



Civil Partnership Act 2004

2004 CHAPTER 33

PART 5

CIVIL PARTNERSHIP FORMED OR DISSOLVED ABROAD ETC.

CHAPTER 1

REGISTRATION OUTSIDE UK UNDER ORDER IN COUNCIL

210 Registration at British consulates etc.

- (1) Her Majesty may by Order in Council make provision for two people to register as civil partners of each other—
 - (a) in prescribed countries or territories outside the United Kingdom, and
 - (b) in the presence of [^{F1}a registration officer],in cases where the officer is satisfied that the conditions in subsection (2) are met.
- (2) The conditions are that—
 - (a) at least one of the proposed civil partners is a United Kingdom national,
 - (b) the proposed civil partners would have been eligible to register as civil partners of each other in such part of the United Kingdom as is determined in accordance with the Order,
 - (c) the authorities of the country or territory in which it is proposed that they register as civil partners will not object to the registration, and
 - (d) insufficient facilities exist for them to enter into an overseas relationship under the law of that country or territory.
- (3) [^{F2}A registration officer] is not required to allow two people to register as civil partners of each other if in his opinion the formation of a civil partnership between them would be inconsistent with international law or the comity of nations.

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- (4) An Order in Council under this section may make provision for appeals against a refusal, in reliance on subsection (3), to allow two people to register as civil partners of each other.
- (5) An Order in Council under this section may provide that two people who register as civil partners of each other under such an Order are to be treated for the purposes of sections 221(1)(c)(i) and (2)(c)(i), 222(c), 224(b), 225(1)(c)(i) and (3)(c)(i), 229(1)(c)(i) and (2)(c)(i) [^{F3}and section 232(b)] and section 1(3)(c)(i) of the Presumption of Death (Scotland) Act 1977 (c. 27) as if they had done so in the part of the United Kingdom determined as mentioned in subsection (2)(b).
- [^{F4}(6) “Registration officer” means—
- (a) a consular officer in the service of Her Majesty’s government in the United Kingdom, or
 - (b) in the case of registration in a country in which Her Majesty’s government in the United Kingdom has for the time being no consular representative, a person authorised by the Secretary of State in respect of registration of civil partnerships in that country.]

Textual Amendments

- F1** Words in s. 210(1)(b) substituted (5.12.2012) by [The Legislative Reform \(Civil Partnership\) Order 2012 \(S.I. 2012/3100\)](#), arts. 1, **2(2)**
- F2** Words in s. 210(3) substituted (5.12.2012) by [The Legislative Reform \(Civil Partnership\) Order 2012 \(S.I. 2012/3100\)](#), arts. 1, **2(3)**
- F3** Words in s. 210(5) substituted (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 19(1), 20, **Sch. 2**; [S.R. 2009/356](#), **art. 2**
- F4** S. 210(6) inserted (5.12.2012) by [The Legislative Reform \(Civil Partnership\) Order 2012 \(S.I. 2012/3100\)](#), arts. 1, **2(4)**

Commencement Information

- II** S. 210 wholly in force at 5.12.2005; s. 210 not in force at Royal Assent see s. 263; s. 210(1)(2)(4)(5) in force at 15.4.2005 by [S.I. 2005/1112](#), **art. 2**, **Sch. 2**; s. 210(3) in force at 5.12.2005 by [S.I. 2005/3175](#), **art. 3**, **Sch. 2**

211 Registration by armed forces personnel

- (1) Her Majesty may by Order in Council make provision for two people to register as civil partners of each other—
- (a) in prescribed countries or territories outside the United Kingdom, and
 - (b) in the presence of an officer appointed by virtue of the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (c. 58),
- in cases where the officer is satisfied that the conditions in subsection (2) are met.
- (2) The conditions are that—
- (a) at least one of the proposed civil partners—
 - (i) is a member of a part of Her Majesty’s forces serving in the country or territory,
 - (ii) is employed in the country or territory in such other capacity as may be prescribed, or

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- (iii) is a child of a person falling within sub-paragraph (i) or (ii) and has his home with that person in that country or territory,
 - (b) the proposed civil partners would have been eligible to register as civil partners of each other in such part of the United Kingdom as is determined in accordance with the Order, and
 - (c) such other requirements as may be prescribed are complied with.
- (3) In determining for the purposes of subsection (2) whether one person is the child of another, a person who is or was treated by another as a child of the family in relation to—
- (a) a marriage to which the other is or was a party, or
 - (b) a civil partnership in which the other is or was a civil partner,
- is to be regarded as the other’s child.
- (4) An Order in Council under this section may provide that two people who register as civil partners of each other under such an Order are to be treated for the purposes of section 221(1)(c)(i) and (2)(c)(i), 222(c), 224(b), 225(1)(c)(i) and (3)(c)(i), 229(1)(c)(i) and (2)(c)(i) [^{F5}and section 232(b)] and section 1(3)(c)(i) of the Presumption of Death (Scotland) Act 1977 (c. 27) as if they had done so in the part of the United Kingdom determined in accordance with subsection (2)(b).
- (5) Any references in this section—
- (a) to a country or territory outside the United Kingdom,
 - (b) to forces serving in such a country or territory, and
 - (c) to persons employed in such a country or territory,
- include references to ships which are for the time being in the waters of a country or territory outside the United Kingdom, to forces serving in any such ship and to persons employed in any such ship.

