

CIVIL PARTNERSHIP ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Civil Partnerships: Scotland

Introduction

172. This Part extends to Scotland only (see section 252(2)).

Chapter 1 - Formation and eligibility

Section 85: Formation of civil partnership by registration

173. This section provides that a civil partnership is formed when both persons sign the completed civil partnership schedule before two witnesses aged 16 years or over and an authorised registrar (all being present). Registering as civil partners of each other creates the legal relationship between the two persons, but registration cannot take place unless both persons are eligible to be registered.

Section 86: Eligibility

174. *Subsection (1)* provides that two people are not eligible to register in Scotland as civil partners of each other if –

- a) they are not of the same sex,
- b) they are related in a forbidden degree
- c) either of them is under 16
- d) either of them is married or already in a civil partnership
- e) either is incapable of
 - (i) understanding the nature of a civil partnership
 - (ii) validly consenting to its formation

175. *Subsection (2)* defines “forbidden degree” by reference to columns 1 and 2 of Schedule 10.

176. *Subsections (3) and (4)* set out the circumstances in which persons over 21, within the relationships of affinity set out in paragraphs 2 and 3 of Schedule 10, will not be related in a forbidden degree.

177. *Subsections (5) to (7)* apply the provisions of this section and Schedule 10, with appropriate modifications, to the case of a person wishing to form a civil partnership in his acquired gender under the Gender Recognition Act 2004.

178. *Subsections (9) and (10)* set out that half blood relationships and adoptive relationships are included within the degrees of relationship specified in paragraph 1 of Schedule 10.

In practice, this means for example, that a person could not form a civil partnership with their sibling, whether that sibling was full blood, half blood or adopted.

Chapter 2 - Registration

179. The UK has three Registrars General covering Scotland, Northern Ireland and England and Wales. The law concerning registration in Scotland is devolved to the Scottish Parliament. There is separate legislation covering the functions of the Registrar General for Scotland. Consequently, the provisions on civil partnerships reflect (and are internally consistent with) the legislation and procedures that apply in Scotland.

Section 87: Appointment of authorised registrars

180. This section empowers the Registrar General for Scotland, for the purpose of affording reasonable facilities throughout Scotland for registration as civil partners, to appoint such number of district registrars as he thinks necessary, and for any district with a district registrar, one or more assistant registrars, as persons who may carry out such registration.

Section 88: Notice of proposed civil partnership

181. This section closely follows the procedures for civil preliminaries contained in the Marriage (Scotland) Act 1977. It provides procedures for the completion, by each party, of the notice of proposed civil partnership and for the submission, with the prescribed fee, of the notice to the district registrar. The content of the notice may be prescribed by regulations made by the Registrar General for Scotland with the approval of the Scottish Ministers.

Section 89: Civil partnership notice book

182. This section requires the district registrar to enter into “the civil partnership book” such particulars from the notice of proposed civil partnership may be prescribed by the Registrar General for Scotland. The Registrar General is to prescribe the form and content of the book.

Section 90: Publicisation

183. This section follows similar provisions in the Marriage (Scotland) Act 1977 about making public the intention to form a civil partnership. The section provides that the district registrar must publicise the relevant information (names of intended civil partners and date of intended registration) as soon as practicable and send it to the Registrar General who must also publicise the information. Subject to section 91, the date on which it is intended to sign the civil partnership document should be a date more than 14 days after publicisation by the district registrar. The manner in which the information is to be publicised will be prescribed by the Registrar General.

Section 91: Early registration

184. This section enables an authorised registrar, provided he is authorised to do so by the Registrar General, on receipt of a written request from one or both of the intended civil partners to fix the date for registering as civil partners at a date earlier than 14 days after the publicisation of the intended date of signing the civil partnership register. It is anticipated that this power will be exercised in similar circumstances to its equivalent under the Marriage (Scotland) Act 1977, typically where one of the proposed civil partners is seriously ill and not expected to recover.

Section 92: Objections to registration

185. This section provides procedures for any person to make an objection in writing to the district registrar to the issue of a civil partnership schedule to prevent the registration as civil partners. The objection must relate to a lawful impediment.

Section 93: Place of registration

186. This section provides that a civil partnership document may be signed at a registration office or at any place which the intended civil partners and the local registration authority agree. It also provides that the place of registration may, if the approval of the Registrar General is obtained, be outwith the district of the authorised registrar carrying out the registration. However, the place must not be in religious premises, which are defined in *subsection (2)*.

Section 94: The civil partnership schedule

187. This section provides for the completion by the district registrar of the civil partnership schedule. This may be done providing the relevant district registrar has no concerns over the capacity of the couple to form a civil partnership, that there are no outstanding objections and that the required period of publicisation has expired.

Section 95: Further provision as to registration

188. *Subsection (1)* requires the persons who intend to form a civil partnership to confirm that (to the best of their knowledge) the particulars set out in the civil partnership schedule are correct.
189. *Subsection (2)* also requires the authorised registrar, as soon as practicable after the schedule has been signed, to cause the particulars to be entered into the “civil partnership register”. *Subsection (3)* states that the form and content of the register will be prescribed by the Registrar General for Scotland. *Subsection (4)* provides that a prescribed fee will also be paid by the intended civil partners for the registration of their relationship.

