



Civil Partnership Act 2004

2004 CHAPTER 33

PART 5

CIVIL PARTNERSHIP FORMED OR DISSOLVED ABROAD ETC.

CHAPTER 3

DISSOLUTION ETC.: JURISDICTION AND RECOGNITION

Introduction

219 Power to make provision corresponding to EC Regulation 2201/2003

- (1) The Lord Chancellor may by regulations make provision—
- (a) as to the jurisdiction of courts in England and Wales ^{F1} . . . in proceedings for the dissolution or annulment of a civil partnership or for legal separation of the civil partners in cases where a civil partner—
 - (i) is or has been habitually resident in a member State,
 - (ii) is a national of a member State, or
 - (iii) is domiciled in a part of the United Kingdom or the Republic of Ireland, and
 - (b) as to the recognition in England and Wales ^{F1} . . . of any judgment of a court of another member State which orders the dissolution or annulment of a civil partnership or the legal separation of the civil partners.
- [^{F2}(1A) The Department of Justice in Northern Ireland may by regulations make provision—
- (a) as to the jurisdiction of courts in Northern Ireland in proceedings for the dissolution or annulment of a civil partnership or for legal separation of the civil partners in such cases as are mentioned in subsection (1)(a), and
 - (b) as to the recognition in Northern Ireland of any such judgment as is mentioned in subsection (1)(b).]

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The Scottish Ministers may by regulations make provision—
- (a) as to the jurisdiction of courts in Scotland in proceedings for the dissolution or annulment of a civil partnership or for legal separation of the civil partners in such cases as are mentioned in subsection (1)(a), and
 - (b) as to the recognition in Scotland of any such judgment as is mentioned in subsection (1)(b).
- (3) The regulations may in particular make provision corresponding to that made by Council Regulation (EC) No 2201/2003 of 27th November 2003 in relation to jurisdiction and the recognition and enforcement of judgments in matrimonial matters.
- (4) The regulations may provide that for the purposes of this Part and the regulations “member State” means—
- (a) all member States with the exception of such member States as are specified in the regulations, or
 - (b) such member States as are specified in the regulations.
- (5) The regulations may make provision under subsections (1)(b) [^{F3}, (1A)(b)] and (2)(b) which applies even if the date of the dissolution, annulment or legal separation is earlier than the date on which this section comes into force.
- (6) Regulations under subsection (1) are to be made by statutory instrument and may only be made if a draft has been laid before and approved by resolution of each House of Parliament.
- [^{F4}(6A) Regulations under subsection (1A) are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (6B) No regulations shall be made under subsection (1A) unless a draft has been laid before and approved by resolution of the Northern Ireland Assembly.
- (6C) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6B) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.]
- (7) Regulations under subsection (2) are to be made by statutory instrument and may only be made if a draft has been laid before and approved by resolution of the Scottish Parliament.
- (8) In this Part “section 219 regulations” means regulations made under this section.

Textual Amendments

- F1** Words in s. 219(1)(a)(b) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 73(a)** (with arts. 28-31)
- F2** S. 219(1A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 73(b)** (with arts. 28-31)
- F3** Word in s. 219(5) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 73(c)** (with arts. 28-31)
- F4** S. 219(6A)-(6C) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), **Sch. 18 para. 73(d)** (with arts. 28-31)

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Jurisdiction of courts in England and Wales

220 Meaning of “the court”

In sections 221 to 224 “the court” means—

- (a) the High Court, or
- [^{F5}(b) the family court.]

Textual Amendments

- F5** S. 220(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 166](#); [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Commencement Information

- II** S. 220 wholly in force at 5.12.2005; s. 220 not in force at Royal Assent see s. 263; s. 220 in force at 15.4.2005 for certain purposes by [S.I. 2005/1112](#), [art. 2](#), [Sch. 2](#) and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3175](#), [art. 3](#), [Sch. 2](#)

