



# Civil Partnership Act 2004

## 2004 CHAPTER 33

### PART 5

#### CIVIL PARTNERSHIP FORMED OR DISSOLVED ABROAD ETC.

### CHAPTER 3

#### DISSOLUTION ETC.: JURISDICTION AND RECOGNITION

#### *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) [<sup>F1</sup>either civil partner]—
  - [<sup>F2</sup>(a) is domiciled in Scotland on the date when proceedings are begun, or
  - (b) was habitually resident in Scotland throughout the period of one year ending with that date, 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 <sup>F3</sup>..., 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

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- (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)—
- [<sup>F4</sup>(a) either of the ostensible civil partners—
- (i) is domiciled in Scotland on the date when the proceedings are begun or was habitually resident in Scotland throughout the period of one year ending with that date, 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 one 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 <sup>F5</sup>..., and
- (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- [<sup>F6</sup>(3A) The sheriff has jurisdiction to entertain an action for declarator of nullity of a civil partnership if (and only if)—
- (a) the requirements as to domicile or habitual residence that would apply were the action to have been begun in the Court of Session under subsection (3) (other than paragraph (c)) are met, and
- (b) either of the ostensible civil partners—
- (i) was resident in the sheriffdom for a period of 40 days ending with the date when the action is begun, or
- (ii) 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.]
- (4) At any time when proceedings are pending in respect of which a court has jurisdiction by virtue of any of subsections (1) to [<sup>F7</sup>(3A)] (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 <sup>F8</sup>... declarator of nullity, even though that jurisdiction would not be exercisable under any of subsections (1) to [<sup>F7</sup>(3A)].

#### Textual Amendments

- F1** Words in s. 225(1) inserted (31.12.2020) by [The Jurisdiction and Judgments \(Family, Civil Partnership and Marriage \(Same Sex Couples\)\) \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/104\)](#), reg. 1, [sch. 1 para. 4\(3\)\(a\)\(i\)](#) (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1)
- F2** S. 225(1)(a)(b) substituted (31.12.2020) by [The Jurisdiction and Judgments \(Family, Civil Partnership and Marriage \(Same Sex Couples\)\) \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/104\)](#), reg. 1, [sch. 1 para. 4\(3\)\(a\)\(ii\)](#) (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 225(1)(c)(ii) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family, Civil Partnership and Marriage \(Same Sex Couples\)\) \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/104\)](#), reg. 1, [sch. 1 para. 4\(3\)\(a\)\(iii\)](#) (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1)

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- F4** S. 225(3)(a) substituted for s. 225(3)(a)(b) (31.12.2020) by The Jurisdiction and Judgments (Family, Civil Partnership and Marriage (Same Sex Couples)) (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 (S.S.I. 2019/104), reg. 1, **sch. 1 para. 4(3)(b)(i)** (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in s. 225(3)(c)(ii) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family, Civil Partnership and Marriage (Same Sex Couples)) (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 (S.S.I. 2019/104), reg. 1, **sch. 1 para. 4(3)(b)(ii)** (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1)
- F6** S. 225(3A) inserted (1.6.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 6(4)(a)**; S.S.I. 2021/23, reg. 2, **sch.** (with reg. 3)
- F7** Word in s. 225(4) substituted (1.6.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 6(4)(b)(ii)**; S.S.I. 2021/23, reg. 2, **sch.** (with reg. 3)
- F8** Words in s. 225(4) repealed (1.6.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 6(4)(b)(i)**; S.S.I. 2021/23, reg. 2, **sch.** (with reg. 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—
- 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
  - for an action to be sisted where there are concurrent proceedings elsewhere in respect of the same civil partnership (or ostensible civil partnership).

## 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—
- the dissolution of a civil partnership,
  - the separation of civil partners, or
  - 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) <sup>F9</sup>If] the court has or, as the case may be, had jurisdiction to entertain the action, it has jurisdiction to entertain the application. <sup>F10</sup>This subsection is subject to subsection (3B).]

<sup>F11</sup>(3A) . . . . .

<sup>F12</sup>(3B) If the application or part of it relates to a matter <sup>F13</sup>in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part it except where permitted by Article 18].]

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- (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.
- [<sup>F14</sup>(6) In this section [<sup>F15</sup>“the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague].]

#### Textual Amendments

- F9** Word in s. 227(3) substituted (31.12.2020) by [The Jurisdiction and Judgments \(Family, Civil Partnership and Marriage \(Same Sex Couples\)\) \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019](#) (S.S.I. 2019/104), reg. 1, [sch. 1 para. 4\(4\)\(a\)](#) (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in s. 227(3) substituted (31.12.2020) by [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/519), reg. 1(1), [Sch. para. 25\(2\)\(a\)](#) (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F11** S. 227(3A) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family, Civil Partnership and Marriage \(Same Sex Couples\)\) \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019](#) (S.S.I. 2019/104), reg. 1, [sch. 1 para. 4\(4\)\(b\)](#) (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1)
- F12** 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\(2\)\(c\)](#)
- F13** Words in s. 227(3B) substituted (31.12.2020) by S.I. 2019/519, Sch. para. 25(2)(b) (as substituted by [The Jurisdiction, Judgments and Applicable Law \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1574), regs. 1, [5\(3\)\(j\)\(i\)\(bb\)](#))
- F14** 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\(2\)\(d\)](#)
- F15** Words in s. 227(6) substituted (31.12.2020) by S.I. 2019/519, Sch. para. 25(2)(c) (as substituted by [The Jurisdiction, Judgments and Applicable Law \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1574), regs. 1, [5\(3\)\(j\)\(i\)\(bb\)](#))

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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\(2\)](#)