



Civil Partnership Act 2004

2004 CHAPTER 33

PART 5

CIVIL PARTNERSHIP FORMED OR DISSOLVED ABROAD ETC.

CHAPTER 3

DISSOLUTION ETC.: JURISDICTION AND RECOGNITION

Recognition of dissolution, annulment and separation

233 Effect of dissolution, annulment or separation obtained in the UK

- (1) No dissolution or annulment of a civil partnership obtained in one part of the United Kingdom is effective in any part of the United Kingdom unless obtained from a court of civil jurisdiction.
- (2) Subject to subsections (3) and (4), the validity of a dissolution or annulment of a civil partnership or a legal separation of civil partners which has been obtained from a court of civil jurisdiction in one part of the United Kingdom is to be recognised throughout the United Kingdom.
- (3) Recognition of the validity of a dissolution, annulment or legal separation obtained from a court of civil jurisdiction in one part of the United Kingdom may be refused in any other part if the dissolution, annulment or separation was obtained at a time when it was irreconcilable with a decision determining the question of the subsistence or validity of the civil partnership—
 - (a) previously given by a court of civil jurisdiction in the other part, or
 - (b) previously given by a court elsewhere and recognised or entitled to be recognised in the other part.
- (4) Recognition of the validity of a dissolution or legal separation obtained from a court of civil jurisdiction in one part of the United Kingdom may be refused in any other

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part if the dissolution or separation was obtained at a time when, according to the law of the other part, there was no subsisting civil partnership.

234 Recognition in the UK of overseas dissolution, annulment or separation

- (1) Subject to subsection (2), the validity of an overseas dissolution, annulment or legal separation is to be recognised in the United Kingdom if, and only if, it is entitled to recognition by virtue of sections 235 to 237.
- (2) This section and sections 235 to 237 do not apply to an overseas dissolution, annulment or legal separation as regards which provision as to recognition is made by section 219 regulations.
- (3) For the purposes of subsections (1) and (2) and sections 235 to 237, an overseas dissolution, annulment or legal separation is a dissolution or annulment of a civil partnership or a legal separation of civil partners which has been obtained outside the United Kingdom (whether before or after this section comes into force).

235 Grounds for recognition

- (1) The validity of an overseas dissolution, annulment or legal separation obtained by means of proceedings is to be recognised if—
 - (a) the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained, and
 - (b) at the relevant date either civil partner—
 - (i) was habitually resident in the country in which the dissolution, annulment or legal separation was obtained,
 - (ii) was domiciled in that country, or
 - (iii) was a national of that country.
- (2) The validity of an overseas dissolution, annulment or legal separation obtained otherwise than by means of proceedings is to be recognised if—
 - (a) the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained,
 - (b) at the relevant date—
 - (i) each civil partner was domiciled in that country, or
 - (ii) either civil partner was domiciled in that country and the other was domiciled in a country under whose law the dissolution, annulment or legal separation is recognised as valid, and
 - (c) neither civil partner was habitually resident in the United Kingdom throughout the period of 1 year immediately preceding that date.
- (3) In this section “the relevant date” means—
 - (a) in the case of an overseas dissolution, annulment or legal separation obtained by means of proceedings, the date of the commencement of the proceedings;
 - (b) in the case of an overseas dissolution, annulment or legal separation obtained otherwise than by means of proceedings, the date on which it was obtained.
- (4) Where in the case of an overseas annulment the relevant date fell after the death of either civil partner, any reference in subsection (1) or (2) to that date is to be read in relation to that civil partner as a reference to the date of death.

