

Changes to legislation: There are currently no known outstanding effects for the Domicile and Matrimonial Proceedings Act 1973, Cross Heading: Supplementary. (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\(12\)](#))

Supplementary

- 10 (1) Where an action is sisted in pursuance of paragraph 8 or 9 above, the court may if it thinks fit, on the application of a party to the action, recall the sist if it appears to the court that the other proceedings by reference to which the action was sisted are sisted or concluded or that a party to those other proceedings has delayed unreasonably in prosecuting those other proceedings.
- (2) Where an action has been sisted in pursuance of paragraph 8 above by reference to some other proceedings, and the court recalls the sist in pursuance of the preceding sub-paragraph, the court shall not again sist the action in pursuance of the said paragraph 8.
- 11 (1) The provisions of sub-paragraphs (2) and (3) below shall apply where an action for any of the following remedies, namely, divorce, separation and declarator of nullity of marriage, is sisted by reference to proceedings in a related jurisdiction for any of those remedies; and in this paragraph—
- “custody” includes access to the child in question;
- “the other proceedings”, in relation to any sisted action, means the proceedings in another jurisdiction by reference to which the action was sisted;
- “relevant order” means an interim order [^{F1}relating to aliment or children];
- and
- “sisted” means sisted in pursuance of this Schedule.
- (2) Where an action such as is mentioned in sub-paragraph (1) above is sisted, then, without prejudice to the effect of the sist apart from this paragraph—
- (a) the court shall not have power to make a relevant order in connection with the sisted action except in pursuance of paragraph (c) below; and
- (b) subject to the said paragraph (c), any relevant order made in connection with the sisted action shall (unless the sist or the relevant order has been previously recalled) cease to have effect on the expiration of the period of three months beginning with the date on which the sist comes into operation; but
- (c) if the court considers that as a matter of necessity and urgency it is necessary during or after that period to make a relevant order in connection with the

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sisted action or to extend or further extend the duration of a relevant order made in connection with the sisted action, the court may do so, and the order shall not cease to have effect by virtue of paragraph (b) above.

- (3) Where any action such as is mentioned in sub-paragraph (1) above is sisted and at the time when the sist comes into operation, an order is in force, or at a subsequent time an order comes into force, being an order made in connection with the other proceedings and providing for any of the following four matters, namely periodical payments for a spouse of the marriage in question, periodical payments for a child, the [F2]arrangements to be made as to with whom a child is to live, contact with a child, and any other matter relating to parental responsibilities within the meaning of section 1(3) of the Children (Scotland) Act 1995 or parental rights within the meaning of section 2(4) of that Act], then, as from the time when the sist comes into operation (in a case where the order is in force at that time) or (in any other case) on the coming into force of the order,—
- (a) any relevant order made in connection with the sisted action shall cease to have effect in so far as it makes for a spouse or child any provision for any of the said matters as respects which the same or different provision for that spouse or child is made by the other order; and
 - (b) the court shall not have power in connection with the sisted action to make a relevant order containing for a spouse or child provision for any of the matters aforesaid as respects which any provision for that spouse or child is made by the other order.
- (4) Nothing in this paragraph affects any power of a court—
- (a) to vary or recall a relevant order in so far as the order is for the time being in force; or
 - (b) to enforce a relevant order as respects any period when it is or was in force; or
 - (c) to make a relevant order in connection with an action which was, but is no longer, sisted.

Textual Amendments

- F1** Words in definition of “relevant order” in Sch. 3 para. 11(1) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 20(3)(a)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F2** Words in Sch. 3 para. 11(3) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 20(3)(b)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

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