



# Marriage and Civil Partnership (Scotland) Act 2014

2014 asp 5

## PART 1

### MARRIAGE

#### CHAPTER 2

##### MARRIAGE BETWEEN CIVIL PARTNERS IN QUALIFYING CIVIL PARTNERSHIPS

#### **11 Effect of marriage between civil partners in a qualifying civil partnership**

- (1) This section applies where civil partners in a qualifying civil partnership (within the meaning of section 5(6) of the 1977 Act)—
  - (a) marry in accordance with that Act, or
  - (b) change their civil partnership into a marriage in accordance with provision made under section 10(1).
- (2) Where this section applies—
  - (a) the qualifying civil partnership ends on the date on which—
    - (i) the marriage was solemnised, or
    - (ii) the change took effect, and
  - (b) the civil partners are to be treated as having been married to each other since the date on which the qualifying civil partnership was registered.
- (3) For the purposes of subsection (2)(b)—
  - (a) a civil partnership registered under an Order in Council made under section 210 of the 2004 Act is to be treated as having been registered when it is entered in the Register Book maintained under the Order,
  - (b) a civil partnership registered under an Order in Council made under section 211 of the 2004 Act is to be treated as having been registered when the civil partnership register is signed in accordance with the Order.
- (4) Subsection (2)(b) is subject to—

- (a) any provision to the contrary made by or under any enactment,
  - (b) an order under subsection (5).
- (5) The Scottish Ministers may by order provide for subsection (2)(b)—
  - (a) to have effect subject to provision made by the order, or
  - (b) not to apply in cases specified in the order.
- (6) An order under subsection (5)—
  - (a) may include consequential, supplementary, incidental, transitional, transitory or saving provision,
  - (b) is subject to the negative procedure.
- (7) If a decree of aliment under section 3 of the Family Law (Scotland) Act 1985 (powers of court in action for aliment) requiring one of the civil partners to make payments to the other is in force at the time the qualifying civil partnership ends by virtue of subsection (2)(a) of this section, the decree continues to have effect despite the ending of the civil partnership.
- (8) If an order under section 103(3) or (4) of the 2004 Act (regulation by court of rights of occupancy of family home) is in force at the time the qualifying civil partnership ends by virtue of subsection (2)(a) of this section the order has effect from that time as if made under section 3(3) or, as the case may be, 3(4) of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 (regulation by court of rights of occupancy of matrimonial home).
- (9) In section 1 of the 2004 Act (provision for civil partnership), after subsection (3) insert—
  - “(3A) Subsection (3) is subject to section 11(2)(a) of the Marriage and Civil Partnership (Scotland) Act 2014 (ending of certain civil partnerships on marriage under Scots law).”.