Textual Amendments

- F5** Words in s. 211(4) substituted (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 19(1), 20, [Sch. 2](#); [S.R. 2009/356](#), [art. 2](#)

CHAPTER 2

OVERSEAS RELATIONSHIPS TREATED AS CIVIL PARTNERSHIPS

212 Meaning of “overseas relationship”

- (1) For the purposes of this Act an overseas relationship is a relationship which—
- (a) is either a specified relationship or a relationship which meets the general conditions, and
 - (b) is registered (whether before or after the passing of this Act) with a responsible authority in a country or territory outside the United Kingdom, by two people—
 - (i) who under the relevant law are of the same sex at the time when they do so, and
 - (ii) neither of whom is already a civil partner or lawfully married.

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- (2) In this Chapter, “the relevant law” means the law of the country or territory where the relationship is registered (including its rules of private international law).

Modifications etc. (not altering text)

- C1** S. 212 applied (with modifications) (E.W.) (5.12.2005) by [The Civil Partnership \(Treatment of Overseas Relationships\) Order 2005 \(S.I. 2005/3042\)](#), **art. 5**
 S. 212 applied (with modifications) (N.I.) (5.12.2005) by [The Civil Partnership \(Treatment of Overseas Relationships\) Order \(Northern Ireland\) 2005 \(S.R. 2005/531\)](#), **art. 5(1)**
 S. 212 applied (with modifications) (S.) (5.12.2005) by [The Civil Partnership \(Overseas Relationships\) \(Scotland\) Order 2005 \(S.S.I. 2005/573\)](#), **art. 3**

213 Specified relationships

- (1) A specified relationship is a relationship which is specified for the purposes of section 212 by Schedule 20.
- (2) The [^{F6}Secretary of State] may by order amend Schedule 20 by—
- (a) adding a relationship,
 - (b) amending the description of a relationship, or
 - (c) omitting a relationship.
- (3) No order may be made under this section without the consent of the Scottish Ministers and the Department of Finance and Personnel.
- (4) The power to make an order under this section is exercisable by statutory instrument.
- (5) An order which contains any provision (whether alone or with other provisions) amending Schedule 20 by—
- (a) amending the description of a relationship, or
 - (b) omitting a relationship,
- may not be made unless a draft of the statutory instrument containing the order is laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing any other order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F6** Words in s. 213(2) substituted (18.8.2010) by [The Transfer of Functions \(Equality\) Order 2010 \(S.I. 2010/1839\)](#), **art. 7, Sch. para. 6**

Modifications etc. (not altering text)

- C2** S. 213: functions transferred (12.10.2007) by [The Transfer of Functions \(Equality\) Order 2007 \(S.I. 2007/2914\)](#), **art. 3(2)(e)**
C3 S. 213: functions transferred (18.8.2010) by [The Transfer of Functions \(Equality\) Order 2010 \(S.I. 2010/1839\)](#), **art. 3(1)(e)**

Commencement Information

- I2** S. 213 wholly in force at 5.12.2005; s. 213(2)-(6) in force at Royal Assent, see s. 263(5)(6); s. 213(1) in force at 5.12.2005 by [S.I. 2005/3175](#), **art. 3, Sch. 2**

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214 The general conditions

The general conditions are that, under the relevant law—

- (a) the relationship may not be entered into if either of the parties is already a party to a relationship of that kind or lawfully married,
- (b) the relationship is of indeterminate duration, and
- (c) the effect of entering into it is that the parties are—
 - (i) treated as a couple either generally or for specified purposes, or
 - (ii) treated as married.

215 Overseas relationships treated as civil partnerships: the general rule

- (1) Two people are to be treated as having formed a civil partnership as a result of having registered an overseas relationship if, under the relevant law, they—
 - (a) had capacity to enter into the relationship, and
 - (b) met all requirements necessary to ensure the formal validity of the relationship.
- (2) Subject to subsection (3), the time when they are to be treated as having formed the civil partnership is the time when the overseas relationship is registered (under the relevant law) as having been entered into.
- (3) If the overseas relationship is registered (under the relevant law) as having been entered into before this section comes into force, the time when they are to be treated as having formed a civil partnership is the time when this section comes into force.
- (4) But if—
 - (a) before this section comes into force, a dissolution or annulment of the overseas relationship was obtained outside the United Kingdom, and
 - (b) the dissolution or annulment would be recognised under Chapter 3 if the overseas relationship had been treated as a civil partnership at the time of the dissolution or annulment,subsection (3) does not apply and subsections (1) and (2) have effect subject to subsection (5).
- (5) The overseas relationship is not to be treated as having been a civil partnership for the purposes of any provisions except—
 - (a) Schedules 7, 11 and 17 (financial relief in United Kingdom after dissolution or annulment obtained outside the United Kingdom);
 - (b) such provisions as are specified (with or without modifications) in an order under section 259;
 - (c) Chapter 3 (so far as necessary for the purposes of paragraphs (a) and (b)).
- (6) This section is subject to sections 216, 217 and 218.

216 The same-sex requirement

- (1) Two people are not to be treated as having formed a civil partnership as a result of having registered an overseas relationship if, at the critical time, they were not of the same sex under United Kingdom law.
- (2) But if a full gender recognition certificate is issued under the 2004 Act to a person who has registered an overseas relationship which is within subsection (4), after the issue

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of the certificate the relationship is no longer prevented from being treated as a civil partnership on the ground that, at the critical time, the parties were not of the same sex.

