order in Council under the relevant section is not complied with, and
  - (b) voidable, if—
    - (i) the appropriate part of the United Kingdom is England and Wales and the circumstances fall within section 50(1)(a), (b), (c) or (e), or
    - (ii) the appropriate part of the United Kingdom is Northern Ireland and the circumstances fall within section 174(1)(a), (b), (c) or (e).
- (5) The appropriate part of the United Kingdom is the part by reference to which the condition in subsection (2)(b) of the relevant section is met.
- (6) Subsections (7) and (8) apply where two people have registered an apparent or alleged overseas relationship.
- (7) The civil partnership is void if—
  - (a) the relationship is not an overseas relationship, or
  - (b) (even though the relationship is an overseas relationship), the parties are not treated under Chapter 2 of Part 5 as having formed a civil partnership.
- (8) The civil partnership is voidable if—

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- (a) the overseas relationship is voidable under the relevant law,
  - (b) where either of the parties was domiciled in England and Wales at the time when the overseas relationship was registered, the circumstances fall within section 50(1)(a), (b), (c) or (e), or
  - (c) where either of the parties was domiciled in Northern Ireland at the time when the overseas relationship was registered, the circumstances fall within section 174(1)(a), (b), (c) or (e).
- (9) Section 51 or (as the case may be) section 175 applies for the purposes of—
- (a) subsections (1)(b), (2)(b) and (4)(b),
  - (b) subsection (8)(a), in so far as applicable in accordance with the relevant law, and
  - (c) subsection (8)(b) and (c).
- (10) In subsections (8)(a) and (9)(b) “the relevant law” means the law of the country or territory where the overseas relationship was registered (including its rules of private international law).
- (11) For the purposes of subsections (8) and (9)(b) and (c), references in sections 50 and 51 or (as the case may be) sections 174 and 175 to the formation of the civil partnership are to be read as references to the registration of the overseas relationship.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 103(10) inserted by [2023 asp 3 s. 56\(5\)](#)
- s. 108(5) inserted by [2023 asp 3 s. 56\(8\)](#)
- s. 213(1A) inserted by [2013 c. 30 Sch. 2 para. 5\(2\)](#)