

CIVIL PARTNERSHIP (SCOTLAND) ACT 2020

EXPLANATORY NOTES

COMMENTARY ON PROVISIONS

Eligibility and Registration in Scotland

Section 6: Eligibility of persons of different sexes to enter into a civil partnership

18. Section 86(1) of the 2004 Act sets out the circumstances in which two people are not eligible to register as civil partners, including that the parties are related in a forbidden degree or that one or both is under 16. These disqualifying criteria include in section 86(1)(a) that the two people are not of the same sex. Section 6 of the Act repeals section 86(1)(a).

Section 7: Persons who may register civil partnerships between persons of different sexes

19. Section 7 of the Act amends section 94A of the 2004 Act. Section 94A makes provision about the persons who may register same sex civil partnerships. It sets out both the categories of approved celebrant and provisions regarding the prescription of religious or belief bodies by regulations. A celebrant of a prescribed body or a person recognised by that body as entitled to register civil partnerships on its behalf is an approved celebrant without having to be individually registered as such. Section 7 of the Act amends section 94A to create two different categories of persons who may register civil partnerships: those in relation to same sex civil partnerships and those in relation to different sex civil partnerships.
20. Section 94A(2A)(a)(i), added by section 7(2)(b) of the Act, empowers the Scottish Ministers to prescribe religious or belief bodies so that their celebrants are authorised to register different sex civil partnerships. This will complement the power in section 94A(1)(a)(i) of the 2004 Act, which, as amended by section 7(2) of the Act, will be restricted to same sex civil partnerships. Section 7(2)(f) of the Act adds the new regulation-making power contained in section 94A(2A)(a)(i) to the list of powers set out in section 126(4) of the 2004 Act. Those powers are subject to annulment in pursuance of a resolution of the Parliament (i.e. the negative procedure as set out in section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

Section 8: Registration and removal of celebrants

21. Section 8 of the Act amends the 2004 Act in respect of sections 94B and 94C.
22. In accordance with section 94B of the 2004 Act, a religious or belief body can nominate one of its members to the Registrar General. If the nomination is accepted and the individual's name is entered in a register, that person becomes an approved celebrant. Section 8(2) of the Act amends section 94B to provide for celebrants to be nominated and approved separately for the purposes of registering same sex and mixed sex civil partnerships.

Section 9: Temporary authorisation of celebrants

23. Section 9 of the Act amends [section 94E of the 2004 Act](#). Section 94E provides that a temporary authorisation may be granted to allow the celebrant to register one or more specified civil partnerships (subsection (1)(a)) or to allow the celebrant to register civil partnerships over a specified period of time (subsection (1)(b)). Section 9(2)(a) of the Act adds new subsection (2A) to section 94E to provide that authorisations may be granted in relation to one category of civil partnership only or both. Section 9(2)(b) and (c) of the Act amend the provision for authorisation in section 94E to set out the conditions for authorisation in respect of each category of civil partnership.