



Marriage and Civil Partnership (Scotland) Act 2014

2014 asp 5

PART 2 **S**

CIVIL PARTNERSHIP

VALID FROM 01/09/2014

24 **Registration of civil partnership** **S**

- (1) The Civil Partnership Act 2004 (“the 2004 Act”) is amended as follows.
- (2) In section 85 (formation of civil partnership by registration)—
 - (a) in subsection (1), for paragraph (c) and the words following it substitute—

“(c) the approved celebrant or, as the case may be, the authorised registrar.”, and
 - (b) in subsection (4)(b), at the beginning insert “ the approved celebrant or, as the case may be, ”.
- (3) In section 86 (eligibility)—
 - (a) for subsection (2) substitute—

“(2) Subject to subsection (3), a person is related to another person in a forbidden degree if related to that person in a degree specified in Schedule 10.”,
 - (b) in subsection (3), for the words from the beginning to “related” in the third place where it appears substitute “ A person who is related to another person in a degree specified in paragraph 2 of Schedule 10 (relationships by affinity) is not related to that person ”,
 - (c) after subsection (3) insert—

“(3A) For the purposes of paragraph 2 of Schedule 10, “spouse” means—

Status: Point in time view as at 21/05/2014. This version of this part contains provisions that are not valid for this point in time.

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- (a) in the case of a marriage between persons of different sexes, a wife in relation to her husband or a husband in relation to his wife, and
- (b) in the case of a marriage between persons of the same sex, one of the parties to the marriage in relation to the other.”,
- (d) in subsection (5)—
 - (i) after “in” insert “ subsection (3A)(a) as it applies to ”, and
 - (ii) the word “former” in each place where it appears is repealed, and
- (e) in subsection (5A)—
 - (i) for “mother” substitute “ parent ”, and
 - (ii) the words “in either column” are repealed.
- (4) In section 87 (appointment of authorised registrars), before “registration” in the first place where it appears insert “ civil ”.
- (5) In section 88 (notice of proposed civil partnership), after subsection (6) insert—
 - “(7) In this section, “the district registrar” means—
 - (a) where the civil partnership is to be registered in a registration district, the district registrar for that district,
 - (b) where the civil partnership is to be registered in Scottish waters—
 - (i) in the case where the civil partnership is to be registered by an approved celebrant, the district registrar for any registration district,
 - (ii) in the case where the civil partnership is to be registered by an authorised registrar, the district registrar for the registration district of the proposed authorised registrar.”.
- (6) In section 89 (civil partnership notice book), after subsection (2) insert—
 - “(3) In this section and sections 90, 91, 92 and 94, “the district registrar” means—
 - (a) where the civil partnership is to be registered in a registration district, the district registrar for that district,
 - (b) where the civil partnership is to be registered in Scottish waters—
 - (i) in the case where the civil partnership is to be registered by an approved celebrant, the district registrar to whom the civil partnership notices were submitted,
 - (ii) in the case where the civil partnership is to be registered by an authorised registrar, the district registrar for the registration district of the proposed authorised registrar.”.
- (7) In section 90 (publicisation)—
 - (a) in subsection (1), for “a district registrar” substitute “ the district registrar ”,
 - (b) in subsection (2)(b), for “14 days” substitute “ 28 days ”, and
 - (c) in subsection (3), for “91” substitute “ 91(1) ”.
- (8) In section 91 (early registration)—
 - (a) the existing text becomes subsection (1),
 - (b) in that subsection—
 - (i) for “An authorised registrar who” substitute “ Where the district registrar ”,

