

CIVIL PARTNERSHIP (SCOTLAND) ACT 2020

EXPLANATORY NOTES

OVERVIEW

3. The Act modifies the law so that persons of different sexes can enter into civil partnerships.
4. The [Civil Partnership Act 2004](#) (“the 2004 Act”) created in the UK a new form of legal relationship: the civil partnership. It was made available only to same sex couples as an alternative to marriage, which was not then a legal relationship available to them. That changed, in Scotland, with the [Marriage and Civil Partnership \(Scotland\) Act 2014](#), which allowed same sex couples to marry. This resulted in same sex couples having a choice between marriage or civil partnership, while marriage remained the only form of legally recognised relationship available to different sex couples. In 2018, the UK Supreme Court found that difference in treatment in England and Wales to be incompatible with the European Convention on Human Rights¹. The Act removes that difference in treatment in Scotland by extending the option to enter into a civil partnership to different sex couples.
5. In connection with that main effect, the Act also:
 - makes consequential amendments to Scottish family law,
 - allows for the recognition of certain overseas relationships between different sex couples,
 - allows provision to be made to enable the parties to a marriage to change their relationship into a civil partnership,
 - makes consequential amendments to legislation concerning gender recognition,
 - creates an offence of forcing someone into a civil partnership.
6. As an Act of the Scottish Parliament, the Act’s provisions fall to be read in accordance with the interpretation rules in [Part 1 of the Interpretation and Legislative Reform \(Scotland\) Act 2010](#). Any text the Act adds to an Act of the UK Parliament (such as the 2004 Act) falls to be interpreted in accordance with the interpretative rules that apply to Acts of the UK Parliament, which are principally set out in the [Interpretation Act 1978](#).

¹ [R \(on the application of Steinfeld and Keidan\) v Secretary of State for International Development \[2018\] UKSC 32](#).