

Changes to legislation: There are currently no known outstanding effects for the Domicile and Matrimonial Proceedings Act 1973, Cross Heading: Discretionary sists. (See end of Document for details)

SCHEDULES

SCHEDULE 3

SISTING OF CONSISTORIAL ACTIONS (SCOTLAND)

Modifications etc. (not altering text)

- C1** Sch. 3 applied (with modifications) by Rules of the Court of Session 1994 (SI 1994/1443), Sch. 2, rule 49.18A (as inserted (8.12.2005) by [S.S.I. 2005/632](#), [arts. 1\(1\), 2\(12\)](#))

Discretionary sists

- 9 (1) Where before the beginning of the proof in any consistorial action which is continuing in the Court of Session or in a sheriff court, it appears to the court concerned—
- (a) that any other proceedings in respect of the marriage in question or capable of affecting its validity are continuing in another jurisdiction, and
 - (b) that the balance of fairness (including convenience) as between the parties to the marriage is such that it is appropriate for those other proceedings to be disposed of before further steps are taken in the action in the said court,
- the court may then if it thinks fit sist that action.
- (2) In considering the balance of fairness and convenience for the purposes of sub-paragraph (1)(b) above, the court shall have regard to all factors appearing to be relevant, including the convenience of witnesses and any delay or expense which may result from the proceedings being sisted, or not being sisted.
- (3) Sub-paragraph (1) above is without prejudice to the duty imposed . . . ^{F1}by paragraph 8 above.
- (4) If, at any time after the beginning of the proof in any consistorial action which is pending in the Court of Session or a sheriff court, the court concerned is satisfied that a person has failed to perform the duty imposed on him in respect of the action and any such other proceedings as aforesaid by paragraph 7 above, sub-paragraph (1) of this paragraph shall have effect in relation to that action and to the other proceedings as if the words “before the beginning of the proof” were omitted; but no action in respect of the failure of a person to perform such a duty shall be competent.

Textual Amendments

- F1** Words repealed by [Divorce Jurisdiction, Court Fees and Legal Aid \(Scotland\) Act 1983 \(c. 12, SIF 47\)](#), ss. 6(1), 7(4), Sch. 1 para. 20, [Sch. 2](#)

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