

MARRIAGE AND CIVIL PARTNERSHIP (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY

Part 1 – Marriage

Chapter 3 – Solemnisation of marriage

Section 14: Temporary authorisation of celebrants

88. Section 12 of the 1977 Act allows the Registrar General to grant temporary authorisation to solemnise marriage to a person. Section 12(1)(a) relates to temporary authorisation for a specific marriage or marriages and section 12(1)(b) relates to temporary authorisation for a period of time.
89. Subsection (2)(a) amends the Registrar General’s power to clarify that temporary authorisations may be granted only to members of religious or belief bodies.
90. Subsection (2)(b) inserts new subsection (1A) into section 12 of the 1977 Act to provide that the Registrar General may grant an authorisation only if the religious or belief body meets the “qualifying requirements”. The “qualifying requirements” are those set out in regulations made by the Scottish Ministers (new section 12(1D)). These regulations are subject to the negative parliamentary procedure (new section 12(1F)).
91. Under section 12(1B), as inserted, temporary authorisation may be granted for opposite sex marriage only, for same sex marriage only or for both.
92. Under section 12(1C), as inserted, the Registrar General can only grant a temporary authorisation for a period of time under section 12(1)(b) to solemnise same sex marriages if the relevant religious or belief body is prescribed by regulations under section 8 so that its celebrants can solemnise same sex marriage or has nominated members under section 9 to solemnise same sex marriage.
93. Subsection (3) clarifies the existing offence under section 24(2)(c) of the 1977 Act of solemnising a marriage not covered by a temporary authorisation. The amendments made by subsection (3) have the effect that it is an offence to solemnise a marriage:
 - (a) where it is not specified in a temporary authorisation;
 - (b) where it is outwith the period of the temporary authorisation;
 - (c) otherwise than in accordance with any terms and conditions in the temporary authorisation.