



# Civil Partnership Act 2004

## 2004 CHAPTER 33

### PART 3

#### CIVIL PARTNERSHIP: SCOTLAND

### CHAPTER 4

#### INTERDICTS

#### 113 Civil partners: competency of interdict

- (1) It shall not be incompetent for the Court of Session or the sheriff to entertain an application by one civil partner in a civil partnership for a relevant interdict by reason only that the civil partners are living together in civil partnership.
- (2) In subsection (1) <sup>F1</sup>. . . , “relevant interdict” means an interdict, including an interim interdict, which—
  - (a) restrains or prohibits any conduct of one civil partner towards the other civil partner or a child of the family, or
  - <sup>F2</sup>(b) subject to subsection (3), prohibits a civil partner from entering or remaining in—
    - (i) a family home,
    - (ii) any other residence occupied by the applicant civil partner,
    - (iii) any place of work of the applicant civil partner,
    - (iv) any school attended by a child in the permanent or temporary care of the applicant civil partner]
- <sup>F3</sup>(3) Subsection (4) applies if in relation to a family home the non-applicant civil partner—
  - (a) is an entitled partner, or
  - (b) has occupancy rights.

*Changes to legislation: Civil Partnership Act 2004, Chapter 4 is up to date with all changes known to be in force on or before 23 June 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*

- (4) Except where subsection (5) applies, the court may not grant a relevant interdict prohibiting the non-applicant civil partner from entering or remaining in the family home.
- (5) This subsection applies if—
  - (a) the interdict is ancillary to an exclusion order, or
  - (b) by virtue of section 101(4), the court refuses leave to exercise occupancy rights.
- (6) In this section <sup>F4</sup> . . . , “applicant civil partner” means the civil partner who has applied for the interdict; and “non-applicant civil partner” is to be construed accordingly.]

**Textual Amendments**

**F1** Words in s. 113(2) repealed (4.5.2006) by Family Law (Scotland) Act 2006 (asp 2), ss. 45(2), 46(2), **Sch. 3**; S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)

**F2** S. 113(2)(b) substituted (4.5.2006) by Family Law (Scotland) Act 2006 (asp 2), ss. 33, 46(2), **Sch. 1 para. 8(a)**; S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)

**F3** S. 113(3)-(6) inserted (4.5.2006) by Family Law (Scotland) Act 2006 (asp 2), ss. 33, 46(2), **Sch. 1 para. 8(b)**; S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)

**F4** Words in s. 113(6) repealed (30.6.2006) by The Family Law (Scotland) Act 2006 (Consequential Modifications) Order 2006 (S.S.I. 2006/384), **art. 10**

**114** . . . . .  
<sup>F5</sup> . . . . .

**Textual Amendments**

**F5** S. 114 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)

**115** . . . . .  
<sup>F6</sup> . . . . .

**Textual Amendments**

**F6** S. 115 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)

**116** . . . . .  
<sup>F7</sup> . . . . .

**Textual Amendments**

**F7** S. 116 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)

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**Modifications etc. (not altering text)**

- C1** S. 116 saving for effect of 2006 asp 2, sch. 3 (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Modification of Part 1 and Ancillary Provision\) Regulations 2017 \(S.S.I. 2017/453\)](#), reg. 1, **sch. para. 4**

**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. 3(1)(e) and word inserted by [2024 c. 21 s. 76\(2\)\(b\)](#)
- s. 3(1A)(1B) inserted by [2024 c. 21 s. 76\(3\)](#)
- s. 3(3)(4) inserted by [2024 c. 21 s. 76\(4\)](#)
- s. 19(4)(c) and word inserted by [2024 c. 21 s. 76\(7\)\(b\)](#)
- s. 19(5A)(5B) inserted by [2024 c. 21 s. 76\(8\)](#)
- s. 19(7A) inserted by [2024 c. 21 s. 76\(9\)](#)
- 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\(2\)](#)