221 Proceedings for dissolution, separation or nullity order

- (1) The court has jurisdiction to entertain proceedings for a dissolution order or a separation order if (and only if)—
- (a) the court has jurisdiction under section 219 regulations,
 - (b) no court has, or is recognised as having, jurisdiction under section 219 regulations and either civil partner is domiciled in England and Wales on the date when the proceedings are begun, or
 - (c) the following conditions are met—
 - (i) the two people concerned registered as civil partners of each other in England or Wales,
 - (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (2) The court has jurisdiction to entertain proceedings for a nullity order if (and only if)—
- (a) the court has jurisdiction under section 219 regulations,
 - (b) no court has, or is recognised as having, jurisdiction under section 219 regulations and either civil partner—
 - (i) is domiciled in England and Wales on the date when the proceedings are begun, or
 - (ii) died before that date and either was at death domiciled in England and Wales or had been habitually resident in England and Wales throughout the period of 1 year ending with the date of death, or
 - (c) the following conditions are met—
 - (i) the two people concerned registered as civil partners of each other in England or Wales,
 - (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.

(3) At any time when proceedings are pending in respect of which the court has jurisdiction by virtue of subsection (1) or (2) (or this subsection), the court also has jurisdiction to entertain other proceedings, in respect of the same civil partnership, for a dissolution, separation or nullity order, even though that jurisdiction would not be exercisable under subsection (1) or (2).

222 Proceedings for presumption of death order

The court has jurisdiction to entertain proceedings for a presumption of death order [^{F6}on an application made by a civil partner] if (and only if)—

^{F7}(a)

^{F7}(b)

[^{F8}(ba) at the time the application is made, the High Court does not have jurisdiction to entertain an application by that civil partner under section 1 of the Presumption of Death Act 2013 for a declaration that the other civil partner is presumed to be dead, and]

(c) the two people concerned registered as civil partners of each other in England and Wales and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

Textual Amendments

F6 Words in s. 222 inserted (1.10.2014) by [Presumption of Death Act 2013 \(c. 13\), s. 22\(2\), Sch. 2 para. 3\(2\)](#) (with s. 21); S.I. 2014/1810, art. 2 (with art. 3(1)(3))

F7 S. 222(a)(b) omitted (1.10.2014) by virtue of [Presumption of Death Act 2013 \(c. 13\), s. 22\(2\), Sch. 2 para. 3\(3\)](#) (with s. 21); S.I. 2014/1810, art. 2 (with art. 3(1)(3))

F8 S. 222(ba) inserted (1.10.2014) by [Presumption of Death Act 2013 \(c. 13\), s. 22\(2\), Sch. 2 para. 3\(4\)](#) (with s. 21); S.I. 2014/1810, art. 2 (with art. 3(1)(3))

223 Proceedings for dissolution, nullity or separation order: supplementary

(1) Rules of court may make provision in relation to civil partnerships corresponding to the provision made in relation to marriages by Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (c. 45).

(2) The rules may in particular make provision—

(a) for the provision of information by applicants and respondents in proceedings for dissolution, nullity or separation orders where proceedings relating to the same civil partnership are continuing in another jurisdiction, and

(b) for proceedings before the court to be stayed by the court where there are concurrent proceedings elsewhere in respect of the same civil partnership.

224 Applications for declarations as to validity etc.

The court has jurisdiction to entertain an application under section 58 if (and only if)—

(a) either of the civil partners in the civil partnership to which the application relates—

(i) is domiciled in England and Wales on the date of the application,

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) has been habitually resident in England and Wales throughout the period of 1 year ending with that date, or
 - (iii) died before that date and either was at death domiciled in England and Wales or had been habitually resident in England and Wales throughout the period of 1 year ending with the date of death, or
- (b) the two people concerned registered as civil partners of each other in England and Wales and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

