

# **FAMILY LAW (SCOTLAND) ACT 2006**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### ***General***

#### ***Section 44: Ancillary provision***

62. This section provides the Scottish Ministers with power to make consequential, transitional or saving provisions needed to give full effect to the Act.

#### ***Section 45: Minor and consequential amendments and appeals***

63. [Section 45\(1\)](#) gives effect to schedule 2 which provides for consequential amendments. [Section 45\(2\)](#) gives effect to schedule 3 which provides for consequential repeals.

#### ***Section 46: Short title and commencement***

64. [Section 46](#) contains power to make commencement orders (which are not subject to any parliamentary procedure) to bring the Act into effect. Statutory instruments containing orders made under section 44 will be subject to negative resolution procedure unless they modify primary legislation, in which case they will be subject to affirmative procedure in the Parliament.

#### ***Schedule 1: Amendments of the Civil Partnership Act 2004***

65. [Schedule 1](#) makes amendments to the Civil Partnership Act 2004. Paragraphs 3 to 6 relate to the occupancy rights of civil partners with regard to the family home. Paragraph 8 extends the scope of interdicts to include the family home, place of work and school attended by a child in the care of the applicant civil partner. Paragraph 9 reduces the qualifying non-cohabitation periods for dissolution of a civil partnership from two years to one year where the parties consent and from five years to two where one of the parties does not consent. Paragraph 12 amends the definition of “family home” in section 135 of the Civil Partnership Act 2004 to include the condition that where one civil partner transfers tenancy to the other civil partner (either by agreement or under any enactment) then from that point the house ceases to be the “family home”.