



# Civil Partnership (Scotland) Act 2020

## 2020 asp 15

### *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- (2) In section 1 (civil partnership), in subsection (1) the words “of the same sex” are repealed.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- (2) In section 212 (meaning of “overseas relationship”), subsection (1)(b)(i) is repealed.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 ”,
  - (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—

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**Changes to legislation:** There are currently no known outstanding effects for the Civil Partnership (Scotland) Act 2020, Cross Heading: Extension of civil partnership to different sex couples. (See end of Document for details)

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- “(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)**

### 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—

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- (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.

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**Commencement Information**

**I6** S. 3 in force at 1.2.2021 by S.S.I. 2020/414, reg. 2(1)(b) (with reg. 3)

**Changes to legislation:**

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