Jurisdiction of Scottish courts

225 Jurisdiction of Scottish courts

- (1) The Court of Session has jurisdiction to entertain an action for the dissolution of a civil partnership or for separation of civil partners if (and only if)—
- (a) the court has jurisdiction under section 219 regulations,
 - (b) no court has, or is recognised as having, jurisdiction under section 219 regulations and either civil partner is domiciled in Scotland on the date when the proceedings are begun, or
 - (c) the following conditions are met—
 - (i) the two people concerned registered as civil partners of each other in Scotland,
 - (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (2) The sheriff has jurisdiction to entertain an action for the dissolution of a civil partnership or for separation of civil partners if (and only if) the requirements of paragraph (a) or (b) of subsection (1) are met and either civil partner—
- (a) was resident in the sheriffdom for a period of 40 days ending with the date when the action is begun, or
 - (b) had been resident in the sheriffdom for a period of not less than 40 days ending not more than 40 days before that date and has no known residence in Scotland at that date.
- (3) The Court of Session has jurisdiction to entertain an action for declarator of nullity of a civil partnership if (and only if)—
- (a) the Court has jurisdiction under section 219 regulations,
 - (b) no court has, or is recognised as having, jurisdiction under section 219 regulations and either of the ostensible civil partners—
 - (i) is domiciled in Scotland on the date when the proceedings are begun, or
 - (ii) died before that date and either was at death domiciled in Scotland or had been habitually resident in Scotland throughout the period of 1 year ending with the date of death, or
 - (c) the following conditions are met—
 - (i) the two people concerned registered as civil partners of each other in Scotland,

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (4) At any time when proceedings are pending in respect of which a court has jurisdiction by virtue of any of subsections (1) to (3) (or this subsection) it also has jurisdiction to entertain other proceedings, in respect of the same civil partnership (or ostensible civil partnership), for dissolution, separation or (but only where the court is the Court of Session) declarator of nullity, even though that jurisdiction would not be exercisable under any of subsections (1) to (3).

226 Sisting of proceedings

- (1) Rules of court may make provision in relation to civil partnerships corresponding to the provision made in relation to marriages by Schedule 3 to the Domicile and Matrimonial Proceedings Act 1973 (c. 45) (sisting of Scottish consistorial actions).
- (2) The rules may in particular make provision—
- (a) for the provision of information by the pursuer and by any other person who has entered appearance in an action where proceedings relating to the same civil partnership (or ostensible civil partnership) are continuing in another jurisdiction, and
 - (b) for an action to be sisted where there are concurrent proceedings elsewhere in respect of the same civil partnership (or ostensible civil partnership).

227 Scottish ancillary and collateral orders

- (1) This section applies where after the commencement of this Act an application is competently made to the Court of Session or the sheriff for the making, or the variation or recall, of an order which is ancillary or collateral to an action for—
- (a) the dissolution of a civil partnership,
 - (b) the separation of civil partners, or
 - (c) declarator of nullity of a civil partnership.

- (2) And the section applies 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.

- (3) [^{F9}Subject to subsections (3A) and (3B), if] the court has or, as the case may be, had jurisdiction to entertain the action, it has jurisdiction to entertain [^{F10}the application.

- (3A) The court may not entertain the application if —]

- (a) jurisdiction to entertain the action was under section 219 regulations, and
- (b) to make, vary or recall the order to which the application relates would contravene the regulations.

- [^{F11}(3B) 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 Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the 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.]

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) Where 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 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 Law Reform (Miscellaneous Provisions) (Scotland) Act 1966 (c. 19) applies, then for the purposes of any application under that section for the variation or recall of the order in so far as it relates to the person, the sheriff (as defined in that section) has jurisdiction to exercise the power conferred on him by that section.
- (5) The reference in subsection (1) to an order which is ancillary or collateral is to an order relating to children, aliment, financial provision or expenses.
- [^{F12}(6) In this section “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.]

Textual Amendments

- F9** Words in s. 227(3) substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(2)(a)**
- F10** Words in s. 227 substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(2)(b)**
- F11** S. 227(3B) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(2)(c)**
- F12** S. 227(6) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(2)(d)**

Jurisdiction of courts in Northern Ireland

228 Meaning of “the court”

In sections 229 to 232 “the court” has the meaning given by section 188.

Commencement Information

- I2** S. 228 wholly in force at 5.12.2005; s. 228 not in force at Royal Assent see s. 263; s. 228 in force at 15.4.2005 for certain purposes by [S.I. 2005/1112](#), **art. 2**, **Sch. 2** and otherwise 5.12.2005 insofar as not already in force by [S.I. 2005/3175](#), **art. 3**, **Sch. 2**

229 Proceedings for dissolution, separation or nullity order

- (1) The court has jurisdiction to entertain proceedings for a dissolution order or a separation order if (and only if)—
- the court has jurisdiction under section 219 regulations,
 - no court has, or is recognised as having, jurisdiction under section 219 regulations and either civil partner is domiciled in Northern Ireland on the date when the proceedings are begun, or
 - the following conditions are met—