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- (ii) for “14 days” substitute “ 28 days ”, and
 - (iii) after “section 90)” insert “ the district registrar ”, and
 - (c) after that subsection insert—
 - “(2) For the purposes of subsection (1), a request which is made by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.”.
- (9) In section 92 (objections to registration)—
 - (a) in subsection (3), for “at which a notice of proposed civil partnership to which the objection would relate” substitute “ of the district registrar ”,
 - (b) in subsection (4)(b)—
 - (i) the word “and” following sub-paragraph (i) is repealed, and
 - (ii) after sub-paragraph (ii) insert “, and
 - (iii) where, in the case of a civil partnership to be registered by an approved celebrant, the civil partnership schedule has already been issued to the parties, if possible notify that celebrant of the objection and advise the celebrant not to register the civil partnership pending consideration of the objection.”, and
 - (c) in subsection (5)(a), for the words “not to register the intended civil partners and to notify them” substitute “ to take all reasonable steps to ensure that the registration of the civil partnership does not take place and must notify, or direct the district registrar to notify, the intended civil partners ”.
- (10) In section 93 (place of registration)—
 - (a) in subsection (1)—
 - (i) after “registered” insert “ by an authorised registrar ”, and
 - (ii) for the words from “other” in the first place where it appears to the end substitute “other—
 - (a) at the registration office of the authorised registrar,
 - (b) at an appropriate place in the registration district of the authorised registrar, or
 - (c) with the approval of the Registrar General, at—
 - (i) the registration office of another authorised registrar,
 - (ii) an appropriate place in the registration district of another authorised registrar, or
 - (iii) an appropriate place in Scottish waters.”,
 - (b) after that subsection, insert—
 - “(1A) In this section—
 - “appropriate place” means a place which—
 - (a) the parties to the intended civil partnership and the local registration authority agree is to be the place of registration, and
 - (b) is not religious premises,

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“local registration authority” means—

- (a) the local registration authority for the registration district which includes the place, or
- (b) where the place is in Scottish waters, the local registration authority for the authorised registrar's registration district,

“religious premises” means premises which—

- (a) are used solely or mainly for religious purposes, or
- (b) have been so used and have not subsequently been used solely or mainly for other purposes.”,

- (c) subsections (2) and (3) are repealed, and
- (d) the title of section 93 becomes “ **Place of civil registration of civil partnerships** ”.

(11) After section 93 insert—

“93A Date and place of registration of religious or belief civil partnerships

- (1) A religious or belief civil partnership may be registered only on the date and at the place specified in the civil partnership schedule.
- (2) But if, for any reason, the civil partnership cannot be registered on that date or at that place and a new date or place is fixed for the registration, the district registrar must—
 - (a) issue another civil partnership schedule under section 94(2) in place of that already issued, specifying the new date or place, or
 - (b) substitute, or direct the approved celebrant to substitute, the new date or place in the civil partnership schedule already issued.
- (3) Subsection (2) does not apply where—
 - (a) the new date is more than 3 months after the date for the registration specified in the civil partnership schedule already issued, or
 - (b) the new place is in a different registration district, is in Scottish waters instead of a registration district or is in a registration district instead of Scottish waters.
- (4) In a case falling within subsection (3)(a) or (b) the Registrar General may, according to the circumstances—
 - (a) direct the district registrar—
 - (i) to issue another civil partnership schedule under section 94(2) in place of that already issued, specifying the new date or place, or
 - (ii) to substitute, or direct the approved celebrant to substitute, the new date or place in the civil partnership schedule already issued,
 (whichever the Registrar General considers the more appropriate), or
 - (b) direct each party to the civil partnership to submit to the district registrar a new notice of proposed civil partnership.”.

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(12) In section 94 (the civil partnership schedule)—

- (a) the existing text becomes subsection (1),
- (b) in paragraph (b) of that subsection—
 - (i) for “14 days” substitute “ 28 days ”, and
 - (ii) for “91” substitute “ 91(1) ”, and
- (c) after that subsection insert—

“(2) In the case of a civil partnership to be registered by an approved celebrant, the civil partnership schedule completed in accordance with subsection (1) is to be issued by the district registrar to one or both of the parties to the intended civil partnership.

(3) The district registrar may not issue the civil partnership schedule on a date earlier than 7 days before the date of the intended civil partnership unless authorised to do so by the Registrar General.”.

(13) After section 94 insert—

“94A Persons who may register civil partnerships

(1) A civil partnership may be registered by and only by—

- (a) a person who is—
 - (i) a celebrant of a religious or belief body prescribed by regulations made by the Scottish Ministers, or who, not being a celebrant, is recognised by a religious or belief body so prescribed as entitled to register civil partnerships on its behalf,
 - (ii) registered under section 94B, or
 - (iii) temporarily authorised under section 94E, or
- (b) a person who is a district registrar or assistant registrar appointed under section 87.

