



# Civil Evidence (Family Mediation) (Scotland) Act 1995

## 1995 CHAPTER 6

### **1 Inadmissibility in civil proceedings of information as to what occurred during family mediation.**

(1) Subject to section 2 of this Act, no information as to what occurred during family mediation to which this Act applies shall be admissible as evidence in any civil proceedings.

(2) This Act applies to family mediation—

(a) between two or more individuals relating to—

(i) the residence of a child;

(ii) the regulation of personal relations and direct contact between a child and any other person;

(iii) the control, direction or guidance of a child's upbringing;

(iv) the guardianship or legal representation of a child; or

(v) any other matter relating to a child's welfare;

(b) between spouses or former spouses concerning matters arising out of the breakdown or termination of their marriage;

(c) between parties to a purported marriage concerning matters arising out of the breakdown or annulment of their purported marriage;

[<sup>F1</sup>(cc) between partners in a civil partnership or persons in a purported civil partnership concerning matters arising out of the breakdown or termination of their relationship,]

<sup>F1</sup>(d) between co-habitants or former co-habitants concerning matters arising out of the breakdown or termination of their relationship; or

(e) of such other description as the Secretary of State may prescribe,

which is conducted by a person accredited as a mediator in family mediation to an organisation which is concerned with such mediation and which is approved for the purposes of this Act by the Lord President of the Court of Session.

(3) The Lord President of the Court of Session may—

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**Changes to legislation:** There are currently no known outstanding effects for the Civil Evidence (Family Mediation) (Scotland) Act 1995, Section 1. (See end of Document for details)

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- (a) in approving an organisation under subsection (2) above, specify the period for which the approval is granted;
  - (b) if he thinks fit, withdraw the approval at any time.
- (4) A certificate by the Lord President approving an organisation under subsection (2) above shall be—
- (a) in such form as may be prescribed by Act of Sederunt; and
  - (b) admissible as evidence in any civil proceedings and sufficient evidence of the matters contained therein.
- (5) A document purporting to be a certificate by the Lord President for the purposes of this Act shall be accepted by the court as such unless the contrary is proved.
- (6) The Lord President may, in connection with the performance of any of his functions under this Act, require an organisation which is seeking, or has been granted, approval under subsection (2) above to provide him with such information as he thinks fit.
- (7) For the purposes of subsection (2)(d) above, “co-habitants” means —
- [<sup>F2</sup>(a)] a man and a woman who are not married to each other but who are living together as if they were husband and wife; [<sup>F3</sup>or
  - (b) two persons who are not civil partners of each other but are living together as if they were civil partners.]
- <sup>F3</sup>(8) In this Act, “civil proceedings” does not include an arbitration or proceedings before a tribunal or inquiry.
- (9) In this section and section 2 of this Act, any reference to what occurred during family mediation shall include a reference to what was said, written or observed during such mediation.

#### Textual Amendments

- F1** S. 1(2)(cc) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(2), 263, **Sch. 28 para. 59**; S.S.I. 2005/604, **art. 2(c)** (subject to arts. 3, 4)
- F2** Words in s. 1(7) renumbered as s. 1(7)(a) (4.5.2006) by Family Law (Scotland) Act 2006 (asp 2), ss. 45(1), 46, **Sch. 2 para. 7(a)**; S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)
- F3** Word and s. 1(7)(b) added (4.5.2006) by Family Law (Scotland) Act 2006 (asp 2), ss. 45(1), 46, **Sch. 2 para. 7(b)**; S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)

**Changes to legislation:**

There are currently no known outstanding effects for the Civil Evidence (Family Mediation) (Scotland) Act 1995, Section 1.