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) the two people concerned registered as civil partners of each other in Northern Ireland,
 - (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (2) The court has jurisdiction to entertain proceedings for a nullity order if (and only if)—
- (a) the court has jurisdiction under section 219 regulations,
 - (b) no court has, or is recognised as having, jurisdiction under section 219 regulations and either civil partner—
 - (i) is domiciled in Northern Ireland on the date when the proceedings are begun, or
 - (ii) died before that date and either was at death domiciled in Northern Ireland or had been habitually resident in Northern Ireland throughout the period of 1 year ending with the date of death, or
 - (c) the following conditions are met—
 - (i) the two people concerned registered as civil partners of each other in Northern Ireland,
 - (ii) no court has, or is recognised as having, jurisdiction under section 219 regulations, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (3) At any time when proceedings are pending in respect of which the court has jurisdiction by virtue of subsection (1) or (2) (or this subsection), the court also has jurisdiction to entertain other proceedings, in respect of the same civil partnership, for a dissolution, separation or nullity order, even though that jurisdiction would not be exercisable under subsection (1) or (2).

230

F13

Textual Amendments

F13 S. 230 repealed (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6 \(N.I.\)\)](#), ss. 19, 20, Sch. 2, [Sch. 3](#); S.R. 2009/356, [art. 2](#)

231 Proceedings for dissolution, nullity or separation order: supplementary

- (1) Rules of court may make provision in relation to civil partnerships corresponding to the provision made in relation to marriages by Schedule 1 to the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)).
- (2) The rules may in particular make provision—
 - (a) for the provision of information by applicants and respondents in proceedings for dissolution, nullity or separation orders where proceedings relating to the same civil partnership are continuing in another jurisdiction, and

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) for proceedings before the court to be stayed by the court where there are concurrent proceedings elsewhere in respect of the same civil partnership.

232 Applications for declarations as to validity etc.

The court has jurisdiction to entertain an application under section 181 if (and only if)—

- (a) either of the civil partners in the civil partnership to which the application relates—
 - (i) is domiciled in Northern Ireland on the date of the application,
 - (ii) has been habitually resident in Northern Ireland throughout the period of 1 year ending with that date, or
 - (iii) died before that date and either was at death domiciled in Northern Ireland or had been habitually resident in Northern Ireland throughout the period of 1 year ending with the date of death, or
- (b) the two people concerned registered as civil partners of each other in Northern Ireland and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

Recognition of dissolution, annulment and separation

233 Effect of dissolution, annulment or separation obtained in the UK

- (1) No dissolution or annulment of a civil partnership obtained in one part of the United Kingdom is effective in any part of the United Kingdom unless obtained from a court of civil jurisdiction.
- (2) Subject to subsections (3) and (4), the validity of a dissolution or annulment of a civil partnership or a legal separation of civil partners which has been obtained from a court of civil jurisdiction in one part of the United Kingdom is to be recognised throughout the United Kingdom.
- (3) Recognition of the validity of a dissolution, annulment or legal separation obtained from a court of civil jurisdiction in one part of the United Kingdom may be refused in any other part if the dissolution, annulment or separation was obtained at a time when it was irreconcilable with a decision determining the question of the subsistence or validity of the civil partnership—
 - (a) previously given by a court of civil jurisdiction in the other part, or
 - (b) previously given by a court elsewhere and recognised or entitled to be recognised in the other part.
- (4) Recognition of the validity of a dissolution or legal separation obtained from a court of civil jurisdiction in one part of the United Kingdom may be refused in any other part if the dissolution or separation was obtained at a time when, according to the law of the other part, there was no subsisting civil partnership.

234 Recognition in the UK of overseas dissolution, annulment or separation

- (1) Subject to subsection (2), the validity of an overseas dissolution, annulment or legal separation is to be recognised in the United Kingdom if, and only if, it is entitled to recognition by virtue of sections 235 to 237.

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) This section and sections 235 to 237 do not apply to an overseas dissolution, annulment or legal separation as regards which provision as to recognition is made by section 219 regulations.
- (3) For the purposes of subsections (1) and (2) and sections 235 to 237, an overseas dissolution, annulment or legal separation is a dissolution or annulment of a civil partnership or a legal separation of civil partners which has been obtained outside the United Kingdom (whether before or after this section comes into force).

