



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER III

JURISDICTION OF COURTS IN SCOTLAND

13 Jurisdiction ancillary to matrimonial proceedings.

(1) The jurisdiction of a court in Scotland to entertain an application for a [^{F1}Part I order] in matrimonial [^{F2}or civil partnership] proceedings shall be modified by the following provisions of this section.

[^{F3}(2) A court in Scotland shall not have jurisdiction—

(a) after the dismissal of matrimonial proceedings or after decree of absolvitor is granted therein; or

(b) after the dismissal of civil partnership proceedings,

to entertain an application for a Part 1 order in those proceedings unless the application therefor was made on or before such dismissal or the granting of the decree of absolvitor.]

(3) Where, after a decree of separation has been granted, an application is made in the separation process for a [^{F1}Part I order], a court in Scotland shall not have jurisdiction to entertain that application if, on the date of the application, proceedings for divorce or nullity of marriage [^{F4}or proceedings for dissolution or nullity of civil partnership] in respect of the marriage [^{F5}or civil partnership] concerned are continuing in another court in the United Kingdom.

(4) A court in Scotland shall not have jurisdiction to entertain an application for the variation of a [^{F1}Part I order] made [^{F6}in matrimonial [^{F7}or civil partnership] proceedings where the court has refused to grant the principal remedy sought in the

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proceedings] if, on the date of the application, matrimonial [^{F7}or civil partnership] proceedings in respect of the marriage [^{F8}or civil partnership] concerned are continuing in another court in the United Kingdom.

(5) Subsections (3) and (4) above shall not apply if the court in which the other proceedings there referred to are continuing has made—

- (a) an order under section [^{F9}2A(4)] or [^{F10}19A(4)] of this Act or under subsection (6) below (not being an order made by virtue of paragraph (a)(ii) of that subsection), or
- (b) an order under section 5(2), 14(2) or 22(2) of this Act which is recorded as made for the purpose of enabling [^{F11}Part I proceedings with respect to] the child concerned to be taken in Scotland or, as the case may be, in another court in Scotland,

and that order is in force.

(6) A court in Scotland which has jurisdiction in matrimonial [^{F12}or civil partnership] proceedings to entertain an application for a [^{F1}Part I order] with respect to a child may make an order declining such jurisdiction if—

- (a) it appears to the court with respect to that child that—
 - (i) but for section 11(1) of this Act, another court in Scotland would have jurisdiction to entertain an application for a [^{F1}Part I order], or
 - (ii) but for section 3(2), 6(3), 20(2) or 23(3) of this Act, a court in another part of the United Kingdom would have jurisdiction to make a [^{F1}Part I order] or an order varying a [^{F1}Part I order]; and
- (b) the court considers that it would be more appropriate for [^{F13}Part I matters relating to] that child to be determined in that other court or part.

(7) The court may recall an order made under subsection (6) above.

Textual Amendments

- F1** Words in s. 13(1)-(4)(6)(a)(i)(ii) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 62(2)(a)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F2** Words in s. 13(1) inserted (5.12.2005) by The Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005 (S.S.I. 2005/623), arts. 1, **15(2)**
- F3** S. 13(2) substituted (5.12.2005) by The Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005 (S.S.I. 2005/623), arts. 1, **15(3)**
- F4** Words in s. 13(3) inserted (5.12.2005) by The Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005 (S.S.I. 2005/623), arts. 1, **15(4)(a)**
- F5** Words in s. 13(3) inserted (5.12.2005) by The Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005 (S.S.I. 2005/623), arts. 1, **15(4)(b)**
- F6** Words in s. 13(4) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 41(3)(b)**; S.I. 1996/2203, **art. 3(3)**, **Sch.**
- F7** Words in s. 13(4) inserted (5.12.2005) by The Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005 (S.S.I. 2005/623), arts. 1, **15(5)(a)**
- F8** Words in s. 13(4) inserted (5.12.2005) by The Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005 (S.S.I. 2005/623), arts. 1, **15(5)(b)**
- F9** Figure in s. 13(5)(a) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 68(b)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F10** Words in s. 13(5)(a) substituted (4.11.1996) by S.I. 1995/756, **arts. 1(2)**, 12(5); S.R. 1996/297, **art. 3**
- F11** Words in s. 13(5)(b) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 62(2)(b)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

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| <p>F12 Words in s. 13(6) inserted (5.12.2005) by The Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005 (S.S.I. 2005/623), arts. 1, 15(6)</p> <p>F13 Words in s. 13(6)(b) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 13 para. 62(2)(c) (with Sch. 14 para. 1(1)); S.I. 1991/828, art. 3(2)</p> |
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