(2) The Scottish Ministers may prescribe a religious or belief body under subsection (1)(a)(i) only if—

- (a) the body requests them to do so, and
- (b) the Scottish Ministers are satisfied that the body meets the qualifying requirements.

(3) For the avoidance of doubt, nothing in subsection (1)(a) or (2)(a)—

- (a) imposes a duty on any religious or belief body to make a request referred to in subsection (2)(a),
- (b) imposes a duty on any such body to nominate under section 94B any of its members to be registered as empowered to register civil partnerships,
- (c) imposes a duty on any person to apply for temporary authorisation under section 94E to register civil partnerships,
- (d) imposes a duty on any person who is an approved celebrant in relation to civil partnerships to register civil partnerships.

(4) In this Part—

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- (a) any such person as is mentioned in subsection (1)(a) is referred to as an “approved celebrant”,
- (b) a civil partnership registered by an approved celebrant is referred to as a “religious or belief civil partnership”,
- (c) a civil partnership registered by an authorised registrar is referred to as a “civil registration”.

(5) In subsection (2)(b), the “qualifying requirements” are such requirements as may be set out in regulations made by the Scottish Ministers.

94B Registration of nominated persons as celebrants

(1) A religious or belief body, not being prescribed by virtue of section 94A(1)(a)(i), may nominate to the Registrar General any of its members who it desires should be registered under this section as empowered to register civil partnerships.

(2) The Registrar General must reject a nomination under subsection (1) if in the Registrar General's opinion—

- (a) the nominating body is not a religious or belief body,
- (b) the nominee is not a fit and proper person to register a civil partnership,
- (c) there are already registered under this section sufficient members of the same body as the nominee to meet the needs of that body, or
- (d) the nominating body does not meet the qualifying requirements.

(3) In subsection (2)(d), the “qualifying requirements” are such requirements as may be set out in regulations made by the Scottish Ministers.

(4) Where the Registrar General accepts a nomination made under subsection (1), the Registrar General—

- (a) must determine the period during which the nominee is empowered to register civil partnerships, being a period of not more than 3 years,
- (b) may determine that the nominee is empowered to register civil partnerships only in such area or place as the Registrar General may specify, and
- (c) may make acceptance of the nominee's registration subject to such other conditions as the Registrar General thinks fit.

(5) Nothing in subsection (4)(a) prevents the Registrar General from accepting a further nomination of that nominee, in accordance with this section, to take effect at any time after the end of the period determined by the Registrar General under subsection (4)(a).

(6) The Registrar General must—

- (a) if accepting a nomination made under subsection (1)—
 - (i) so inform the nominee and the nominating body, specifying the period during which the acceptance has effect and any condition to which the acceptance is subject,
 - (ii) enter the name of the nominee, the nominating body and such other particulars as the Registrar General thinks fit in a register which the Registrar General must establish

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- and maintain and which must be made available for public inspection at all reasonable times free of charge,
- (b) if rejecting a nomination made under subsection (1), by notice in writing inform the nominating body of the reasons for that rejection.
- (7) For the purposes of subsection (6)(b), notice which is given by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.
- (8) If the nominating body is aggrieved by a rejection under this section it may, within 28 days of receiving notice of the rejection, appeal to the Scottish Ministers.
- (9) On any such appeal the Scottish Ministers may—
- (a) direct the Registrar General to accept the nomination, or
- (b) confirm the rejection of the nomination,
- and must inform the nominating body of their decision and the reason for it; and their decision is final.
- (10) If a reason given for confirming the rejection of a nomination is that the nominating body is not a religious or belief body, the body may, within 42 days of receiving notice of the confirmation, appeal against the decision to the Court of Session and seek the determination of that court as to whether the body is a religious or belief body.
- (11) If—
- (a) the Court determines that the nominating body is a religious or belief body, and
- (b) the reason mentioned in subsection (10) was the only reason given for confirming the rejection of the nomination,
- the Registrar General must give effect to the determination as if it were a direction under subsection (9)(a) to accept the nomination.

