
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 saving and transitional provision relating to the introduction of civil partnership between persons of different sexes.

Regulation 2 brings the provisions of the 2020 Act listed in the schedule of the Regulations into force on 1 June 2021. With the exception of section 7 and schedule 2, the provisions listed are brought into force for all purposes, or for all remaining purposes. Section 7 and schedule 2 are brought into force to the extent, or for the purposes stated.

The provisions brought into force include amendments to the Civil Partnership Act 2004 (“the 2004 Act”) that enable different sex couples to enter into civil partnerships in Scotland, that make provision regarding the persons authorised to register such civil partnerships, and that provide for certain different sex relationships formed outside Scotland to be treated as civil partnerships in Scotland. Other provisions brought into force include consequential amendments to family law and the law concerning the registration of births, and provisions conferring power to make regulations enabling marriages to be changed into civil partnerships, and concerning the treatment in Scotland of marriages changed into civil partnerships elsewhere in the United Kingdom.

From 1 February 2021 (when section 3(2) of the 2020 Act comes into force) until the coming into force of section 6 of the 2020 Act on 1 June 2021, civil partnerships entered into outside Scotland between persons of different sexes will, on an interim basis, be treated as marriages in accordance with section 3(2). By virtue of section 3(4), the bringing into force of section 6 results in section 3(2) ceasing to have effect. Regulation 3, which also comes into force on 1 June 2021, makes saving and transitional provision in connection with section 3(2) ceasing to have effect.

Regulation 4, which comes into force on 1 February 2021, makes transitional provision in relation to the treatment of different sex relationships which have been entered into outside the UK prior to 1 February 2021.

Regulation 4(1) provides for section 212 of the 2004 Act to apply subject to modification in relation to such relationships so that a relationship does not qualify as an ‘overseas relationship’ where either party was a civil partner or lawfully married immediately before 1 February 2021 (or in the case of a relationship that has previously been dissolved or annulled, immediately prior to the dissolution or annulment). The relationship in question does not count for this purpose as it would not have been either a civil partnership or a marriage under the law of Scotland at the time specified.

The provision ensures that a pre-existing different sex relationship cannot be treated as a civil partnership if doing so would result in a person being a party to more than one formal relationship under the law of Scotland.