



Civil Partnership Act 2004

2004 CHAPTER 33

PART 3

CIVIL PARTNERSHIP: SCOTLAND

CHAPTER 5

DISSOLUTION, SEPARATION AND NULLITY

Dissolution and separation

117 Dissolution

- (1) An action for the dissolution of a civil partnership may be brought in the Court of Session or in the sheriff court.
- (2) In such an action the court may grant decree, if, but only if, it is established that—
 - (a) the civil partnership has broken down irretrievably, or
 - (b) [^{F1}subject to subsection (3A),] an interim gender recognition certificate under the Gender Recognition Act 2004 (c. 7) has, after the date of registration of the civil partnership, been issued to either of the civil partners.
- (3) The irretrievable breakdown of a civil partnership is taken to be established if—
 - (a) since the date of registration of the civil partnership the defender has at any time behaved (whether or not as a result of mental abnormality and whether such behaviour has been active or passive) in such a way that the pursuer cannot reasonably be expected to cohabit with the defender,
 - (b) ^{F2}
 - (c) there has been no cohabitation between the civil partners at any time during a continuous period of [^{F3}one year] after the date of registration of the civil partnership and immediately preceding the bringing of the action and

Changes to legislation: Civil Partnership Act 2004, Section 117 is up to date with all changes known to be in force on or before 21 March 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

the defender consents to the granting of decree of dissolution of the civil partnership, or

- (d) there has been no cohabitation between the civil partners at any time during a continuous period of [^{F4}two] years after that date and immediately preceding the bringing of the action.

[^{F5}(3A) Subsection (2)(b)—

- (a) does not apply where, under the Gender Recognition Act 2004, a Gender Recognition Panel issues a full gender recognition certificate to the person to whom the interim gender recognition certificate was issued, but
- (b) continues to apply despite a full gender recognition certificate being issued to that person by the sheriff under section 4E of that Act.]

(4) Provision is to be made by act of sederunt—

- (a) for the purpose of ensuring that, in an action to which paragraph (c) of subsection (3) relates, the defender has been given such information as enables that civil partner to understand—
- (i) the consequences of consenting to the granting of decree, and
- (ii) the steps which must be taken to indicate such consent, and
- (b) as to the manner in which the defender in such an action is to indicate such consent, and any withdrawal of such consent,

and where the defender has indicated (and not withdrawn) such consent in the prescribed manner, that indication is sufficient evidence of such consent.

(5) Provision is to be made by act of sederunt for the purpose of ensuring that, where in an action for the dissolution of a civil partnership the defender is suffering from mental illness, the court appoints a curator ad litem to the defender.

(6) ^{F6}

(7) ^{F7}

(8) In an action for dissolution of a civil partnership the standard of proof required to establish the ground of action is on balance of probability.

Textual Amendments

- F1** Words in s. 117(2)(b) inserted (30.11.2021) by [Civil Partnership \(Scotland\) Act 2020 \(asp 15\)](#), s. 16, [sch. 2 para. 6\(2\)\(a\)](#); S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F2** S. 117(3)(b) repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), ss. 45(2), 46(2), [Sch. 3](#); S.S.I. 2006/212, [art. 2](#) (subject to arts. 3-13)
- F3** Words in s. 117(3)(c) substituted (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), ss. 33, 46(2), [Sch. 1 para. 9\(a\)](#); S.S.I. 2006/212, [art. 2](#) (subject to arts. 3-13)
- F4** Word in s. 117(3)(d) substituted (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), ss. 33, 46(2), [Sch. 1 para. 9\(b\)](#); S.S.I. 2006/212, [art. 2](#) (subject to arts. 3-13)
- F5** S. 117(3A) inserted (30.11.2021) by [Civil Partnership \(Scotland\) Act 2020 \(asp 15\)](#), s. 16, [sch. 2 para. 6\(2\)\(b\)](#); S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F6** S. 117(6) repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), ss. 45(2), 46(2), [Sch. 3](#); S.S.I. 2006/212, [art. 2](#) (subject to arts. 3-13)
- F7** S. 117(7) repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), ss. 45(2), 46(2), [Sch. 3](#); S.S.I. 2006/212, [art. 2](#) (subject to arts. 3-13)

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\(2\)](#)