94C Removal of celebrant's name from register

- (1) Subject to the provisions of this section, the Registrar General may remove the name of a person registered under section 94B from the register on the ground that—
- (a) the person has requested that the person's name should be so removed,
- (b) the body which nominated the person under section 94B(1) no longer desires that the person should be so registered,
- (c) the person—
- (i) has, while registered as an approved celebrant, been convicted of an offence under this Part,
- (ii) has, for the purpose of profit or gain, been carrying on a business of registering civil partnerships,
- (iii) is not a fit and proper person to register civil partnerships, or
- (iv) for any other reason, should not be registered as an approved celebrant.

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- (2) The Registrar General may not remove the name of a person from the register on any ground mentioned in subsection (1)(c) unless the Registrar General has given the person at least 21 days notice in writing of the intention to do so.
- (3) For the purposes of subsection (2), notice which is given by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.
- (4) The Registrar General must—
 - (a) in the notice given under subsection (2), specify the ground of removal and call upon the person to give any reasons, within the period specified in the notice, why the person's name should not be removed from the register, and
 - (b) consider any representations made within that period by the person.
- (5) Where a person's name has been removed from the register on any of the grounds mentioned in paragraph (c) of subsection (1), the person or the body which nominated the person under section 94B(1) may, if aggrieved by the removal, within 28 days of receiving notice of the removal appeal to the Scottish Ministers.
- (6) On an appeal under subsection (5) the Scottish Ministers may give any direction they think proper to the Registrar General as to the removal from, or restoration to, the register of the person's name; and such direction is final.
- (7) Where a person has received a notice in pursuance of subsection (2), the person must not register a civil partnership unless and until the person's name is restored to the register or, as the case may be, the Registrar General has decided not to remove the person's name from the register.

94D Alterations to register maintained under section 94B

- (1) A body registered in pursuance of section 94B(6)(a)(ii) must notify the Registrar General of any of the following events (if practicable, within 21 days of its occurrence)—
 - (a) any change in the name or the address of the body or any amalgamation with any other religious or belief body, giving the name and address of any approved celebrant who is a member of the body so registered,
 - (b) the death of an approved celebrant who is a member of the body so registered,
 - (c) any change of name, address or designation of an approved celebrant who is a member of the body so registered,
 - (d) the cessation of an approved celebrant who is a member of the body so registered from exercising the functions of an approved celebrant, giving the person's name and address.
- (2) The Registrar General must, on receipt of any such notification, make whatever alteration to the register maintained under section 94B the Registrar General considers necessary or desirable.

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94E Temporary authorisation of celebrants

- (1) The Registrar General may, in accordance with such terms and conditions as may be specified in the authorisation, grant to any member of a religious or belief body a temporary written authorisation to register—
 - (a) a civil partnership or partnerships specified in the authorisation, or
 - (b) civil partnerships during such period as is specified in the authorisation.
 - (2) The Registrar General may grant an authorisation to a person under subsection (1) only if satisfied that the religious or belief body of which the person is a member meets the qualifying requirements.
 - (3) The Registrar General may grant an authorisation to a person under subsection (1)(b) only if the religious or belief body of which the person is a member—
 - (a) is prescribed by virtue of section 94A(1)(a)(i), or
 - (b) has nominated members (whether or not including that person) under section 94B(1).
 - (4) In subsection (2), the “qualifying requirements” are such requirements as may be set out in regulations made by the Scottish Ministers.
 - (5) For the purposes of subsection (1), an authorisation which is issued by electronic means is to be treated as written if it is received in a form which is legible and capable of being used for subsequent reference.”.
- (14) In section 95 (further provision as to registration)—
- (a) in subsection (1), after “85” insert “ the approved celebrant or, as the case may be, ”,
 - (b) after subsection (1) insert—

