



Civil Evidence (Scotland) Act 1988

1988 CHAPTER 32

8 Evidence in actions concerning family relationships, etc.

- (1) In any action to which this subsection applies (whether or not appearance has been entered for the defender), no decree or judgment in favour of the pursuer shall be pronounced until the grounds of action have been established by evidence.
- (2) Subsection (1) above applies to actions for divorce, [^{F1}for dissolution of civil partnership, for separation of spouses or of civil partners, for declarator of marriage or of nullity of marriage or of civil partnership or for], ^{F2} . . . parentage or non-parentage.
- (3) Subject to subsection (4) below, in any action for divorce, separation or declarator of marriage or nullity of marriage, the evidence referred to in subsection (1) above shall consist of or include evidence other than that of a party to the marriage (or alleged or purported marriage).
- [^{F3}(3A) Subject to subsection (4) below, in any action for dissolution of civil partnership, separation of civil partners or declarator of nullity of civil partnership, the evidence referred to in subsection (1) above shall consist of or include evidence other than that of a partner in the civil partnership (or purported civil partnership).]
- (4) The Lord Advocate may by order made by statutory instrument provide that subsection (3) [^{F4}or (3A)] above shall not apply, or shall apply subject to such modifications as may be specified in the order, in respect of such class or classes of action as may be so specified.
- (5) No order shall be made under this section unless a draft of the order has been laid before Parliament and has been approved by resolution of each House.

Textual Amendments

- F1** Words in s. 8(2) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(2), 263, [Sch. 28 para. 55\(1\)\(2\)](#); S.S.I. 2005/604, [art. 2\(a\)\(e\)](#)
- F2** Words in s. 8(2) repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp. 3\)](#), ss. 45(2), 46(2), [sch. 3](#); S.S.I. 2006/212, [art. 2](#) (with [art. 12](#))

Changes to legislation: There are currently no known outstanding effects for the Civil Evidence (Scotland) Act 1988, Section 8. (See end of Document for details)

- F3** S. 8(3A) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(2), 263, **Sch. 28 para. 55(1)(3)**; S.S.I. 2005/604, **art. 2(a)(c)**
- F4** Words in s. 8(4) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(2), 263, **Sch. 28 para. 55(1)(4)**; S.S.I. 2005/604, **art. 2(a)(c)**

Modifications etc. (not altering text)

- C1** S. 8: certain functions transferred (19.5.1999) by 1999/678, art. 2(1), Sch.
- C2** S. 8(3) excluded by S.I. 1989/582, **art. 3**
- C3** S. 8(3A) excluded (30.3.2012) by The Evidence in Civil Partnership and Divorce Actions (Scotland) Order 2012 (S.S.I. 2012/111), arts. 1, **2(1)**

Changes to legislation:

There are currently no known outstanding effects for the Civil Evidence (Scotland) Act 1988, Section 8.