

2014 No. 287 (C. 28)

CIVIL PARTNERSHIP

MARRIAGE

**The Marriage and Civil Partnership (Scotland) Act 2014
(Commencement No. 3, Saving, Transitional Provision and
Revocation) Order 2014**

<i>Made</i>	- - - -	<i>29th October 2014</i>
<i>Laid before the Scottish Parliament</i>		<i>31st October 2014</i>
<i>Coming into force</i>	- -	<i>16th December 2014</i>

The Scottish Ministers make the following Order in exercise of the powers conferred on them by sections 35 and 36(2) and (3) of the Marriage and Civil Partnership (Scotland) Act 2014(a) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Marriage and Civil Partnership (Scotland) Act 2014 (Commencement No. 3, Saving, Transitional Provision and Revocation) Order 2014 and comes into force on 16th December 2014.

Interpretation

2. In this Order—

“the 1977 Act” means the Marriage (Scotland) Act 1977(b);

“the 2004 Act” means the Civil Partnership Act 2004(c);

“the 2014 Act” means the Marriage and Civil Partnership (Scotland) Act 2014.

Appointed day

3.—(1) Subject to articles 4 and 5, the appointed day is 16th December 2014 for the provisions of the 2014 Act specified in column 1 of the Schedule to this Order (the subject matter of which is described in column 2 of the Schedule).

(2) Where a purpose is specified in column 3 of the Schedule in relation to any provision, the provision comes into force on 16th December 2014 for that purpose only.

(a) 2014 asp 5. The powers to make this Order are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Order is subject to the negative procedure.
(b) 1977 c.15.
(c) 2004 c.33.

Transitional and savings provisions – solemnisation of marriages

4.—(1) Regulations made under section 8(1)(a)(ii) of the 1977 Act prior to its amendment by section 12 of the 2014 Act(a) continue to have effect for all purposes in relation to the entitlement of a person to solemnise marriages where a notice of intention to marry has been submitted to a district registrar under section 3(1) of the 1977 Act before 16th December 2014.

(2) Subject to paragraph (3)—

- (a) a person registered under section 9 of the 1977 Act prior to its amendment by section 13 of the 2014 Act is to be treated as registered under section 9 to solemnise marriages between persons of different sexes;
- (b) a person granted a temporary written authorisation under section 12 of the 1977 Act prior to its amendment by section 14 of the 2014 Act is to be treated as having been granted an authorisation under section 12 of the 1977 Act to solemnise marriages between persons of different sexes.

(3) The registration or temporary written authorisation of a person mentioned in paragraph (2) ceases to have effect on 16th December 2014 if that person is a minister, clergyman, pastor, or priest or other celebrant of a religious or belief body prescribed by virtue of regulations made under section 8(1)(a)(ii) of the 1977 Act.

Transitional and savings provisions – overseas marriages

5.—(1) Subject to paragraph (2) the coming into force of section 26 of the 2014 Act does not affect court proceedings in Scotland concerning an overseas marriage, where those proceedings were issued under any provision of the 2004 Act or the Family Law (Scotland) Act 1985(b) before 16th December 2014.

(2) Where those proceedings were issued under sections 103(1) or 104(1) of the 2004 Act, the proceedings are to be treated as issued under section 3(1) or 4(1) of the Matrimonial Homes (Family Protection) (Scotland) Act 1981(c).

(3) If a decree of aliment under section 3 of the Family Law (Scotland) Act 1985 requiring one of the civil partners to make payments to the other is in force on 16th December 2014 in relation to an overseas marriage, the decree continues to have effect despite the marriage no longer being treated as a civil partnership by virtue of Part 5 of the 2004 Act.

(4) If an order under section 103(3) or 104 of the 2004 Act is in force on 16th December 2014 in relation to an overseas marriage the order has effect as if made under section 3 or 4, of the Matrimonial Homes (Family Protection) (Scotland) Act 1981.

(5) In this article, an “overseas marriage” means a marriage under the law of any country or territory outside the United Kingdom which is treated as a civil partnership by virtue of Part 5 of the 2004 Act.

Revocations

6. The following Regulations are revoked—

- (a) the Marriage (Approval of Places) (Scotland) Regulations 2002(d);

(a) The relevant Regulations are the Marriage (Prescription of Religious Bodies) (Scotland) Regulations 1977 (S.I. 1977/1670), which are revoked by the Marriage Between Persons of Different Sexes (Prescription of Bodies) (Scotland) Regulations 2014 S.S.I. 2014/ .