“(1A) In the case of a religious or belief civil partnership, the parties to the civil partnership must, within 3 days of signing the civil partnership schedule in accordance with section 85(4), deliver the civil partnership schedule, or send it by post or arrange that it is delivered, to the district registrar.”,
 - (c) in subsection (2), for “after the civil partnership schedule has been signed, the authorised registrar” substitute “after—
 - (a) in the case of a civil registration, the civil partnership schedule has been signed in accordance with section 85, or
 - (b) in the case of a religious or belief civil partnership, the district registrar receives the civil partnership schedule,the district registrar ”,
 - (d) after subsection (3) insert—

“(3A) The district registrar must not enter the particulars set out in the civil partnership schedule relating to a religious or belief civil partnership in the civil partnership register unless and until the registrar receives a duly signed civil partnership schedule in respect of that civil partnership.

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(3B) Where the Registrar General is satisfied that—

- (a) a civil partnership has been properly registered, and
- (b) the civil partnership schedule in respect of the civil partnership has been duly signed but has been lost or destroyed,

the Registrar General may direct the district registrar to complete an exact copy of the original civil partnership schedule and, so far as practicable, to arrange for its signature by those persons who signed the original schedule.

(3C) As soon as possible after the copy schedule has been signed, the district registrar must cause the particulars as set out in it to be entered into the civil partnership register.”, and

- (e) in subsection (4), after “their” insert “ civil ”.

(15) After section 95 insert—

“95ZA Registrar's power to require delivery of civil partnership schedule

- (1) Where the civil partnership schedule is not delivered to the district registrar within 21 days from the date of registration as entered in the schedule, the registrar may serve a notice in the prescribed form on either of the parties to the civil partnership requiring that party within 8 days from the date of service to deliver the schedule, or send it by post, to the registrar.
- (2) If a person on whom a notice has been served under subsection (1) fails to comply with the notice, the district registrar may serve on the person a second notice in the prescribed form requiring the person to attend personally at the registration office of the district registrar, within 8 days from the date of service of the second notice, for the purpose of delivering the civil partnership schedule to the district registrar to enable the registrar to enter the civil partnership in the civil partnership register.”.

(16) In section 95A (validity following entry in civil partnership register), in subsection (1), after “95(2)” insert “ or (3C) ”.

(17) In section 96 (civil partnership with former spouse)—

- (a) in subsection (3)(b), for “91” substitute “ 91(1) ”, and
- (b) in subsection (3)(c), for “paragraph (b)” substitute “ subsection (1)(b) ”.

(18) In section 97 (certificates of no impediment for Part 2 purposes)—

- (a) in subsection (4), for “14 days” substitute “ 28 days ”, and
- (b) after subsection (5) insert—

“(5A) For the purposes of subsection (5), an objection which is submitted by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.”.

(19) In section 100 (offences)—

- (a) in subsection (2)—

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- (i) in paragraphs (c), (d) and (e), after “being” insert “ an approved celebrant or, as the case may be, ”, and
 - (ii) in paragraph (f), for the words from “a” in the second place where it appears to the end substitute “ in accordance with section 93 ”,
- (b) after subsection (3) insert—
- “(3A) A person commits an offence if the person—
- (a) registers a civil partnership in an area or place in which by virtue of section 94B(4)(b) the person is not permitted to register a civil partnership,
 - (b) registers a civil partnership in contravention of section 94C(7),
 - (c) being a person temporarily authorised under section 94E—
 - (i) if authorised under subsection (1)(a) of that section, registers a civil partnership not specified in the authorisation,
 - (ii) if authorised under subsection (1)(b) of that section, registers a civil partnership outwith the period specified in the authorisation,
 - (iii) in either case, registers a civil partnership otherwise than in accordance with such terms and conditions as may be specified in the authorisation,
 - (d) being a party to a civil partnership, fails to comply with a notice served under section 95ZA(2).
- (3B) A person guilty of an offence under subsection (3A) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”, and
- (c) in subsection (4), for “or (2)” substitute “ , (2) or (3A) ”.
- (20) In section 126(4) (regulations), after “section” insert “ 94A(1)(a)(i) or (5), 94B(3), 94E(4) or ”.
- (21) In section 135(1) (interpretation of Part 3)—
- (a) after the definition of “the 1965 Act” insert—

““approved celebrant” has the meaning given by section 94A(4)(a);”
 - (b) after the definition of “civil partnership schedule” insert—

““civil registration” has the meaning given by section 94A(4)(c);”,
and
 - (c) after the definition of “registration office” insert—

““religious or belief body” means an organised group of people—

 - (a) which meets regularly for religious worship, or
 - (b) the principal object (or one of the principal objects) of which is to uphold or promote philosophical beliefs and which meets regularly for that purpose;

“religious or belief civil partnership” has the meaning given by section 94A(4)(b);”.