- (3) However, subsection (2) does not apply to an overseas relationship which is within subsection (4) if either of the parties has formed a subsequent civil partnership or lawful marriage.
- (4) An overseas relationship is within this subsection if (and only if), at the time mentioned in section 215(2)—
- (a) one of the parties (“A”) was regarded under the relevant law as having changed gender (but was not regarded under United Kingdom law as having done so), and
 - (b) the other party was (under United Kingdom law) of the gender to which A had changed under the relevant law.
- (5) In this section—
- “the critical time” means the time determined in accordance with section 215(2) or (as the case may be) (3);
- “the 2004 Act” means the Gender Recognition Act 2004 (c. 7);
- “United Kingdom law” means any enactment or rule of law applying in England and Wales, Scotland and Northern Ireland.
- (6) Nothing in this section prevents the exercise of any enforceable [F⁷EU] right.

Textual Amendments

- F7** Word in s. 216 substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 3, **6(1)(f)**

217 Person domiciled in a part of the United Kingdom

- (1) Subsection (2) applies if an overseas relationship has been registered by a person who was at the time mentioned in section 215(2) domiciled in England and Wales.
- (2) The two people concerned are not to be treated as having formed a civil partnership if, at the time mentioned in section 215(2)—
- (a) either of them was under 16, or
 - (b) they would have been within prohibited degrees of relationship under Part 1 of Schedule 1 if they had been registering as civil partners of each other in England and Wales.
- (3) Subsection (4) applies if an overseas relationship has been registered by a person who at the time mentioned in section 215(2) was domiciled in Scotland.
- (4) The two people concerned are not to be treated as having formed a civil partnership if, at the time mentioned in section 215(2), they were not eligible by virtue of paragraph (b), (c) or (e) of section 86(1) to register in Scotland as civil partners of each other.
- (5) Subsection (6) applies if an overseas relationship has been registered by a person who at the time mentioned in section 215(2) was domiciled in Northern Ireland.
- (6) The two people concerned are not to be treated as having formed a civil partnership if, at the time mentioned in section 215(2)—

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- (a) either of them was under 16, or
- (b) they would have been within prohibited degrees of relationship under Schedule 12 if they had been registering as civil partners of each other in Northern Ireland.

218 The public policy exception

Two people are not to be treated as having formed a civil partnership as a result of having entered into an overseas relationship if it would be manifestly contrary to public policy to recognise the capacity, under the relevant law, of one or both of them to enter into the relationship.

CHAPTER 3

DISSOLUTION ETC.: JURISDICTION AND RECOGNITION

Introduction

219 Power to make provision corresponding to EC Regulation 2201/2003

- (1) The Lord Chancellor may by regulations make provision—
- (a) as to the jurisdiction of courts in England and Wales ^{F8} . . . in proceedings for the dissolution or annulment of a civil partnership or for legal separation of the civil partners in cases where a civil partner—
 - (i) is or has been habitually resident in a member State,
 - (ii) is a national of a member State, or
 - (iii) is domiciled in a part of the United Kingdom or the Republic of Ireland, and
 - (b) as to the recognition in England and Wales ^{F8} . . . of any judgment of a court of another member State which orders the dissolution or annulment of a civil partnership or the legal separation of the civil partners.

[^{F9}(1A) The Department of Justice in Northern Ireland may by regulations make provision—

- (a) as to the jurisdiction of courts in Northern Ireland in proceedings for the dissolution or annulment of a civil partnership or for legal separation of the civil partners in such cases as are mentioned in subsection (1)(a), and
- (b) as to the recognition in Northern Ireland of any such judgment as is mentioned in subsection (1)(b).]

- (2) The Scottish Ministers may by regulations make provision—
- (a) as to the jurisdiction of courts in Scotland in proceedings for the dissolution or annulment of a civil partnership or for legal separation of the civil partners in such cases as are mentioned in subsection (1)(a), and
 - (b) as to the recognition in Scotland of any such judgment as is mentioned in subsection (1)(b).
- (3) The regulations may in particular make provision corresponding to that made by Council Regulation (EC) No 2201/2003 of 27th November 2003 in relation to jurisdiction and the recognition and enforcement of judgments in matrimonial matters.

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- (4) The regulations may provide that for the purposes of this Part and the regulations “member State” means—
- (a) all member States with the exception of such member States as are specified in the regulations, or
 - (b) such member States as are specified in the regulations.
- (5) The regulations may make provision under subsections (1)(b) [F10, (1A)(b)] and (2)(b) which applies even if the date of the dissolution, annulment or legal separation is earlier than the date on which this section comes into force.
- (6) Regulations under subsection (1) are to be made by statutory instrument and may only be made if a draft has been laid before and approved by resolution of each House of Parliament.
- [F11](6A) Regulations under subsection (1A) are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (6B) No regulations shall be made under subsection (1A) unless a draft has been laid before and approved by resolution of the Northern Ireland Assembly.
- (6C) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6B) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.]
- (7) Regulations under subsection (2) are to be made by statutory instrument and may only be made if a draft has been laid before and approved by resolution of the Scottish Parliament.
- (8) In this Part “section 219 regulations” means regulations made under this section.

Textual Amendments

- F8** Words in s. 219(1)(a)(b) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 73(a)** (with arts. 28-31)
- F9** S. 219(1A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 73(b)** (with arts. 28-31)
- F10** Word in s. 219(5) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 73(c)** (with arts. 28-31)
- F11** S. 219(6A)-(6C) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 73(d)** (with arts. 28-31)

Jurisdiction of courts in England and Wales

220 Meaning of “the court”

In sections 221 to 224 “the court” means—

- (a) the High Court, or
- (b) if a county court has jurisdiction by virtue of Part 5 of the Matrimonial and Family Proceedings Act 1984 (c. 42), a county court.