(b) 1985 c.37.

(c) 1981 c.59. Section 4(1) was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73).

(d) S.S.I. 2002/260.

- (b) the Marriage (Approval of Places) (Scotland) Amendment Regulations 2005**(a)**; and
- (c) the Marriage (Approval of Places) (Scotland) Amendment Regulations 2006**(b)**.

St Andrew's House,
Edinburgh
29th October 2014

ALEX NEIL
A member of the Scottish Government

(a) S.S.I. 2005/657.
(b) S.S.I. 2006/573.

SCHEDULE

Article 3

<i>Column 1</i> <i>Provision</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 1	Marriage of related persons	
Section 2	Objections to marriage	
Section 3	Preliminaries to marriage	
Section 4(1) to (7) and (11) to (15)	Meaning of marriage and related expressions in enactments and documents	
Section 5	Same sex marriage: further provision	
Section 6	Jurisdiction in proceedings relating to same sex marriages	For all remaining purposes.
Section 8	Marriage between civil partners in qualifying civil partnerships	
Section 11(1) to (4) and (7) to (9)	Effect of marriage between civil partners in a qualifying civil partnership	For all remaining purposes.
Section 12(1)	Persons who may solemnise marriage, and qualifying requirements	For bringing into force the other provisions of section 12 of the 2014 Act referred to in column 1, for the purposes specified in column 3.
Section 12(2)(a)	Persons who may solemnise marriage, and qualifying requirements	For all remaining purposes.
Section 12(2)(b)	Persons who may solemnise marriage	For the purpose of inserting and bringing into force for all remaining purposes section 8(1A)(a), (1B), (1C)(a), and (1D) of the 1977 Act.
Section 12(2)(c), (3) and (4)	Persons who may solemnise marriage	
Section 13(1)	Registration of nominated persons as celebrants	For bringing into force the other provisions of section 13 of the 2014 Act referred to in column 1.
Section 13(2)(a) to (c) and (f) to (l), and (3) to (5)	Registration of nominated persons as celebrants	
Section 14(1)	Temporary authorisation of celebrants	For bringing into force the other provisions of section 14 of the 2014 Act referred to in column 1, for the purposes specified in column 3.
Section 14(2)(a)	Temporary authorisation of celebrants	
Section 14(2)(b)	Temporary authorisation of celebrants	For the purpose of inserting and bringing into force section 12(1B) and (1C) of the 1977

<i>Column 1 Provision</i>	<i>Column 2 Subject matter</i>	<i>Column 3 Purpose Act.</i>
		Act.
Section 14(3)	Temporary authorisation of celebrants, offences	
Section 15	Religious or belief marriage: further provision	
Section 16	Same sex marriage: protection of freedom of expression etc.	
Section 24(1)	Registration of civil partnership	For bringing into force the other provisions of section 24 of the 2014 Act referred to in column 1.
Section 24(2) to (7)(a), (7)(c) to (8)(b)(i), (8)(b)(iii) to (12)(a), (12)(b)(ii) and (12)(c), (14), (16) and (17) and (18)(b) to (22)	Registration of civil partnership	
Section 24(13)	Registration of civil partnership	For the purpose of inserting and bringing into force for all remaining purposes sections 94A(1), (2)(a), (3) and (4), 94B(1), (2)(a) to (c), and (4) to (11), 94C, 94D, and 94E(1), (3) and (5) of the 2004 Act.
Section 24(15)	Registration of civil partnership	For all remaining purposes.
Section 26	Recognition of overseas relationships	
Section 29	Change of gender of married persons or civil partners	For all remaining purposes.
Section 31	Grounds of divorce: interim gender recognition certificate followed by full certificate	
Schedule 1	Jurisdiction in relation to same sex marriages	For all remaining purposes.
Schedule 2	Change of gender of married persons or civil partners	For all remaining purposes.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force all of the remaining provisions of the Marriage and Civil Partnership (Scotland) Act 2014 (“the 2014 Act”) on 16th December 2014: except for the provisions relating to religious and belief bodies satisfying qualifying requirements that may be set out in regulations made by the Scottish Ministers and the increase from 14 days to 28 days of the periods for issuing the Marriage Schedule, issuing a certificate that a person is not subject to legal capacity and solemnising a marriage after receipt of a marriage notice and their equivalent civil partnership provisions.

