



# Marriage and Civil Partnership (Scotland) Act 2014

2014 asp 5

## PART 1

### MARRIAGE

VALID FROM 01/09/2014

#### CHAPTER 2

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

VALID FROM 16/12/2014

#### **8 Marriage between civil partners in qualifying civil partnerships**

- (1) The 1977 Act is amended as follows.
- (2) In section 3 (notice of intention to marry), in subsection (1), after paragraph (ba) (inserted by section 3(2)(a)(ii) of this Act), insert—
  - “(bb) if the person is in a qualifying civil partnership within the meaning of section 5(6) with the other party to the intended marriage, an extract from the entry in the civil partnership register relating to the civil partnership.”.
- (3) In section 5 (objections to marriage)—
  - (a) in subsection (4)(b), after “partnership” insert “ other than a qualifying civil partnership with each other ”, and
  - (b) after subsection (5) insert—
    - “(6) For the purposes of subsection (4)(b) a “qualifying civil partnership” is a civil partnership which—

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- (a) was registered in Scotland; and
- (b) has not been dissolved, annulled or ended by death.

(7) A civil partnership which was registered outside the United Kingdom under an Order in Council made under Chapter 1 of Part 5 of the Civil Partnership Act 2004 is to be treated for the purposes of subsection (6)(a) as having been registered in Scotland if—

- (a) the parties to the civil partnership elected Scotland as the relevant part of the United Kingdom under the Order; and
- (b) details of the civil partnership have been sent to the Registrar General of Births, Deaths and Marriages for Scotland.”.

## **9 Power to modify meaning of “qualifying civil partnership”**

- (1) The Scottish Ministers may by order modify the meaning of “qualifying civil partnership” given by section 5(6) of the 1977 Act (inserted by section 8(3)(b) of this Act) so as to include civil partnerships registered outside Scotland.
- (2) An order under subsection (1)—
  - (a) may make different provision for different purposes,
  - (b) may include consequential, supplementary, incidental, transitional, transitory or saving provision,
  - (c) may modify any enactment (including this Act),
  - (d) is subject to the affirmative procedure.
- (3) Before laying a draft of an order under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult the following persons on a copy of the proposed draft order—
  - (a) the Registrar General of Births, Deaths and Marriages for Scotland, and
  - (b) such other persons as the Scottish Ministers consider appropriate.

## **10 Change of qualifying civil partnership into marriage**

- (1) The Scottish Ministers may by regulations make provision to establish a procedure for the parties to a qualifying civil partnership to change their civil partnership into a marriage.
- (2) Regulations under subsection (1) may in particular make provision—
  - (a) about the making by the parties to a qualifying civil partnership of an application to change their civil partnership into a marriage,
  - (b) about the information to be provided in support of an application,
  - (c) about the provision of evidence in support of an application,
  - (d) for persons who have made an application to appear before any person or appear at any place,
  - (e) conferring functions on persons in relation to applications,
  - (f) for fees, of such amounts as are specified in or determined in accordance with the regulations, to be payable in respect of—
    - (i) the making of an application,
    - (ii) the exercise of any function conferred by virtue of paragraph (e).

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- (3) Functions conferred by virtue of subsection (2)(e) may include functions relating to—
  - (a) the recording of information relating to qualifying civil partnerships changing into marriages,
  - (b) the issuing of certified copies of any information recorded.
- (4) Before making regulations under subsection (1), the Scottish Ministers must consult the Registrar General of Births, Deaths and Marriages for Scotland.
- (5) Regulations under subsection (1)—
  - (a) may make different provision for different purposes,
  - (b) may include consequential, supplementary, incidental, transitional, transitory or saving provision,
  - (c) may modify any enactment (including this Act),
  - (d) are (except where subsection (6) applies) subject to the negative procedure.
- (6) Regulations under subsection (1) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure.
- (7) In this section “qualifying civil partnership” has the meaning given by section 5(6) of the 1977 Act (inserted by section 8(3)(b) of this Act).

## **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.

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- (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).”.

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