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(22) For schedule 10 substitute—

“SCHEDULE 10 **S**
(introduced by section 86)

FORBIDDEN DEGREES OF RELATIONSHIP: SCOTLAND

- (1) **Relationships by consanguinity**
- Parent
 - Child
 - Grandparent
 - Grandchild
 - Sibling
 - Aunt or uncle
 - Niece or nephew
 - Great-grandparent
 - Great-grandchild
- (2) **Relationships by affinity referred to in section 86(3)**
- Child of former spouse
 - Child of former civil partner
 - Former spouse of parent
 - Former civil partner of parent
 - Former spouse of grandparent
 - Former civil partner of grandparent
 - Grandchild of former spouse
 - Grandchild of former civil partner.”.

VALID FROM 01/09/2014

25 Power of district registrar to require evidence of nationality: civil partnership **S**

In section 88 of the 2004 Act (notice of proposed civil partnership), after subsection (7) (inserted by section 24(5) of this Act) insert—

- “(8) A district registrar to whom a notice under subsection (1) is submitted may require the person submitting the notice to provide the district registrar with specified nationality evidence relating to each of the intended civil partners.
- (9) A requirement under subsection (8) may be imposed at any time—
- (a) on or after the submitting of the notice under subsection (1), but
 - (b) before the district registrar completes the civil partnership schedule.
- (10) In subsection (8), “specified nationality evidence” means such evidence of that person's nationality as may be specified in guidance issued by the Registrar General.”.

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VALID FROM 16/12/2014

26 Recognition of overseas relationships **S**

- (1) The 2004 Act is amended as follows.
- (2) In section 214 (general conditions in relation to recognition of overseas relationships)
—
 - (a) after paragraph (b) insert—
 - “(ba) the relationship is not one of marriage,” and
 - (b) in paragraph (c), for the words from the second “or” to the end substitute “but are not treated as married”.
- (3) In schedule 20 to the 2004 Act (specified relationships), the following entries are repealed—

“Argentina	marriage”,
“Belgium	marriage”,
“Brazil	marriage”,
“Canada	marriage”,
“Denmark	marriage”,
“Iceland	marriage”,
“Mexico: Mexico City Federal District	marriage”,
“Netherlands	marriage”,
“Norway	marriage”,
“Portugal	marriage”,
“South Africa	marriage”,
“Spain	marriage”,
“Sweden	marriage”,
“United States of America: California	marriage”,

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“United States of America: Connecticut	marriage”,
“United States of America: District of Columbia	marriage”,
“United States of America: Iowa	marriage”,
“United States of America: Massachusetts	marriage”,
“United States of America: New Hampshire	marriage”,
“United States of America: New York	marriage”,
“United States of America: Vermont	marriage”.

27 **Dissolution of civil partnership: evidence** S

- (1) Article 2 of the 2012 Order (which disapplies from certain actions for dissolution of civil partnership section 8(3A) of the Civil Evidence (Scotland) Act 1988 (requirement for evidence other than that of a party to the civil partnership)) is to be taken to have been in force since 5 December 2005 and to have had effect in relation to actions raised before 30 March 2012 as it has effect in relation to actions raised on or after that date.
- (2) The “2012 Order” is the Evidence in Civil Partnership and Divorce Actions (Scotland) Order 2012 (SSI 2012/111).

Commencement Information

II [S. 27](#) in force at 21.5.2014 by [S.S.I. 2014/121](#), [art. 2\(f\)](#)

Status:

Point in time view as at 21/05/2014. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Marriage and Civil Partnership (Scotland) Act 2014, PART 2.