Article 4 makes saving provision about notices of intention to marry submitted to a district registrar under section 3(1) of the Marriage (Scotland) Act 1977 (“the 1977 Act”) before 16th December 2014 so that any such marriage can be solemnised by a body that was prescribed under the regulations in force at the time the notice of intention to marry was submitted.

Article 4 also makes transitional provision to ensure that any person currently registered to solemnise marriages or granted a temporary written authorisation is regarded as registered or authorised to solemnise opposite sex marriages under the 1977 Act as amended by the 2014 Act. However that registration or authorisation will cease to have effect if the person becomes entitled to solemnise marriage between persons of different sexes by the prescription of a religious or belief body from 16th December and therefore does not require to be registered or authorised under section 9 or 12.

Article 5(1) makes saving provision about court proceedings in Scotland concerning overseas marriages of same sex couples which are currently treated in Scotland as civil partnerships. The change from such treatment to being recognised as marriages will occur on 16th December 2014 when section 26 of the 2014 Act comes into force. Article 5(1) provides that this will have no effect on court proceedings in Scotland concerning such a marriage where those proceedings were issued under any provision of the Civil Partnership Act 2004 (“the 2004 Act”) or the Family Law (Scotland) Act 1985 (“the 1985 Act”) before 16th December 2014. This is subject to article 5(2) which provides that any such proceedings for occupancy of the family home or exclusions orders under the 2004 Act are to be regarded as proceedings for occupancy or exclusion of the matrimonial home under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 (“the 1981 Act”).

Articles 5(3) and 5(4) make transitional provision for existing court decrees and orders under the 1985 Act and the 1981 Act in relation to overseas marriages that are now treated as marriages. A decree of aliment under the 1985 Act will continue to have effect and an occupancy or exclusion order in relation to a family home will be regarded as an order under the 1981 Act in relation to the matrimonial home.

Article 6 is a tidying up provision which formally removes from the statute book regulations approving places at which civil marriages may be solemnised. The regulations ceased to have effect when the enabling powers for the regulations were repealed by section 21 of the 2014 Act on 1st September 2014.

The Bill for the 2014 Act received Royal Assent on 12th March 2014. Sections 34 to 37 of the 2014 Act came into force on the day after Royal Assent.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 4 (partially)	1st September 2014	2014/212 and 2014/218
Section 6 (partially)	1st September 2014	2014/212 and 2014/218
Section 7	21st May 2014	2014/121

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 9	1st September 2014	2014/212 and 2014/218
Section 10	1st September 2014	2014/212 and 2014/218
Section 11 (partially)	1st September 2014	2014/212 and 2014/218
Section 12 (partially)	1st September 2014	2014/212 and 2014/218
Section 13 (partially)	1st September 2014	2014/212 and 2014/218
Section 14 (partially)	1st September 2014	2014/212 and 2014/218
Section 17	1st September 2014	2014/212 and 2014/218
Section 18 (partially)	1st September 2014	2014/212 and 2014/218
Section 19	21st May 2014	2014/121
Section 20	21st May 2014	2014/121
Section 21	1st September 2014	2014/212 and 2014/218
Section 22	21st May 2014	2014/121
Section 23	21st May 2014	2014/121
Section 24 (partially)	1st September 2014	2014/212 and 2014/218
Section 25	1st September 2014	2014/212 and 2014/218
Section 27	21st May 2014	2014/121
Section 28	1st September 2014	2014/212 and 2014/218
Section 29 (partially)	1st September 2014	2014/212 and 2014/218
Section 30	1st September 2014	2014/212 and 2014/218
Section 32	21st May 2014	2014/121
Section 33	1st September 2014	2014/212 and 2014/218
Paragraph 1 of schedule 1 (partially)	1st September 2014	2014/212 and 2014/218
Paragraph 1 of schedule 2 (partially)	1st September 2014	2014/212 and 2014/218
Paragraph 7 of schedule 2 (partially)	1st September 2014	2014/212 and 2014/218
Paragraph 9 of schedule 2 (partially)	1st September 2014	2014/212 and 2014/218
Paragraph 15 of schedule 2 (partially)	1st September 2014	2014/212 and 2014/218
Paragraph 17 of schedule 2 (partially)	1st September 2014	2014/212 and 2014/218

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£6.00

S2014103021 11/2014 19585

<http://www.legislation.gov.uk/id/ssi/2014/287>

ISBN 978-0-11-102477-5



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