236 Refusal of recognition

- (1) Recognition of the validity of an overseas dissolution, annulment or legal separation may be refused in any part of the United Kingdom if the dissolution, annulment or separation was obtained at a time when it was irreconcilable with a decision determining the question of the subsistence or validity of the civil partnership—
 - (a) previously given by a court of civil jurisdiction in that part of the United Kingdom, or
 - (b) previously given by a court elsewhere and recognised or entitled to be recognised in that part of the United Kingdom.
- (2) Recognition of the validity of an overseas dissolution or legal separation may be refused in any part of the United Kingdom if the dissolution or separation was obtained at a time when, according to the law of that part of the United Kingdom, there was no subsisting civil partnership.
- (3) Recognition of the validity of an overseas dissolution, annulment or legal separation may be refused if—
 - (a) in the case of a dissolution, annulment or legal separation obtained by means of proceedings, it was obtained—
 - (i) without such steps having been taken for giving notice of the proceedings to a civil partner as, having regard to the nature of the proceedings and all the circumstances, should reasonably have been taken, or
 - (ii) without a civil partner having been given (for any reason other than lack of notice) such opportunity to take part in the proceedings as, having regard to those matters, he should reasonably have been given, or
 - (b) in the case of a dissolution, annulment or legal separation obtained otherwise than by means of proceedings—
 - (i) there is no official document certifying that the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained, or
 - (ii) where either civil partner was domiciled in another country at the relevant date, there is no official document certifying that the dissolution, annulment or legal separation is recognised as valid under the law of that other country, or
 - (c) in either case, recognition of the dissolution, annulment or legal separation would be manifestly contrary to public policy.
- (4) In this section—

“official”, in relation to a document certifying that a dissolution, annulment or legal separation is effective, or is recognised as valid, under the law of any country, means issued by a person or body appointed or recognised for the purpose under that law;

“the relevant date” has the same meaning as in section 235.

237 Supplementary provisions relating to recognition of dissolution etc.

- (1) For the purposes of sections 235 and 236, a civil partner is to be treated as domiciled in a country if he was domiciled in that country—
 - (a) according to the law of that country in family matters, or

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- (b) according to the law of the part of the United Kingdom in which the question of recognition arises.
- (2) The Lord Chancellor or the Scottish Ministers may by regulations make provision—
- (a) applying sections 235 and 236 and subsection (1) with modifications in relation to any country whose territories have different systems of law in force in matters of dissolution, annulment or legal separation;
 - (b) applying sections 235 and 236 with modifications in relation to—
 - (i) an overseas dissolution, annulment or legal separation in the case of an overseas relationship (or an apparent or alleged overseas relationship);
 - (ii) any case where a civil partner is domiciled in a country or territory whose law does not recognise legal relationships between two people of the same sex;
 - (c) with respect to recognition of the validity of an overseas dissolution, annulment or legal separation in cases where there are cross-proceedings;
 - (d) with respect to cases where a legal separation is converted under the law of the country or territory in which it is obtained into a dissolution which is effective under the law of that country or territory;
 - (e) with respect to proof of findings of fact made in proceedings in any country or territory outside the United Kingdom.
- (3) The power to make regulations under subsection (2) is exercisable by statutory instrument.
- (4) A statutory instrument containing such regulations—
- (a) if made by the Lord Chancellor, is subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) if made by the Scottish Ministers, is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (5) In this section (except subsection (4)) and sections 233 to 236 and 238—
- “annulment” includes any order annulling a civil partnership, however expressed;
 - “part of the United Kingdom” means England and Wales, Scotland or Northern Ireland;
 - “proceedings” means judicial or other proceedings.
- (6) Nothing in this Chapter is to be read as requiring the recognition of any finding of fault made in proceedings for dissolution, annulment or legal separation or of any maintenance, custody or other ancillary order made in any such proceedings.

238 Non-recognition elsewhere of dissolution or annulment

- (1) This section applies where, in any part of the United Kingdom—
- (a) a dissolution or annulment of a civil partnership has been granted by a court of civil jurisdiction, or
 - (b) the validity of a dissolution or annulment of a civil partnership is recognised by virtue of this Chapter.
- (2) The fact that the dissolution or annulment would not be recognised outside the United Kingdom does not—

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- (a) preclude either party from forming a subsequent civil partnership or marriage in that part of the United Kingdom, or
- (b) cause the subsequent civil partnership or marriage of either party (wherever it takes place) to be treated as invalid in that part.