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Commencement Information

- I3** S. 220 wholly in force at 5.12.2005; s. 220 not in force at Royal Assent see s. 263; s. 220 in force at 15.4.2005 for certain purposes by S.I. 2005/1112, art. 2, Sch. 2 and otherwise 5.12.2005 insofar as not already in force by S.I. 2005/3175, art. 3, Sch. 2

221 Proceedings for dissolution, separation or nullity order

- (1) The court has jurisdiction to entertain proceedings for a dissolution order or a separation order if (and only if)—
- (a) the court has jurisdiction under section 219 regulations,
 - (b) no court has, or is recognised as having, jurisdiction under section 219 regulations and either civil partner is domiciled in England and Wales on the date when the proceedings are begun, or
 - (c) the following conditions are met—
 - (i) the two people concerned registered as civil partners of each other in England or Wales,
 - (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (2) The court has jurisdiction to entertain proceedings for a nullity order if (and only if)—
- (a) the court has jurisdiction under section 219 regulations,
 - (b) no court has, or is recognised as having, jurisdiction under section 219 regulations and either civil partner—
 - (i) is domiciled in England and Wales on the date when the proceedings are begun, or
 - (ii) died before that date and either was at death domiciled in England and Wales or had been habitually resident in England and Wales throughout the period of 1 year ending with the date of death, or
 - (c) the following conditions are met—
 - (i) the two people concerned registered as civil partners of each other in England or Wales,
 - (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (3) At any time when proceedings are pending in respect of which the court has jurisdiction by virtue of subsection (1) or (2) (or this subsection), the court also has jurisdiction to entertain other proceedings, in respect of the same civil partnership, for a dissolution, separation or nullity order, even though that jurisdiction would not be exercisable under subsection (1) or (2).

222 Proceedings for presumption of death order

The court has jurisdiction to entertain proceedings for a presumption of death order if (and only if)—

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- (a) the applicant is domiciled in England and Wales on the date when the proceedings are begun,
- (b) the applicant was habitually resident in England and Wales throughout the period of 1 year ending with that date, or
- (c) the two people concerned registered as civil partners of each other in England and Wales and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

223 Proceedings for dissolution, nullity or separation order: supplementary

- (1) Rules of court may make provision in relation to civil partnerships corresponding to the provision made in relation to marriages by Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (c. 45).
- (2) The rules may in particular make provision—
 - (a) for the provision of information by applicants and respondents in proceedings for dissolution, nullity or separation orders where proceedings relating to the same civil partnership are continuing in another jurisdiction, and
 - (b) for proceedings before the court to be stayed by the court where there are concurrent proceedings elsewhere in respect of the same civil partnership.

224 Applications for declarations as to validity etc.

The court has jurisdiction to entertain an application under section 58 if (and only if)—

- (a) either of the civil partners in the civil partnership to which the application relates—
 - (i) is domiciled in England and Wales on the date of the application,
 - (ii) has been habitually resident in England and Wales throughout the period of 1 year ending with that date, or
 - (iii) died before that date and either was at death domiciled in England and Wales or had been habitually resident in England and Wales throughout the period of 1 year ending with the date of death, or
- (b) the two people concerned registered as civil partners of each other in England and Wales and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

Jurisdiction of Scottish courts

225 Jurisdiction of Scottish courts

- (1) The Court of Session has jurisdiction to entertain an action for the dissolution of a civil partnership or for separation of civil partners if (and only if)—
 - (a) the court has jurisdiction under section 219 regulations,
 - (b) no court has, or is recognised as having, jurisdiction under section 219 regulations and either civil partner is domiciled in Scotland on the date when the proceedings are begun, or
 - (c) the following conditions are met—
 - (i) the two people concerned registered as civil partners of each other in Scotland,

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- (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (2) The sheriff has jurisdiction to entertain an action for the dissolution of a civil partnership or for separation of civil partners if (and only if) the requirements of paragraph (a) or (b) of subsection (1) are met and either civil partner—
 - (a) was resident in the sheriffdom for a period of 40 days ending with the date when the action is begun, or
 - (b) had been resident in the sheriffdom for a period of not less than 40 days ending not more than 40 days before that date and has no known residence in Scotland at that date.
- (3) The Court of Session has jurisdiction to entertain an action for declarator of nullity of a civil partnership if (and only if)—
 - (a) the Court has jurisdiction under section 219 regulations,
 - (b) no court has, or is recognised as having, jurisdiction under section 219 regulations and either of the ostensible civil partners—
 - (i) is domiciled in Scotland on the date when the proceedings are begun, or
 - (ii) died before that date and either was at death domiciled in Scotland or had been habitually resident in Scotland throughout the period of 1 year ending with the date of death, or
 - (c) the following conditions are met—
 - (i) the two people concerned registered as civil partners of each other in Scotland,
 - (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (4) At any time when proceedings are pending in respect of which a court has jurisdiction by virtue of any of subsections (1) to (3) (or this subsection) it also has jurisdiction to entertain other proceedings, in respect of the same civil partnership (or ostensible civil partnership), for dissolution, separation or (but only where the court is the Court of Session) declarator of nullity, even though that jurisdiction would not be exercisable under any of subsections (1) to (3).

