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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 414 (C. 38)**

**CIVIL PARTNERSHIP**

**The Civil Partnership (Scotland) Act 2020  
(Commencement No. 1 and Interim Recognition  
of Different Sex Relationships) Regulations 2020**

*Made* - - - - *2nd December 2020*  
*Laid before the Scottish*  
*Parliament* - - - - *4th December 2020*  
*Coming into force* - - *1st February 2021*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 3(5)(a) and 16(2) of the Civil Partnership (Scotland) Act 2020<sup>(1)</sup> and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Civil Partnership (Scotland) Act 2020 (Commencement No. 1 and Interim Recognition of Different Sex Relationships) Regulations 2020 and come into force on 1 February 2021.

(2) In these Regulations—

- (a) unless otherwise stated, a reference to a numbered provision is to the provision so numbered in the Civil Partnership (Scotland) Act 2020,
- (b) “the 2004 Act” means the Civil Partnership Act 2004<sup>(2)</sup>.

**Provisions coming into force on 1 February 2021**

2.—(1) 1 February 2021 is the day appointed for the coming into force of—

- (a) section 1 (different sex civil partnerships), section 2 and schedule 1 (recognition of overseas different sex relationships), but only for the purposes mentioned in paragraph (2) of this regulation,
- (b) section 3 (interim recognition of different sex relationships formed outwith Scotland), and

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(1) [2020 asp 15](#). The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#)). These Regulations are subject to the negative procedure by virtue of section 33(4) of that Act.

(2) [2004 c.33](#).

- (c) section 11 (postponement of decree of dissolution where religious impediment to marry exists), but only for the purpose of enabling the Scottish Ministers to make regulations under section 121A(7) of the 2004 Act(3).
- (2) The purposes are the purposes of—
  - (a) section 3, and
  - (b) the following provisions of the 2004 Act—
    - (i) section 1(3)(a) (ending of civil partnership),
    - (ii) Chapter 5 of Part 3 (dissolution, separation and nullity)(4), and
    - (iii) Chapter 3 of Part 5 (dissolution etc.: jurisdiction and recognition)(5).

### **Interim treatment of different sex civil partnerships formed outwith Scotland**

3.—(1) Section 3(2) (interim treatment of different sex civil partnerships as marriages) does not apply for the purposes of an action for divorce, separation of a married couple, declarator of nullity of marriage or declarator of marriage.

(2) Paragraph (1) does not affect the application of section 3(2) in relation to the determination of any application for an ancillary order in an action for—

- (a) the dissolution of a civil partnership,
- (b) the separation of civil partners, or
- (c) declarator of nullity of a civil partnership.

(3) In this regulation, “ancillary order” means an order relating to children, aliment, financial provision, or the regulation of occupancy rights.

St Andrew’s House,  
Edinburgh  
2nd December 2020

*SHIRLEY-ANNE SOMERVILLE*  
A member of the Scottish Government

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(3) Section 121A is inserted by section 11(2) of the Civil Partnership (Scotland) Act 2020.  
(4) Chapter 5 of Part 3 has been amended by paragraphs 9, 10 and 11 of schedule 1, and schedule 3 of the Family Law (Scotland) Act 2006 (asp 2), by section 52(7) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14), and by paragraph 3 of the schedule of the Succession (Scotland) Act 2016 (asp 7).  
(5) Chapter 3 of Part 5, in so far as relevant to Scotland, has been amended by paragraph 16 of schedule 7 of the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations bring into force certain provisions of the Civil Partnership (Scotland) Act 2020 (“the 2020 Act”) and make provision regarding the interim treatment in the law of Scotland of civil partnerships between persons of different sexes entered into outside Scotland.

Regulation 2 brings section 3 fully into force and also brings into force sections 1, 2, and 11, and schedule 1 for the limited purposes specified.

Section 3 of the 2020 Act makes interim provision regarding the treatment in the law of Scotland of different sex civil partnerships formed outside Scotland. Pending the coming into force of section 6 of the 2020 Act, which will enable different sex civil partnerships to be registered in Scotland, section 3(2) provides for such relationships to be treated as marriages. Sections 1 and 2 and schedule 1 are brought into force to the extent required to enable such relationships to be recognised as civil partnerships for the purposes of the application to them of section 3, and also for the purpose of the application of the law concerning proceedings for the dissolution of civil partnerships, for the separation of civil partners, and for declarator of nullity of civil partnerships.

Regulation 3 provides that a different sex civil partnership formed outside Scotland is not to be treated as a marriage for the purpose of proceedings ending the relationship or declaring its existence, although it is to be so treated for the purposes of the determination of any application for an ancillary order sought in the proceedings.

The Bill for the 2020 Act received Royal Assent on 28 July 2020. Sections 15, 16 and 17 came into force the following day.