



# Civil Partnership (Scotland) Act 2020

2020 asp 15

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 23rd June 2020 and received Royal Assent on 28th July 2020**

An Act of the Scottish Parliament to enable persons of different sexes to be in a civil partnership; and for connected purposes.

*Extension of civil partnership to different sex couples*

## 1 Different sex civil partnerships

- (1) The Civil Partnership Act 2004 is amended as follows.
- (2) In section 1 (civil partnership), in subsection (1) the words “of the same sex” are repealed.

### Commencement Information

- 11** [S. 1](#) in force at 1.2.2021 for specified purposes by [S.S.I. 2020/414](#), [reg. 2\(1\)\(a\)\(2\)](#)
- 12** [S. 1](#) in force at 1.6.2021 in so far as not already in force by [S.S.I. 2021/23](#), [reg. 2](#), [sch.](#) (with [reg. 3](#))

## 2 Recognition of overseas different sex relationships

- (1) The Civil Partnership Act 2004 is amended as follows.
- (2) In section 212 (meaning of “overseas relationship”), subsection (1)(b)(i) is repealed.
- (3) In section 213 (specified relationships)—
  - (a) in subsection (1), for “by Schedule 20” substitute—
    - “(a) in the case of a relationship registered by two people who under the relevant law are of the same sex when the relationship is registered, by Part 1 of Schedule 20,
    - (b) in the case of a relationship registered by two people who under the relevant law are not of the same sex when the relationship is registered, by Part 2 of Schedule 20”,
  - (b) in subsection (2), after “amend” insert “ Part 1 of ”,
  - (c) in subsection (3), after “this section” insert “ amending Part 1 of Schedule 20 ”,

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- (d) in subsection (5), after “amending” insert “ Part 1 of ”,
- (e) in subsection (6), after “this section” insert “ amending Part 1 of Schedule 20 ”,
- (f) after subsection (6) insert—
  - “(7) The Scottish Ministers may by regulations amend Part 2 of Schedule 20 by—
    - (a) adding a relationship,
    - (b) amending the description of a relationship,
    - (c) omitting a relationship.
  - (8) Regulations under subsection (7)—
    - (a) amending the description of a relationship or omitting a relationship, are subject to the affirmative procedure,
    - (b) adding a relationship, are subject to the negative procedure.”.
- (4) In section 215 (overseas relationship treated as civil partnerships: the general rule)—
  - (a) in subsection (2), for “subsection (3)” substitute “ subsections (3) and (3A) ”,
  - (b) after subsection (3) insert—
    - “(3A) In its application to an overseas relationship between persons of different sexes entered into before this subsection comes into force, subsection (2) is subject to—
      - (a) any provision to the contrary made by or under any enactment,
      - (b) regulations under subsection (3B).
    - (3B) The Scottish Ministers may by regulations provide for subsection (2) —
      - (a) to have effect subject to provision made by the regulations, or
      - (b) not to apply in cases specified in the regulations.
    - (3C) Regulations under subsection (3B)—
      - (a) may include consequential, supplementary, incidental, transitional, transitory or saving provision,
      - (b) are subject to the negative procedure.”,
    - (c) in subsection (6), the word “216,” is repealed.
- (5) Section 216 (the same sex requirement) is repealed.
- (6) In schedule 20 (meaning of overseas relationship: specified relationships)—
  - (a) the existing text becomes Part 1,
  - (b) in that Part, in paragraph 1, for “section 213” substitute “ section 213(1)(a) ”,
  - (c) after that Part insert as Part 2 the text in schedule 1 of this Act.

#### Commencement Information

- I3** S. 2 in force at 1.2.2021 for specified purposes by [S.S.I. 2020/414](#), [reg. 2\(1\)\(a\)\(2\)](#)
- I4** S. 2 in force at 1.6.2021 in so far as not already in force by [S.S.I. 2021/23](#), [reg. 2](#), [sch.](#) (with [reg. 3](#))
- I5** S. 2(1)(3)(f)(4)(b) in force at 18.1.2021 for specified purposes by [S.S.I. 2020/457](#), [reg. 2\(a\)](#)

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### 3 Interim recognition of different sex relationships formed outwith Scotland