226 Sisting of proceedings

- (1) Rules of court may make provision in relation to civil partnerships corresponding to the provision made in relation to marriages by Schedule 3 to the Domicile and Matrimonial Proceedings Act 1973 (c. 45) (sisting of Scottish consistorial actions).
- (2) The rules may in particular make provision—
 - (a) for the provision of information by the pursuer and by any other person who has entered appearance in an action where proceedings relating to the same civil partnership (or ostensible civil partnership) are continuing in another jurisdiction, and
 - (b) for an action to be sisted where there are concurrent proceedings elsewhere in respect of the same civil partnership (or ostensible civil partnership).

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227 Scottish ancillary and collateral orders

- (1) This section applies where after the commencement of this Act an application is competently made to the Court of Session or the sheriff for the making, or the variation or recall, of an order which is ancillary or collateral to an action for—
- (a) the dissolution of a civil partnership,
 - (b) the separation of civil partners, or
 - (c) declarator of nullity of a civil partnership.
- (2) And the section applies whether the application is made in the same proceedings or in other proceedings and whether it is made before or after the pronouncement of a final decree in the action.
- (3) [^{F12}Subject to subsections (3A) and (3B), if] the court has or, as the case may be, had jurisdiction to entertain the action, it has jurisdiction to entertain [^{F13}the application.
- (3A) The court may not entertain the application if —
- (a) jurisdiction to entertain the action was under section 219 regulations, and
 - (b) to make, vary or recall the order to which the application relates would contravene the regulations.
- [^{F14}(3B) If the application or part of it relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.]
- (4) Where the Court of Session has jurisdiction by virtue of this section to entertain an application for the variation or recall, as respects any person, of an order made by it and the order is one to which section 8 (variation and recall by the sheriff of certain orders made by the Court of Session) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966 (c. 19) applies, then for the purposes of any application under that section for the variation or recall of the order in so far as it relates to the person, the sheriff (as defined in that section) has jurisdiction to exercise the power conferred on him by that section.
- (5) The reference in subsection (1) to an order which is ancillary or collateral is to an order relating to children, aliment, financial provision or expenses.
- [^{F15}(6) In this section “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Textual Amendments

- F12** Words in s. 227(3) substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, [Sch. 7 para. 16\(2\)\(a\)](#)
- F13** Words in s. 227 substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, [Sch. 7 para. 16\(2\)\(b\)](#)
- F14** S. 227(3B) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, [Sch. 7 para. 16\(2\)\(c\)](#)
- F15** S. 227(6) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, [Sch. 7 para. 16\(2\)\(d\)](#)

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Jurisdiction of courts in Northern Ireland

228 Meaning of “the court”

In sections 229 to 232 “the court” has the meaning given by section 188.

Commencement Information

I4 S. 228 wholly in force at 5.12.2005; s. 228 not in force at Royal Assent see s. 263; s. 228 in force at 15.4.2005 for certain purposes by S.I. 2005/1112, art. 2, Sch. 2 and otherwise 5.12.2005 insofar as not already in force by S.I. 2005/3175, art. 3, Sch. 2

229 Proceedings for dissolution, separation or nullity order

- (1) The court has jurisdiction to entertain proceedings for a dissolution order or a separation order if (and only if)—
 - (a) the court has jurisdiction under section 219 regulations,
 - (b) no court has, or is recognised as having, jurisdiction under section 219 regulations and either civil partner is domiciled in Northern Ireland on the date when the proceedings are begun, or
 - (c) the following conditions are met—
 - (i) the two people concerned registered as civil partners of each other in Northern Ireland,
 - (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (2) The court has jurisdiction to entertain proceedings for a nullity order if (and only if)—
 - (a) the court has jurisdiction under section 219 regulations,
 - (b) no court has, or is recognised as having, jurisdiction under section 219 regulations and either civil partner—
 - (i) is domiciled in Northern Ireland on the date when the proceedings are begun, or
 - (ii) died before that date and either was at death domiciled in Northern Ireland or had been habitually resident in Northern Ireland throughout the period of 1 year ending with the date of death, or
 - (c) the following conditions are met—
 - (i) the two people concerned registered as civil partners of each other in Northern Ireland,
 - (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (3) At any time when proceedings are pending in respect of which the court has jurisdiction by virtue of subsection (1) or (2) (or this subsection), the court also has jurisdiction to entertain other proceedings, in respect of the same civil partnership, for a dissolution, separation or nullity order, even though that jurisdiction would not be exercisable under subsection (1) or (2).

Status: Point in time view as at 05/12/2012.

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230

F16

Textual Amendments

F16 S. 230 repealed (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 19, 20, Sch. 2, [Sch. 3](#); [S.R. 2009/356](#), [art. 2](#)

231 Proceedings for dissolution, nullity or separation order: supplementary

- (1) Rules of court may make provision in relation to civil partnerships corresponding to the provision made in relation to marriages by Schedule 1 to the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)).
- (2) The rules may in particular make provision—
 - (a) for the provision of information by applicants and respondents in proceedings for dissolution, nullity or separation orders where proceedings relating to the same civil partnership are continuing in another jurisdiction, and
 - (b) for proceedings before the court to be stayed by the court where there are concurrent proceedings elsewhere in respect of the same civil partnership.