235 Grounds for recognition

- (1) The validity of an overseas dissolution, annulment or legal separation obtained by means of proceedings is to be recognised if—
- (a) the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained, and
 - (b) at the relevant date either civil partner—
 - (i) was habitually resident in the country in which the dissolution, annulment or legal separation was obtained,
 - (ii) was domiciled in that country, or
 - (iii) was a national of that country.
- (2) The validity of an overseas dissolution, annulment or legal separation obtained otherwise than by means of proceedings is to be recognised if—
- (a) the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained,
 - (b) at the relevant date—
 - (i) each civil partner was domiciled in that country, or
 - (ii) either civil partner was domiciled in that country and the other was domiciled in a country under whose law the dissolution, annulment or legal separation is recognised as valid, and
 - (c) neither civil partner was habitually resident in the United Kingdom throughout the period of 1 year immediately preceding that date.
- (3) In this section “the relevant date” means—
- (a) in the case of an overseas dissolution, annulment or legal separation obtained by means of proceedings, the date of the commencement of the proceedings;
 - (b) in the case of an overseas dissolution, annulment or legal separation obtained otherwise than by means of proceedings, the date on which it was obtained.
- (4) Where in the case of an overseas annulment the relevant date fell after the death of either civil partner, any reference in subsection (1) or (2) to that date is to be read in relation to that civil partner as a reference to the date of death.

Modifications etc. (not altering text)

- C1** S. 235 applied (with modifications) (E.W.N.I.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Legal Separations\) \(England and Wales and Northern Ireland\) Regulations 2005 \(S.I. 2005/3104\)](#), **regs. 2, 3**
- C2** S. 235 applied (with modifications) (S.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/567\)](#), **regs. 2, 3** (as amended (28.2.2022) by [The Civil](#)

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Partnership (Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/461), regs. 1, 2

236 Refusal of recognition

- (1) Recognition of the validity of an overseas dissolution, annulment or legal separation may be refused in any part of the United Kingdom if the dissolution, annulment or separation was obtained at a time when it was irreconcilable with a decision determining the question of the subsistence or validity of the civil partnership—
 - (a) previously given by a court of civil jurisdiction in that part of the United Kingdom, or
 - (b) previously given by a court elsewhere and recognised or entitled to be recognised in that part of the United Kingdom.
- (2) Recognition of the validity of an overseas dissolution or legal separation may be refused in any part of the United Kingdom if the dissolution or separation was obtained at a time when, according to the law of that part of the United Kingdom, there was no subsisting civil partnership.
- (3) Recognition of the validity of an overseas dissolution, annulment or legal separation may be refused if—
 - (a) in the case of a dissolution, annulment or legal separation obtained by means of proceedings, it was obtained—
 - (i) without such steps having been taken for giving notice of the proceedings to a civil partner as, having regard to the nature of the proceedings and all the circumstances, should reasonably have been taken, or
 - (ii) without a civil partner having been given (for any reason other than lack of notice) such opportunity to take part in the proceedings as, having regard to those matters, he should reasonably have been given, or
 - (b) in the case of a dissolution, annulment or legal separation obtained otherwise than by means of proceedings—
 - (i) there is no official document certifying that the dissolution, annulment or legal separation is effective under the law of the country in which it was obtained, or
 - (ii) where either civil partner was domiciled in another country at the relevant date, there is no official document certifying that the dissolution, annulment or legal separation is recognised as valid under the law of that other country, or
 - (c) in either case, recognition of the dissolution, annulment or legal separation would be manifestly contrary to public policy.
- (4) In this section—

“official”, in relation to a document certifying that a dissolution, annulment or legal separation is effective, or is recognised as valid, under the law of any country, means issued by a person or body appointed or recognised for the purpose under that law;

“the relevant date” has the same meaning as in section 235.

