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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provisions and modifications in consequence of same sex marriage becoming lawful under the Marriage and Civil Partnership (Scotland) Act 2014 (“the 2014 Act”) and the introduction of civil partnerships under the Civil Partnership Act 2004 (“the 2004 Act”).

### Part 1

Part 1 of the Order contains interpretation and extent provisions for the Order.

### Part 2

Part 2 of, and Schedules 1 to 4 to, the Order make consequential provision and modifications about the meaning of “marriage” and related expressions in the reserved law of Scotland.

Part 1 of Schedule 1 creates a statutory gloss (“the gloss”) so that, in the reserved law of Scotland, marriage has the same effect in relation to same sex couples as it does in relation to opposite sex couples. The “reserved law of Scotland” is defined in paragraph 1(4) of Part 1 of that Schedule. Part 2 of Schedule 1 makes provision about the interpretation of various marriage related terms in both existing and new Scottish legislation. This is similar to what was done for the law of England and Wales in the Marriage (Same Sex Couples) Act 2013, but arises as a result of same sex marriage becoming lawful in Scotland under the 2014 Act.

Schedule 2 makes contrary provision to the gloss in Schedule 1. Part 1 of that Schedule makes general provision and Part 2 makes specific provision.

Schedule 3 makes modifications to specific primary and secondary legislation as a result of the contrary provision to the gloss in Schedule 2. These modifications replicate amendments made by the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 ([S.I. 2014/560](#)).

Schedule 4 to the Order makes consequential modifications to the Social Security Pensions Act 1975 and the Social Security Contributions and Benefits Act 1992.

The modifications in Schedule 4 replicate for Scotland the amendments made by the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 ([S.I. 2014/560](#)), and makes further provisions in respect of transgender couples.

### Part 3

Part 3 of the Order makes consequential provision about the treatment of Scottish same sex marriages in Northern Ireland. The provisions mean that a same sex marriage registered in Scotland is deemed to be a civil partnership in Northern Ireland. A final order or separation order made in Northern Ireland in respect of a deemed civil partnership has the same effect in relation to the actual same sex marriage as it does in relation to the deemed civil partnership.

### Part 4

Part 4 of the Order makes consequential provision about a person’s entitlement to state pension based on a current or deceased spouse’s or civil partner’s National Insurance record. This Part of the Order

**Draft Legislation:** This is a draft item of legislation and has not yet been made as a UK Statutory Instrument.  
This draft has been replaced by a new draft, *The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014* ISBN 978-0-11-112240-2

replicates what was done for England and Wales in Part 5 of Schedule 4 to the Marriage (Same Sex Couples) Act 2013.

### **Part 5**

Part 5 of the Order makes consequential provision about armed forces and consular same sex marriages. Chapter 1 of Part 5 concerns armed forces same sex marriages which take place in accordance with the Overseas Marriage (Armed Forces) Order 2014 ([S.I. 2014/1108](#)) in circumstances where Scotland is the relevant part of the United Kingdom.

Chapters 2 to 4 of Part 5 of the Order makes consequential provision and modifications about consular and armed forces marriage between civil partners where the civil partnership was registered in Scotland or the civil partners elected Scotland as the relevant part of the United Kingdom for registration purposes.

### **Part 6**

Part 6 of, and Schedules 5 and 6 to, the Order make consequential modifications to primary and secondary legislation respectively.

The modifications in Schedules 5 and 6 relate to civil partners, marriage and related expressions.