232 Applications for declarations as to validity etc.

The court has jurisdiction to entertain an application under section 181 if (and only if)—

- (a) either of the civil partners in the civil partnership to which the application relates—
 - (i) is domiciled in Northern Ireland on the date of the application,
 - (ii) has been habitually resident in Northern Ireland throughout the period of 1 year ending with that date, or
 - (iii) died before that date and either was at death domiciled in Northern Ireland or had been habitually resident in Northern Ireland throughout the period of 1 year ending with the date of death, or
- (b) the two people concerned registered as civil partners of each other in Northern Ireland and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

Recognition of dissolution, annulment and separation

233 Effect of dissolution, annulment or separation obtained in the UK

- (1) No dissolution or annulment of a civil partnership obtained in one part of the United Kingdom is effective in any part of the United Kingdom unless obtained from a court of civil jurisdiction.
- (2) Subject to subsections (3) and (4), the validity of a dissolution or annulment of a civil partnership or a legal separation of civil partners which has been obtained from a court of civil jurisdiction in one part of the United Kingdom is to be recognised throughout the United Kingdom.

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- (3) Recognition of the validity of a dissolution, annulment or legal separation obtained from a court of civil jurisdiction in one part of the United Kingdom may be refused in any other part if the dissolution, annulment or separation was obtained at a time when it was irreconcilable with a decision determining the question of the subsistence or validity of the civil partnership—
 - (a) previously given by a court of civil jurisdiction in the other part, or
 - (b) previously given by a court elsewhere and recognised or entitled to be recognised in the other part.
- (4) Recognition of the validity of a dissolution or legal separation obtained from a court of civil jurisdiction in one part of the United Kingdom may be refused in any other part if the dissolution or separation was obtained at a time when, according to the law of the other part, there was no subsisting civil partnership.

234 Recognition in the UK of overseas dissolution, annulment or separation

- (1) Subject to subsection (2), the validity of an overseas dissolution, annulment or legal separation is to be recognised in the United Kingdom if, and only if, it is entitled to recognition by virtue of sections 235 to 237.
- (2) This section and sections 235 to 237 do not apply to an overseas dissolution, annulment or legal separation as regards which provision as to recognition is made by section 219 regulations.
- (3) For the purposes of subsections (1) and (2) and sections 235 to 237, an overseas dissolution, annulment or legal separation is a dissolution or annulment of a civil partnership or a legal separation of civil partners which has been obtained outside the United Kingdom (whether before or after this section comes into force).

235 Grounds for recognition

- (1) The validity of an overseas dissolution, annulment or legal separation obtained by means of proceedings is to be recognised if—
 - (a) the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained, and
 - (b) at the relevant date either civil partner—
 - (i) was habitually resident in the country in which the dissolution, annulment or legal separation was obtained,
 - (ii) was domiciled in that country, or
 - (iii) was a national of that country.
- (2) The validity of an overseas dissolution, annulment or legal separation obtained otherwise than by means of proceedings is to be recognised if—
 - (a) the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained,
 - (b) at the relevant date—
 - (i) each civil partner was domiciled in that country, or
 - (ii) either civil partner was domiciled in that country and the other was domiciled in a country under whose law the dissolution, annulment or legal separation is recognised as valid, and

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- (c) neither civil partner was habitually resident in the United Kingdom throughout the period of 1 year immediately preceding that date.
- (3) In this section “the relevant date” means—
- (a) in the case of an overseas dissolution, annulment or legal separation obtained by means of proceedings, the date of the commencement of the proceedings;
 - (b) in the case of an overseas dissolution, annulment or legal separation obtained otherwise than by means of proceedings, the date on which it was obtained.
- (4) Where in the case of an overseas annulment the relevant date fell after the death of either civil partner, any reference in subsection (1) or (2) to that date is to be read in relation to that civil partner as a reference to the date of death.

Modifications etc. (not altering text)

- C4** S. 235 applied (with modifications) (E.W.N.I.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Legal Separations\) \(England and Wales and Northern Ireland\) Regulations 2005 \(S.I. 2005/3104\)](#), **regs. 2, 3**
- C5** S. 235 applied (with modifications) (S.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/567\)](#), **regs. 2, 3** (as amended (28.2.2022) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/461\)](#), **regs. 1, 2**)

236 Refusal of recognition

- (1) Recognition of the validity of an overseas dissolution, annulment or legal separation may be refused in any part of the United Kingdom if the dissolution, annulment or separation was obtained at a time when it was irreconcilable with a decision determining the question of the subsistence or validity of the civil partnership—
- (a) previously given by a court of civil jurisdiction in that part of the United Kingdom, or
 - (b) previously given by a court elsewhere and recognised or entitled to be recognised in that part of the United Kingdom.
- (2) Recognition of the validity of an overseas dissolution or legal separation may be refused in any part of the United Kingdom if the dissolution or separation was obtained at a time when, according to the law of that part of the United Kingdom, there was no subsisting civil partnership.
- (3) Recognition of the validity of an overseas dissolution, annulment or legal separation may be refused if—
- (a) in the case of a dissolution, annulment or legal separation obtained by means of proceedings, it was obtained—
 - (i) without such steps having been taken for giving notice of the proceedings to a civil partner as, having regard to the nature of the proceedings and all the circumstances, should reasonably have been taken, or
 - (ii) without a civil partner having been given (for any reason other than lack of notice) such opportunity to take part in the proceedings as, having regard to those matters, he should reasonably have been given, or

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- (b) in the case of a dissolution, annulment or legal separation obtained otherwise than by means of proceedings—
 - (i) there is no official document certifying that the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained, or
 - (ii) where either civil partner was domiciled in another country at the relevant date, there is no official document certifying that the dissolution, annulment or legal separation is recognised as valid under the law of that other country, or
 - (c) in either case, recognition of the dissolution, annulment or legal separation would be manifestly contrary to public policy.
- (4) In this section—
- “official”, in relation to a document certifying that a dissolution, annulment or legal separation is effective, or is recognised as valid, under the law of any country, means issued by a person or body appointed or recognised for the purpose under that law;
 - “the relevant date” has the same meaning as in section 235.