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C3** S. 236 applied (with modifications) (E.W.N.I.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Legal Separations\) \(England and Wales and Northern Ireland\) Regulations 2005 \(S.I. 2005/3104\)](#), **reg. 2**
- C4** S. 236 applied (with modifications) (S.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/567\)](#), **reg. 2**

237 Supplementary provisions relating to recognition of dissolution etc.

- (1) For the purposes of sections 235 and 236, a civil partner is to be treated as domiciled in a country if he was domiciled in that country—
 - (a) according to the law of that country in family matters, or
 - (b) according to the law of the part of the United Kingdom in which the question of recognition arises.
 - (2) The Lord Chancellor [^{F14}, the Department of Justice in Northern Ireland] or the Scottish Ministers may by regulations make provision—
 - (a) applying sections 235 and 236 and subsection (1) with modifications in relation to any country whose territories have different systems of law in force in matters of dissolution, annulment or legal separation;
 - (b) applying sections 235 and 236 with modifications in relation to—
 - (i) an overseas dissolution, annulment or legal separation in the case of an overseas relationship (or an apparent or alleged overseas relationship);
 - (ii) any case where a civil partner is domiciled in a country or territory whose law does not recognise legal relationships between two people of the same sex;
 - (c) with respect to recognition of the validity of an overseas dissolution, annulment or legal separation in cases where there are cross-proceedings;
 - (d) with respect to cases where a legal separation is converted under the law of the country or territory in which it is obtained into a dissolution which is effective under the law of that country or territory;
 - (e) with respect to proof of findings of fact made in proceedings in any country or territory outside the United Kingdom.
 - (3) The power [^{F15}of the Lord Chancellor or the Scottish Ministers] to make regulations under subsection (2) is exercisable by statutory instrument.
 - (4) A statutory instrument containing such regulations—
 - (a) if made by the Lord Chancellor, is subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) if made by the Scottish Ministers, is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- [^{F16}(4A) The power of the Department of Justice in Northern Ireland to make regulations under subsection (2) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

Status: Point in time view as at 01/03/2015.

Changes to legislation: Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4B) Regulations made by the Department of Justice under subsection (2) are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.]
- (5) In this section (except subsection (4)) and sections 233 to 236 and 238—
“annulment” includes any order annulling a civil partnership, however expressed;
“part of the United Kingdom” means England and Wales, Scotland or Northern Ireland;
“proceedings” means judicial or other proceedings.
- (6) Nothing in this Chapter is to be read as requiring the recognition of any finding of fault made in proceedings for dissolution, annulment or legal separation or of any maintenance, custody or other ancillary order made in any such proceedings.

Textual Amendments

- F14** Words in s. 237(2) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), [Sch. 18 para. 74\(a\)](#) (with arts. 28-31)
- F15** Words in s. 237(3) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), [Sch. 18 para. 74\(b\)](#) (with arts. 28-31)
- F16** S. 237(4A)(4B) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(5), [Sch. 18 para. 74\(c\)](#) (with arts. 28-31)

Modifications etc. (not altering text)

- C5** S. 237(1) applied (with modifications) (E.W.N.I.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Legal Separations\) \(England and Wales and Northern Ireland\) Regulations 2005 \(S.I. 2005/3104\)](#), [reg. 2](#)
- C6** S. 237(1) applied (with modifications) (S.) (5.12.2005) by [The Civil Partnership \(Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/567\)](#), [reg. 2](#)

Commencement Information

- I3** S. 237 wholly in force at 5.12.2005; s. 237 not in force at Royal Assent see s. 263; s. 237(2)-(5) in force at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 2](#); s. 237(1)(6) in force at 5.12.2005 by [S.I. 2005/3175](#), [art. 3](#), [Sch. 2](#)

238 Non-recognition elsewhere of dissolution or annulment

- (1) This section applies where, in any part of the United Kingdom—
(a) a dissolution or annulment of a civil partnership has been granted by a court of civil jurisdiction, or
(b) the validity of a dissolution or annulment of a civil partnership is recognised by virtue of this Chapter.
- (2) The fact that the dissolution or annulment would not be recognised outside the United Kingdom does not—
(a) preclude either party from forming a subsequent civil partnership or marriage in that part of the United Kingdom, or
(b) cause the subsequent civil partnership or marriage of either party (wherever it takes place) to be treated as invalid in that part.

Status:

Point in time view as at 01/03/2015.

Changes to legislation:

Civil Partnership Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.