



# 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)—
  - (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,
    - (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

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*Status: This is the original version (as it was originally enacted).*

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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)—
- (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).

## **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.

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- (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) If the court has or, as the case may be, had jurisdiction to entertain the action, it has jurisdiction to entertain the application unless—
  - (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.
- (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.