



Domicile and Matrimonial Proceedings Act 1973

1973 CHAPTER 45

PART III

JURISDICTION IN CONSISTORIAL CAUSES (SCOTLAND)

10 Ancillary and collateral orders.

(1) [^{F1}Where after the commencement of this Act an application is competently made to the Court of Session or to a sheriff court for the making, or the variation or recall, of an order which is ancillary or collateral to] an action for any of the following remedies, namely, divorce, separation, declarator of marriage and declarator of nullity of marriage (whether the application is made in the same proceedings or in other proceedings and whether it is made before or after the pronouncement of a final decree in the action), then, if the court has or, as the case may be, had by virtue of this Act or of any enactment or rule of law in force before the commencement of this Act jurisdiction to entertain the action, it shall have jurisdiction to entertain the application ^{F2} . . . whether or not it would have jurisdiction to do so apart from this subsection.

^{F3}[(1A) For the purposes of subsection (1) above, references to an application for the making, or the variation or recall, of an order are references to the making, or the variation or recall, of an order relating to children, aliment, financial provision on divorce, judicial separation, nullity of marriage or expenses.]

[^{F4}(1B) Subsection (1) above does not give the Court of Session or a sheriff court jurisdiction to entertain an application in proceedings where—

- (a) the court is exercising jurisdiction in the proceedings by virtue of [^{F5}Article 3] of the Council Regulation; and
- (b) the making or variation of an order in consequence of the application would contravene [^{F6}Article 6] of the Council Regulation.]

[^{F7}(1C) If the application or part of it relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance

Status: Point in time view as at 18/06/2011. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Domicile and Matrimonial Proceedings Act 1973, Section 10. (See end of Document for details)

Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the Court of Session or a sheriff court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.

(1D) In subsection (1C) “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

(2) It is hereby declared that where—

- (a) the Court of Session has jurisdiction by virtue of this section to entertain an application for the variation or recall as respects any person of an order made by it, and
- (b) the order is one to which section 8 (variation and recall by the sheriff of certain orders made by the Court of Session) of the ^{M1}Law Reform (Miscellaneous Provisions) (Scotland) Act 1966 applies,

then, for the purposes of any application under the said section 8 for the variation or recall of the order in so far as it relates to that person, the sheriff, as defined in that section, has jurisdiction as respects that person to exercise the power conferred on him by that section.

Textual Amendments

- F1** Words in s. 10(1) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 20(2)(a)(i)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F2** Words in s. 10(1) repealed (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 20(2)(a)(ii)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F3** S. 10(1A) inserted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 20(2)(b)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F4** S. 10(1B) inserted (1.3.2001) by S.S.I. 2001/36, **reg. 2(4)** (with reg. 6)
- F5** Words in s. 10(1B)(a) substituted (1.3.2005) by European Communities (Matrimonial and Parental Responsibility Jurisdiction and Judgments) (Scotland) Regulations 2005 (S.S.I. 2005/42), regs. 1(1), **2(4)(a)** (with reg. 7)
- F6** Words in s. 10(1B)(b) substituted (1.3.2005) by European Communities (Matrimonial and Parental Responsibility Jurisdiction and Judgments) (Scotland) Regulations 2005 (S.S.I. 2005/42), regs. 1(1), **2(4)(b)** (with reg. 7)
- F7** S. 10(1C)(1D) inserted (18.6.2011) by The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 1(1), **Sch. 7 para. 7**

Marginal Citations

- M1** 1966 c. 19.

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Changes to legislation:

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