
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 461

CIVIL PARTNERSHIP

The Civil Partnership (Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations) (Scotland) Amendment Regulations 2021

Made - - - - *8th December 2021*
Laid before the Scottish
Parliament - - - - *10th December 2021*
Coming into force - - *28th February 2022*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 237(2)(b)(ii) of the Civil Partnership Act 2004(1) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Civil Partnership (Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations) (Scotland) Amendment Regulations 2021 and come into force on 28 February 2022.

Amendment of Provisions

2.—(1) Regulation 3 of the Civil Partnership (Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations) (Scotland) Regulations 2005(2) is amended as follows.

(2) In the heading, for “between two people of the same sex” substitute “of the sort in question”.

(3) In paragraph (2), in the inserted subsection (1A)(c), for “relationships between people of the same sex” substitute “the relevant sort of relationship”.

(4) In paragraph (3), in the inserted subsection (2A)(b), for “relationships between people of the same sex” substitute “the relevant sort of relationship”.

(5) After paragraph (3) insert—

“(4) After subsection (3) insert—

(1) 2004 c. 33. Section 237(2), in so far as extending to Scotland, was amended by paragraph 6(5) of schedule 2 of the Civil Partnership (Scotland) Act 2020 (asp 15).

(2) S.S.I. 2005/567.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“(3A) In this section references to “the relevant sort of relationship” are to the sort of relationship that the civil partnership in question is, and include—

- (a) in the case of a relationship between two persons who are of the same sex under the relevant law, reference to that sort of relationship whether generally or between two persons of the same sex,
- (b) in the case of a relationship between two persons who are of different sexes under the relevant law, reference to that sort of relationship whether generally or between two persons of different sexes.

(3B) In subsection (3A), “the relevant law” means the law in relation to which the question of recognition arises under subsection (1A)(c) or (as the case may be) (2A)(b).””.

St Andrew’s House,
Edinburgh
8th December 2021

SHONA ROBISON
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Partnership (Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations) (Scotland) Regulations 2005 (“the 2005 Regulations”) to take account of the introduction of mixed sex civil partnership in Scotland.

Regulation 3 of the 2005 Regulations modifies the application of section 235 of the Civil Partnership Act 2004 which concerns the circumstances in which an order granting an overseas dissolution, annulment or legal separation of a civil partnership is to be recognised in the United Kingdom. The effect of the modification is to relax the conditions for recognition in cases where the person seeking the order was habitually resident or domiciled in a country where same sex relationships aren’t recognised and where there is no provision for the granting of such orders in relation to same sex couples.

Regulation 2 of these Regulations amends regulation 3 of the 2005 Regulations so that the relaxation of the conditions for recognition instead applies where, in the country in question, there is no recognition of the relevant sort of relationship and no provision for the granting of such orders in relation to the relevant sort of relationship. “The relevant sort of relationship” is defined as referring to the sort of relationship generally, or those between same sex couples or those between mixed sex couples in particular.