Modifications etc. (not altering text)

- C6** S. 236 applied (with modifications) (E.W.N.I.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Legal Separations\) \(England and Wales and Northern Ireland\) Regulations 2005 \(S.I. 2005/3104\)](#), **reg. 2**
- C7** S. 236 applied (with modifications) (S.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/567\)](#), **reg. 2**

237 Supplementary provisions relating to recognition of dissolution etc.

- (1) For the purposes of sections 235 and 236, a civil partner is to be treated as domiciled in a country if he was domiciled in that country—
 - (a) according to the law of that country in family matters, or
 - (b) according to the law of the part of the United Kingdom in which the question of recognition arises.
- (2) The Lord Chancellor [^{F17}, the Department of Justice in Northern Ireland] or the Scottish Ministers may by regulations make provision—
 - (a) applying sections 235 and 236 and subsection (1) with modifications in relation to any country whose territories have different systems of law in force in matters of dissolution, annulment or legal separation;
 - (b) applying sections 235 and 236 with modifications in relation to—
 - (i) an overseas dissolution, annulment or legal separation in the case of an overseas relationship (or an apparent or alleged overseas relationship);
 - (ii) any case where a civil partner is domiciled in a country or territory whose law does not recognise legal relationships between two people of the same sex;
 - (c) with respect to recognition of the validity of an overseas dissolution, annulment or legal separation in cases where there are cross-proceedings;

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- (d) with respect to cases where a legal separation is converted under the law of the country or territory in which it is obtained into a dissolution which is effective under the law of that country or territory;
 - (e) with respect to proof of findings of fact made in proceedings in any country or territory outside the United Kingdom.
- (3) The power [^{F18}of the Lord Chancellor or the Scottish Ministers] to make regulations under subsection (2) is exercisable by statutory instrument.
- (4) A statutory instrument containing such regulations—
- (a) if made by the Lord Chancellor, is subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) if made by the Scottish Ministers, is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- [^{F19}(4A) The power of the Department of Justice in Northern Ireland to make regulations under subsection (2) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (4B) Regulations made by the Department of Justice under subsection (2) are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.]
- (5) In this section (except subsection (4)) and sections 233 to 236 and 238—
- “annulment” includes any order annulling a civil partnership, however expressed;
 - “part of the United Kingdom” means England and Wales, Scotland or Northern Ireland;
 - “proceedings” means judicial or other proceedings.
- (6) Nothing in this Chapter is to be read as requiring the recognition of any finding of fault made in proceedings for dissolution, annulment or legal separation or of any maintenance, custody or other ancillary order made in any such proceedings.

Textual Amendments

- F17** Words in s. 237(2) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 74(a)** (with arts. 28-31)
- F18** Words in s. 237(3) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 74(b)** (with arts. 28-31)
- F19** S. 237(4A)(4B) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 74(c)** (with arts. 28-31)

Modifications etc. (not altering text)

- C8** S. 237(1) applied (with modifications) (E.W.N.I.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Legal Separations\) \(England and Wales and Northern Ireland\) Regulations 2005 \(S.I. 2005/3104\)](#), **reg. 2**
- C9** S. 237(1) applied (with modifications) (S.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/567\)](#), **reg. 2**

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Commencement Information

- I5** S. 237 wholly in force at 5.12.2005; s. 237 not in force at Royal Assent see s. 263; s. 237(2)-(5) in force at 15.4.2005 by S.I. 2005/1112, art. 2, Sch. 2; s. 237(1)(6) in force at 5.12.2005 by S.I. 2005/3175, art. 3, Sch. 2

238 Non-recognition elsewhere of dissolution or annulment

- (1) This section applies where, in any part of the United Kingdom—
- (a) a dissolution or annulment of a civil partnership has been granted by a court of civil jurisdiction, or
 - (b) the validity of a dissolution or annulment of a civil partnership is recognised by virtue of this Chapter.
- (2) The fact that the dissolution or annulment would not be recognised outside the United Kingdom does not—
- (a) preclude either party from forming a subsequent civil partnership or marriage in that part of the United Kingdom, or
 - (b) cause the subsequent civil partnership or marriage of either party (wherever it takes place) to be treated as invalid in that part.

CHAPTER 4

MISCELLANEOUS AND SUPPLEMENTARY

239 Commanding officers' certificates for Part 2 purposes

- (1) Her Majesty may by Order in Council make provision in relation to cases where—
- (a) two people wish to register as civil partners of each other in England and Wales (under Chapter 1 of Part 2), and
 - (b) one of them (“A”) is ^{F20}an officer, seaman or marine borne on the books of one of Her Majesty's ships at sea] and the other is resident in England and Wales, for the issue ^{F21}to A, by the captain or other officer in command of the ship,] of a certificate of no impediment.
- (2) The Order may provide for the issue of the certificate to be subject to the giving of such notice and the making of such declarations as may be prescribed.
- (3) A certificate of no impediment is a certificate that no legal impediment to the formation of the civil partnership has been shown to the ^{F22}. . . officer issuing the certificate to exist.
- (4) ^{F23}

