

Draft Order laid before the Scottish Parliament under section 17(3) of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 and section 35(5) of the Marriage and Civil Partnership (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

CIVIL PARTNERSHIP

MARRIAGE

**The Forced Marriage etc. (Protection and Jurisdiction)
(Scotland) Act 2011 (Application to Civil Partnerships and
Consequential Provision) Order 2023**

Made - - - - 2023

Coming into force - - 30th November 2023

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 10(1) and (2) and 16(1) and (2) of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011(a), section 35(1) and (3) of the Marriage and Civil Partnership (Scotland) Act 2014(b), and all other powers enabling them to do so.

In accordance with section 17(3) of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 and section 35(5) of the Marriage and Civil Partnership (Scotland) Act 2014, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (Application to Civil Partnerships and Consequential Provision) Order 2023 and comes into force on 30 November 2023.

Amendment of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011

2.—(1) The Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 is amended as follows.

(2) In section 1 (forced marriage protection orders)—

(a) in subsections (1), (4) and (5), after “marriage” in each place where it occurs insert “or civil partnership”,

(a) 2011 asp 15.

(b) 2014 asp 5.

- (b) in subsection (6), in the definition of “force”, in paragraph (b), after “marriage” in both places where it occurs insert “or civil partnership”.
- (3) In section 2 (contents of orders), in subsections (2) and (4), after “marriage” in each place where it occurs insert “or civil partnership”.
- (4) In section 11 (guidance), at the end of subsection (2) insert “or forced civil partnerships.”.
- (5) In section 12 (other protection or assistance against forced marriage)—
 - (a) in subsection (1), after “marriage” in each place where it occurs insert “or civil partnership”,
 - (b) in subsection (2)—
 - (i) in paragraph (d)(i), after “1981 (c.59)” insert “or the Civil Partnership Act 2004”,
 - (ii) in paragraph (d)(ii), for “that Act” substitute “either of those Acts”,
 - (iii) omit “or” after paragraph (f),
 - (iv) after paragraph (g) insert—
 - “, or
 - (h) the law of civil partnership.”,
 - (c) the section title becomes “Other protection or assistance against forced marriage or forced civil partnership”.
- (6) In section 14 (interpretation of Part)—
 - (a) before the definition of “court” insert—
 - ““civil partnership” includes—
 - (a) a civil partnership which exists by virtue of the Civil Partnership Act 2004, and
 - (b) a purported civil partnership,”
 - (b) in the definition of “marriage”, after “religious” insert “, belief”.

Register of divorces

3. In section 28A of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (registration of divorces and declarators of nullity of marriage)(a), at the end of subsection (7) insert “or the sheriff.”.

Name
A member of the Scottish Government

St Andrew’s House
Edinburgh
Date

(a) 1965 c. 49. Section 28A was inserted by section 50(1) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73).

EXPLANATORY NOTE

(This note is not part of the Order)

Part 1 of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (“the 2011 Act”) provides for a form of order known as a “forced marriage protection order”, and related orders, that can be made by a Scottish court in order either to protect a person from being forced into a marriage, or to protect a person who has been forced into a marriage. Section 10(1) of the 2011 Act confers a power on the Scottish Ministers to make provision applying Part 1 of the Act to civil partnerships as it applies to marriages. Article 2 of this Order makes such provision.

The effect of the amendments of the 2011 Act provided for in Article 2 is to extend the purposes for which courts can make the forms of order provided for in Part 1 to include the protection of a person from being forced into a civil partnership, or to protect a person who has been forced into a civil partnership. The amendments do not alter the terms on which such orders are imposed.

Section 14 of the 2011 Act is amended by article 2(6)(a) to add a definition of “civil partnership” that includes a purported civil partnership. Article 2(6)(b) also amends the definition of “marriage” to include belief ceremonies in the forms of marriage ceremony mentioned. This is consequential on Chapter 3 of Part 1 of the Marriage and Civil Partnership (Scotland) Act 2014 which made provision for the solemnisation of marriage by authorised celebrants of belief bodies.

Article 3 is consequential on section 15 of the 2011 Act which extends jurisdiction in proceedings for declarator of nullity of marriage to the sheriff court. Article 3 amends section 28A(7) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 to provide for decrees of declarator of nullity of marriage, when granted by a sheriff, to be included in the Register of Divorces maintained by the Registrar General of Births, Deaths and Marriages for Scotland.

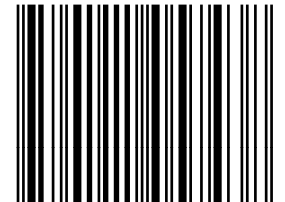
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