- (1) This section applies to a civil partnership between persons of different sexes—
  - (a) which is formed when they register as civil partners of each other—
    - (i) in England or Wales under Part 2 of the 2004 Act,
    - (ii) in Northern Ireland under Part 4 of the 2004 Act,
  - (b) which is formed when they register as civil partners of each other outside the United Kingdom under an Order in Council made under section 210 or 211 of the 2004 Act, or
  - (c) which they are treated under Chapter 2 of Part 5 of the 2004 Act as having formed (at the time determined under that Chapter) by virtue of having registered an overseas relationship.
- (2) Two persons in a civil partnership—
  - (a) mentioned in subsection (1)(a) or (c) are to be treated as being in a marriage formed under the law of the country or territory in which the civil partnership or (as the case may be) overseas relationship is registered,
  - (b) mentioned in subsection (1)(b) are to be treated as having formed a marriage in the part of the United Kingdom in which the civil partnership is, by virtue of section 210(5) or (as the case may be) 211(4) of the 2004 Act, to be treated as having been registered.
- (3) Nothing in subsection (2) prevents persons in a civil partnership to which this section applies—
  - (a) presenting themselves as civil partners of each other,
  - (b) presenting their relationship as a civil partnership.
- (4) Subsections (2) and (3) cease to have effect when section 6 comes into force (which is when it will become possible to register a civil partnership between persons of different sexes in Scotland).
- (5) The Scottish Ministers may by regulations—
  - (a) provide for subsection (2) not to apply for purposes specified in the regulations,
  - (b) make transitional or saving provision in connection with subsection (2) ceasing to have effect.
- (6) Regulations under subsection (5) are subject to the negative procedure.
- (7) In this section, “the 2004 Act” means the Civil Partnership Act 2004.

#### Commencement Information

**16** S. 3 in force at 1.2.2021 by S.S.I. 2020/414, reg. 2(1)(b) (with reg. 3)

*Power to enable marriages to become civil partnerships*

### 4 Power to enable marriages to become civil partnerships

- (1) The Scottish Ministers may by regulations make provision for, or in connection with, enabling the parties to a marriage—
  - (a) to register as civil partners of each other,

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- (b) to change their marriage into a civil partnership.
- (2) Regulations under subsection (1) may in particular make provision—
  - (a) about the marriages to which the regulations apply,
  - (b) about the ways in which marriages may be changed into civil partnerships under the regulations,
  - (c) modifying the Civil Partnership Act 2004 in its application—
    - (i) to registering civil partnerships and changing marriages into civil partnerships under the regulations, and
    - (ii) to civil partnerships formed by registration and civil partnerships formed by marriages changing into civil partnerships under the regulations,
  - (d) modifying the definition of “qualifying civil partnership” in section 5 of the Marriage (Scotland) Act 1977,
  - (e) modifying section 11(2)(b) of the Marriage and Civil Partnership (Scotland) Act 2014 in its application to qualifying civil partnerships where the parties to the civil partnership were married to each other immediately before the civil partnership was formed,
  - (f) about the effect of registering civil partnerships and changing marriages into civil partnerships under the regulations,
  - (g) about when the resulting civil partnership is to be treated as having been formed and when the marriage is to be treated as having ended,
  - (h) for fees of such amounts as may be specified in or determined in accordance with the regulations.
- (3) Regulations which make provision under subsection (1)(b) may provide for the regulations to apply only to marriages in categories specified in the regulations.
- (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 incidental, supplementary, consequential, 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.

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#### Commencement Information

**I7** S. 4 in force at 1.6.2021 by S.S.I. 2021/23, reg. 2, sch. (with reg. 3)

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*Recognition of marriages converted to civil partnerships outwith Scotland*

**5 Recognition of marriages converted to civil partnerships outwith Scotland**

- (1) The Scottish Ministers may by regulations make provision of the type described in subsection (2) in relation to a marriage that is converted into a civil partnership in accordance with provision made under—
  - (a) section 2(5)(a) of the Civil Partnerships, Marriages and Deaths (Registration etc) Act 2019, or
  - (b) section 8(5)(a) of the Northern Ireland (Executive Formation etc) Act 2019.
- (2) The provision mentioned in subsection (1) is—
  - (a) provision for such a marriage to be treated in the law of Scotland as if the parties had registered as civil partners of each other in England and Wales or (as the case may be) Northern Ireland,
  - (b) provision as to—
    - (i) the date on which the parties' marriage is to be treated as having ended,
    - (ii) the date on which the parties are to be treated as having registered as civil partners.
- (3) Regulations under subsection (1)—
  - (a) may make different provision for different purposes,
  - (b) may include incidental, supplementary, consequential, transitional, transitory or saving provision,
  - (c) may modify any enactment (including this Act),
  - (d) are (except where subsection (4) applies) subject to the negative procedure.
- (4) Regulations under subsection (1) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure.

**Commencement Information**

**18** [S. 5](#) in force at 1.6.2021 by [S.S.I. 2021/23](#), [reg. 2](#), [sch.](#) (with [reg. 3](#))

*Eligibility and registration in Scotland*

**6 Eligibility of persons of different sexes to enter into a civil partnership**

- (1) The Civil Partnership Act 2004 is amended as follows.
- (2) In section 86 (eligibility), subsection (1)(a) is repealed.

**Commencement Information**

**19** [S. 6](#) in force at 1.6.2021 by [S.S.I. 2021/23](#), [reg. 2](#), [sch.](#) (with [reg. 3](#))

**7 Persons who may register civil partnerships between persons of different sexes**

- (1) The Civil Partnership Act 2004 is amended as follows.