Textual Amendments

- F20** Words in s. 239(1) substituted (21.7.2005) by The Civil Partnership (Amendments to Registration Provisions) Order 2005 (S.I. 2005/2000), arts. 1(c), 3, Sch. para. 17(2)(a)
- F21** Words in s. 239(1) substituted (21.7.2005) by The Civil Partnership (Amendments to Registration Provisions) Order 2005 (S.I. 2005/2000), arts. 1(c), 3, Sch. para. 17(2)(b)

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- F22** Word in s. 239(3) omitted (21.7.2005) by virtue of [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), arts. 1(c), 3, **Sch. para. 17(3)**
- F23** S. 239(4) omitted (21.7.2005) by virtue of [The Civil Partnership \(Amendments to Registration Provisions\) Order 2005 \(S.I. 2005/2000\)](#), arts. 1(c), 3, **Sch. para. 17(4)**

240 Certificates of no impediment to overseas relationships

- (1) Her Majesty may by Order in Council make provision for the issue of certificates of no impediment to—
- (a) United Kingdom nationals, and
 - (b) such other persons falling within subsection (2) as may be prescribed,
- who wish to enter into overseas relationships in prescribed countries or territories outside the United Kingdom with persons who are not United Kingdom nationals and who do not fall within subsection (2).
- (2) A person falls within this subsection if under any enactment for the time being in force in any country mentioned in Schedule 3 to the British Nationality Act 1981 (c. 61) (Commonwealth countries) that person is a citizen of that country.
- (3) A certificate of no impediment is a certificate that, after proper notices have been given, no legal impediment to the recipient entering into the overseas relationship has been shown to the person issuing the certificate to exist.

241 Transmission of certificates of registration of overseas relationships

- (1) Her Majesty may by Order in Council provide—
- (a) for the transmission to the Registrar General, by such persons or in such manner as may be prescribed, of certificates of the registration of overseas relationships entered into by United Kingdom nationals in prescribed countries or territories outside the United Kingdom,
 - (b) for the issue by the Registrar General of a certified copy of such a certificate received by him, and
 - (c) for such certified copies to be received in evidence.
- (2) “The Registrar General” means—
- (a) in relation to England and Wales, the Registrar General for England and Wales,
 - (b) in relation to Scotland, the Registrar General of Births, Deaths and Marriages for Scotland, and
 - (c) in relation to Northern Ireland, the Registrar General for Northern Ireland.

242 Power to make provision relating to certain Commonwealth forces

- (1) This section applies if it appears to Her Majesty that any law in force in Canada, the Commonwealth of Australia or New Zealand (or in a territory of either of the former two countries) makes, in relation to forces raised there, provision similar to that made by section 211 (registration by armed forces personnel).
- (2) Her Majesty may by Order in Council make provision for securing that the law in question has effect as part of the law of the United Kingdom.

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243 Fees

- (1) The power to make an order under section 34(1) (fees) includes power to make an order prescribing fees in respect of anything which, by virtue of an Order in Council under this Part, is required to be done by registration authorities in England and Wales or by or on behalf of the Registrar General for England and Wales.
- (2) Regulations made by the Registrar General of Births, Deaths and Marriages for Scotland may prescribe fees in respect of anything which, by virtue of an Order in Council under this Part, is required to be done by him or on his behalf.
- (3) Subsections (3) and (4) of section 126 apply to regulations made under subsection (2) as they apply to regulations under Part 3.
- (4) The power to make an order under section 157(1) includes power to make an order prescribing fees in respect of anything which, by virtue of an Order in Council under this Part, is required to be done by or on behalf of the Registrar General for Northern Ireland.

244 Orders in Council: supplementary

- (1) An Order in Council under section 210, 211, 239, 240, 241 or 242 may make—
 - (a) different provision for different cases, and
 - (b) such supplementary, incidental, consequential, transitional, transitory or saving provision as appears to Her Majesty to be appropriate.
- (2) The provision that may be made by virtue of subsection (1)(b) includes in particular provision corresponding to or applying with modifications any provision made by or under—
 - (a) this Act, or
 - (b) any Act relating to marriage outside the United Kingdom.
- (3) A statutory instrument containing an Order in Council under section 210, 211, 239, 240, 241 or 242 is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) applies whether or not the Order also contains other provisions made by Order in Council under—
 - the Foreign Marriage Act 1892 (c. 23),
 - section 3 of the Foreign Marriage Act 1947 (c. 33), or
 - section 39 of the Marriage Act 1949 (c. 76).
- (5) In sections 210, 211, 239, 240 and 241 “prescribed” means prescribed by an Order in Council under the section in question.

245 Interpretation

- (1) In this Part “United Kingdom national” means a person who is—
 - (a) a British citizen, a British overseas territories citizen, a British Overseas citizen or a British National (Overseas),
 - (b) a British subject under the British Nationality Act 1981 (c. 61), or
 - (c) a British protected person, within the meaning of that Act.

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(2) In this Part “Her Majesty’s forces” has the same meaning as in the [^{F24}Armed Forces Act 2006].

Textual Amendments

F24 Words in s. 245(2) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by **Armed Forces Act 2006** (c. 52), ss. 378, 383, **Sch. 16 para. 243**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

Commencement Information

I6 S. 245 wholly in force at 5.12.2005; s. 245 not in force at Royal Assent see s. 263; s. 245 in force at 15.4.2005 for certain purposes by S.I. 2005/1112, **art. 2** and otherwise 5.12.2005 insofar as not already in force by S.I. 2005/3175, **art. 3**, Sch. 2

Status:

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