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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force all of the remaining provisions of the Marriage and Civil Partnership (Scotland) Act 2014 (“the 2014 Act”) on 16th December 2014: except for the provisions relating to religious and belief bodies satisfying qualifying requirements that may be set out in regulations made by the Scottish Ministers and the increase from 14 days to 28 days of the periods for issuing the Marriage Schedule, issuing a certificate that a person is not subject to legal capacity and solemnising a marriage after receipt of a marriage notice and their equivalent civil partnership provisions.

Article 4 makes saving provision about notices of intention to marry submitted to a district registrar under section 3(1) of the Marriage (Scotland) Act 1977 (“the 1977 Act”) before 16th December 2014 so that any such marriage can be solemnised by a body that was prescribed under the regulations in force at the time the notice of intention to marry was submitted.

Article 4 also makes transitional provision to ensure that any person currently registered to solemnise marriages or granted a temporary written authorisation is regarded as registered or authorised to solemnise opposite sex marriages under the 1977 Act as amended by the 2014 Act. However that registration or authorisation will cease to have effect if the person becomes entitled to solemnise marriage between persons of different sexes by the prescription of a religious or belief body from 16th December and therefore does not require to be registered or authorised under section 9 or 12.

Article 5(1) makes saving provision about court proceedings in Scotland concerning overseas marriages of same sex couples which are currently treated in Scotland as civil partnerships. The change from such treatment to being recognised as marriages will occur on 16th December 2014 when section 26 of the 2014 Act comes into force. Article 5(1) provides that this will have no effect on court proceedings in Scotland concerning such a marriage where those proceedings were issued under any provision of the Civil Partnership Act 2004 (“the 2004 Act”) or the Family Law (Scotland) Act 1985 (“the 1985 Act”) before 16th December 2014. This is subject to article 5(2) which provides that any such proceedings for occupancy of the family home or exclusions orders under the 2004 Act are to be regarded as proceedings for occupancy or exclusion of the matrimonial home under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 (“the 1981 Act”).

Articles 5(3) and 5(4) make transitional provision for existing court decrees and orders under the 1985 Act and the 1981 Act in relation to overseas marriages that are now treated as marriages. A decree of aliment under the 1985 Act will continue to have effect and an occupancy or exclusion order in relation to a family home will be regarded as an order under the 1981 Act in relation to the matrimonial home.

Article 6 is a tidying up provision which formally removes from the statute book regulations approving places at which civil marriages may be solemnised. The regulations ceased to have effect when the enabling powers for the regulations were repealed by section 21 of the 2014 Act on 1st September 2014.

The Bill for the 2014 Act received Royal Assent on 12th March 2014. Sections 34 to 37 of the 2014 Act came into force on the day after Royal Assent.