
SCOTTISH STATUTORY INSTRUMENTS

2005 No.573

CIVIL PARTNERSHIP

The Civil Partnership (Overseas Relationships) (Scotland) Order 2005

Made - - - - *10th November 2005*
Laid before the Scottish
Parliament - - - - *11th November 2005*
Coming into force - - *5th December 2005*

The Scottish Ministers, in exercise of the powers conferred by section 259(1) and (2) of the Civil Partnership Act 2004⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Civil Partnership (Overseas Relationships) (Scotland) Order 2005 and shall come into force on 5th December 2005.

(2) In this Order—

“the Act” means the Civil Partnership Act 2004; and

“recognised overseas relationship” means an overseas relationship which is treated as a civil partnership pursuant to chapter 2 of Part 5 of the Act.

(3) This Order shall extend to Scotland only.

Overseas relationships dissolved etc. before commencement treated as civil partnerships

2. The following provisions are specified for the purpose of section 215(5)(b) of the Act (overseas relationships treated as civil partnerships: the general rule)—

(a) section 2 (Marriage of related persons) and section 3 (Notice of intention to marry) of and Schedule 1 (Degrees of Relationship) to the Marriage (Scotland) Act 1977⁽²⁾;

(1) 2004 c. 33.

(2) 1977 c. 15; section 2 was amended by the Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9), Schedule 1, paragraph 17 and Schedule 2 and by the Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16), Schedule 2; section 3 was amended by the Marriage (Prohibited Degrees of Relationship) Act 1986, Schedule 2 and by the Family Law Act 1986 (c. 55), Schedule 1, paragraph 21; Schedule 1 was amended by the Marriage (Prohibited Degrees of Relationship) Act 1986, Schedule 2.

- (b) the Damages (Scotland) Act 1976⁽³⁾; and
- (c) section 86 (Eligibility) and section 88 (Notice of proposed civil partnership) of and Schedule 10 (Forbidden Degrees of Relationship: Scotland) to the Act.

Transitional provision relating to overseas relationships

3. Section 212 of the Act shall apply for the purpose of determining whether a relationship entered into before 5th December 2005 is an overseas relationship as though for the words in subsection (1) (b) from “and” to the end of the subsection there were substituted—

- “(ii) neither of whom is lawfully married or a party to a recognised overseas relationship registered under the relevant law before the relationship concerned was entered into; and
- (iii) neither of whom is on 5th December a party to a marriage which on the date of its celebration was valid according to the law of Scotland (including its rules of private international law).”.

St Andrew’s House, Edinburgh
10th November 2005

HUGH HENRY
Authorised to sign by the Scottish Ministers

(3) 1976 c. 13. Relevantly amended by the Administration of Justice Act 1982, section 14(4) and 73(5) and the Law Reform (Parent and Child) (Scotland) Act 1986, sections 9, 10(1) and Schedule 1, paragraph 15.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision relating to the treatment of overseas relationships treated as civil partnerships by virtue of Chapter 2 of Part 5 of the Civil Partnership Act 2004 (“the Act”) which were registered in the country where they were entered into before the date on which the Act comes into force (5th December 2005).

Under section 215 of the Act, an overseas relationship registered abroad before 5th December 2005 will be treated as a civil partnership which was formed on the date on which that section comes into force. However, for most purposes, an overseas relationship which was dissolved or annulled before that date will not be treated as a civil partnership. Paragraphs (a) and (c) of section 215(5) of the Act modify this rule in relation to certain specified provisions and the Act gives the Scottish Ministers power to specify additional provisions. Article 2 of this Order exercises that power.

Article 3 of this Order modifies section 212 of the Act which determines when an overseas relationship formed before 5th December 2005 will be recognised as a civil partnership in order to ensure that a person cannot be recognised as being a party to more than one civil partnership or a civil partnership and a marriage at any one time.