

*These notes refer to the Civil Partnership Act 2004 (c.33)  
which received Royal Assent on 18th November 2004*

# **CIVIL PARTNERSHIP ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 3 - Civil Partnerships: Scotland**

##### **Introduction**

##### *Chapter 2 - Registration*

179. The UK has three Registrars General covering Scotland, Northern Ireland and England and Wales. The law concerning registration in Scotland is devolved to the Scottish Parliament. There is separate legislation covering the functions of the Registrar General for Scotland. Consequently, the provisions on civil partnerships reflect (and are internally consistent with) the legislation and procedures that apply in Scotland.

##### *Section 87: Appointment of authorised registrars*

180. This section empowers the Registrar General for Scotland, for the purpose of affording reasonable facilities throughout Scotland for registration as civil partners, to appoint such number of district registrars as he thinks necessary, and for any district with a district registrar, one or more assistant registrars, as persons who may carry out such registration.

##### *Section 88: Notice of proposed civil partnership*

181. This section closely follows the procedures for civil preliminaries contained in the Marriage (Scotland) Act 1977. It provides procedures for the completion, by each party, of the notice of proposed civil partnership and for the submission, with the prescribed fee, of the notice to the district registrar. The content of the notice may be prescribed by regulations made by the Registrar General for Scotland with the approval of the Scottish Ministers.

##### *Section 89: Civil partnership notice book*

182. This section requires the district registrar to enter into “the civil partnership book” such particulars from the notice of proposed civil partnership may be prescribed by the Registrar General for Scotland. The Registrar General is to prescribe the form and content of the book.

##### *Section 90: Publicisation*

183. This section follows similar provisions in the Marriage (Scotland) Act 1977 about making public the intention to form a civil partnership. The section provides that the district registrar must publicise the relevant information (names of intended civil partners and date of intended registration) as soon as practicable and send it to the Registrar General who must also publicise the information. Subject to section 91, the date on which it is intended to sign the civil partnership document should be a date

more than 14 days after publicisation by the district registrar. The manner in which the information is to be publicised will be prescribed by the Registrar General.

### ***Section 91: Early registration***

184. This section enables an authorised registrar, provided he is authorised to do so by the Registrar General, on receipt of a written request from one or both of the intended civil partners to fix the date for registering as civil partners at a date earlier than 14 days after the publicisation of the intended date of signing the civil partnership register. It is anticipated that this power will be exercised in similar circumstances to its equivalent under the Marriage (Scotland) Act 1977, typically where one of the proposed civil partners is seriously ill and not expected to recover.

### ***Section 92: Objections to registration***

185. This section provides procedures for any person to make an objection in writing to the district registrar to the issue of a civil partnership schedule to prevent the registration as civil partners. The objection must relate to a lawful impediment.

### ***Section 93: Place of registration***

186. This section provides that a civil partnership document may be signed at a registration office or at any place which the intended civil partners and the local registration authority agree. It also provides that the place of registration may, if the approval of the Registrar General is obtained, be outwith the district of the authorised registrar carrying out the registration. However, the place must not be in religious premises, which are defined in *subsection (2)*.

### ***Section 94: The civil partnership schedule***

187. This section provides for the completion by the district registrar of the civil partnership schedule. This may be done providing the relevant district registrar has no concerns over the capacity of the couple to form a civil partnership, that there are no outstanding objections and that the required period of publicisation has expired.

### ***Section 95: Further provision as to registration***

188. *Subsection (1)* requires the persons who intend to form a civil partnership to confirm that (to the best of their knowledge) the particulars set out in the civil partnership schedule are correct.
189. *Subsection (2)* also requires the authorised registrar, as soon as practicable after the schedule has been signed, to cause the particulars to be entered into the “civil partnership register”. *Subsection (3)* states that the form and content of the register will be prescribed by the Registrar General for Scotland. *Subsection (4)* provides that a prescribed fee will also be paid by the intended civil partners for the registration of their relationship.

### ***Section 96: Civil partnership with former spouse***

190. This section provides for the signing of a civil partnership schedule to take place quickly, where the couple were previously married to each other and one of them has changed gender under the provisions of the Gender Recognition Act 2004. The aim is to minimise, as much as possible, the time between the end of the marriage and the creation of the civil partnership where couples wish to recreate their legal relationship.
191. The section sets out the procedure for effecting the signature of the civil partnership document in the circumstances described above. The signing of the civil partnership schedule can take place on any of the 30 days immediately following the day that both

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notices of proposed civil partnerships are given, or if they are given on different days, on the day the second notice is given.

***Section 97: Certificates of no impediment for part 2 purposes***

192. This section applies where two people intend to register as civil partners of each other and one (“A”) resides in Scotland and the other (“B”) resides in England or Wales. *Subsections (1) and (2)* would allow “A” to submit a notice of intention to register in Scotland under section 88. Under *subsection (3)*, if the district registrar is satisfied that there is no impediment to “A” registering as “B’s” civil partner, the district registrar must issue a certificate that there is not known to be any impediment. *Subsection (4)* states that the certificate is not to be issued earlier than 14 days after receipt of the notice, except in circumstances relating to section 96(1) where “A” elects for the certificate to be issued as soon as possible. The form of the certificate is to be prescribed by the Registrar General. *Subsection (5)* allows for an objection to be made to the district registrar in writing by any person before a certificate is issued. *Subsection (6)* states that the district registrar is obliged to take into account any objection when he is deciding whether he is satisfied that there is no legal impediment.

***Section 98: Application of certain sections of 1965 Act to civil partnership register***

193. This section provides that certain provisions of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 apply to the civil partnership register as they apply in relation to registers of births, deaths and marriages. These provisions enable the examination of the civil partnership register by district examiners, the searching of indexes kept by registrars or the Registrar General for Scotland and the application to the register of the process of correction.

***Section 99: Correction of errors in civil partnership register***

194. This section provides that no alteration may be made to the civil partnership register except as authorised by or under an Act (including an Act of the Scottish Parliament). It enables the district registrar to correct a clerical error or an error of a kind prescribed by the Registrar General for Scotland. The Registrar General may also authorise district examiners to correct any specified errors which they discover during an examination under section 34 of the Births, Deaths and Marriages (Scotland) Act 1965.

***Section 100: Offences***

195. This section provides for certain offences in relation to civil partnerships. *Subsections (1) and (2)* set out the offences a person, if they act knowingly, may possibly commit under civil partnership proceedings. *Subsection (3)* sets out the maximum penalties that may be imposed on a person found guilty under *Subsection (1)* or *(2)*. *Subsection (4)* confirms the time limit during which a prosecution may commence.