Civil Partnership Act 2004

2004 CHAPTER 33

PART 3

CIVIL PARTNERSHIP: SCOTLAND

CHAPTER 5

DISSOLUTION, SEPARATION AND NULLITY

Dissolution and separation

[F1 121A Postponement of decree of dissolution where religious impediment to marry exists

(1) Notwithstanding that irretrievable breakdown of a civil partnership has been established in an action for dissolution, the court may—

(a) on the application of a party ("the applicant"), and

(b) if satisfied—

(i) that subsection (2) applies, and

(ii) that it is just and reasonable to do so,

postpone the grant of decree in the action until it is satisfied that the other party has complied with subsection (3).

(2) This subsection applies where—

(a) the applicant is prevented from entering into a religious marriage by virtue of a requirement of the religion of that marriage, and

(b) the other party can act so as to remove, or enable or contribute to the removal of, the impediment which prevents that marriage.

(3) A party complies with this subsection by acting in the way described in subsection (2)(b).

Changes to legislation: *Civil Partnership Act 2004, Section 121A is up to date with all changes known to be in force on or before 01 October 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) The court may, whether or not on the application of a party and notwithstanding that subsection (2) applies, recall a postponement under subsection (1).

(5) The court may, before recalling a postponement under subsection (1), order the other party to produce a certificate from the relevant religious body confirming that the other party has acted in the way described in subsection (2)(b).

(6) For the purposes of subsection (5), a religious body is "relevant" if the applicant considers the body competent to provide the confirmation referred to in that subsection.

(7) In this section—

"religious marriage" means a marriage solemnised by a marriage celebrant of a specified religious body, and "religion of that marriage" is to be construed accordingly,

"specified" means specified by regulations made by the Scottish Ministers.

(8) Any reference in this section to a marriage celebrant of a specified religious body is a reference to—

(a) a minister, clergyman, pastor or priest of such a body,

(b) a person who has, on the nomination of such a body, been registered under section 9 of the Marriage (Scotland) Act 1977 as empowered to solemnise marriages,

(c) any person who is recognised by such a body as entitled to solemnise marriages on its behalf.**]**

Textual Amendments

F1 S. 121A inserted (1.2.2021 for specified purposes, 1.6.2021 in so far as not already in force) by Civil Partnership (Scotland) Act 2020 (asp 15), **ss. 11(2)**, 16; S.S.I. 2020/414, reg. 2(1)(c); S.S.I. 2021/23, reg. 2, sch. (with reg. 3)

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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. 19(4)(c) and word inserted by 2024 c. 21 s. 76(7)(b)
- 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)