Section 96: Civil partnership with former spouse

190. This section provides for the signing of a civil partnership schedule to take place quickly, where the couple were previously married to each other and one of them has changed gender under the provisions of the Gender Recognition Act 2004. The aim is to minimise, as much as possible, the time between the end of the marriage and the creation of the civil partnership where couples wish to recreate their legal relationship.
191. The section sets out the procedure for effecting the signature of the civil partnership document in the circumstances described above. The signing of the civil partnership schedule can take place on any of the 30 days immediately following the day that both notices of proposed civil partnerships are given, or if they are given on different days, on the day the second notice is given.

Section 97: Certificates of no impediment for part 2 purposes

192. This section applies where two people intend to register as civil partners of each other and one (“A”) resides in Scotland and the other (“B”) resides in England or Wales. *Subsections (1)* and *(2)* would allow “A” to submit a notice of intention to register in Scotland under section 88. Under *subsection (3)*, if the district registrar is satisfied that there is no impediment to “A” registering as “B’s” civil partner, the district registrar must issue a certificate that there is not known to be any impediment. *Subsection (4)* states that the certificate is not to be issued earlier than 14 days after receipt of the notice, except in circumstances relating to section 96(1) where “A” elects for the certificate to be issued as soon as possible. The form of the certificate is to be prescribed by the

Registrar General. *Subsection (5)* allows for an objection to be made to the district registrar in writing by any person before a certificate is issued. *Subsection (6)* states that the district registrar is obliged to take into account any objection when he is deciding whether he is satisfied that there is no legal impediment.

Section 98: Application of certain sections of 1965 Act to civil partnership register

193. This section provides that certain provisions of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 apply to the civil partnership register as they apply in relation to registers of births, deaths and marriages. These provisions enable the examination of the civil partnership register by district examiners, the searching of indexes kept by registrars or the Registrar General for Scotland and the application to the register of the process of correction.

Section 99: Correction of errors in civil partnership register

194. This section provides that no alteration may be made to the civil partnership register except as authorised by or under an Act (including an Act of the Scottish Parliament). It enables the district registrar to correct a clerical error or an error of a kind prescribed by the Registrar General for Scotland. The Registrar General may also authorise district examiners to correct any specified errors which they discover during an examination under section 34 of the Births, Deaths and Marriages (Scotland) Act 1965.

Section 100: Offences

195. This section provides for certain offences in relation to civil partnerships. *Subsections (1)* and *(2)* set out the offences a person, if they act knowingly, may possibly commit under civil partnership proceedings. *Subsection (3)* sets out the maximum penalties that may be imposed on a person found guilty under *Subsection (1)* or *(2)*. *Subsection (4)* confirms the time limit during which a prosecution may commence.

Chapter 3 – Occupancy Rights and Tenancies

Section 101: Occupancy rights

196. This section sets out the rights that civil partners have to occupy the family home of the civil partnership. The section applies where one of the civil partners is either entitled to occupy the family home, or permitted to do so by a third party, and the other civil partner has no such entitlement or permission. An example of this would be where the family home is owned or leased in the name of one civil partner only. The civil partner who is entitled to occupancy or permitted occupancy by a third party is called the “entitled partner”. The civil partner who is not entitled to occupancy or permitted occupancy by a third party is called the “non-entitled partner”.
197. *Subsection (1)* sets out that non-entitled partners have the right to continue to occupy the family home (if they are already doing so), or have the right to enter and occupy the family home (if they are not already doing so). If the entitled partner has occupancy rights by virtue of permission of a third party, the non-entitled partner does not require the permission of the third party to exercise the rights conferred by *subsection (1)*.
198. *Subsection (2)* means that this right also extends to any child of the family.
199. *Subsection (3)* covers a situation whereby the entitled partner shares a right of occupancy with another person who is not the civil partner. In this situation, the rights explained in *subsection (1)* only apply if that other person waives their right to occupy the family home in favour of the entitled partner.
200. *Subsection (4)* provides recourse to the court, if the entitled partner refuses to let their civil partner enter the home. The latter can apply to the court for an order, as explained in section 103.

- 201. *Subsection (5)* allows the non-entitled partner to renounce their rights under this section in writing in certain circumstances. *Subsection (6)* provides that such a statement must be made before a notary public and made without coercion.
- 202. *Subsection (7)* provides definitions of “child of the family” and “family” and *Subsection (8)* defines what a notary public is.

Section 102: Occupancy: subsidiary and consequential rights

- 203. This section sets out the rights ancillary to the occupancy rights of a non-entitled partner in relation to the family home. *Subsection (1)(a) to (f)* list the duties that a non-entitled partner can undertake without the permission of the entitled partner. *Subsection (2)* details the circumstances in which if an obligation has been performed or enforced by a non-entitled partner, it will be treated in the same way as if it had been made by the entitled partner.
- 204. *Subsection (3)* provides that, where there is an entitled and non-entitled partner, the court may make an order apportioning costs incurred or to be incurred by either civil partner if they carry out any of the duties in *subsection (1)(a) to (d)* without the consent of the other civil partner, or perform any other activity in respect of the family home with the consent of the other civil partner.
- 205. *Subsection (4)* sets out the situation as it applies to civil partners where both are entitled or permitted by a third party to occupy a family home. This subsection sets out what each civil partner can do and note matters to which the court may have regard in making an order.
- 206. *Subsection (5)* covers the situation where one civil partner owns or hires goods such as furniture in a family home. The subsection sets out what the other civil partner may do in connection with these goods. It also sets out how the court may treat such goods if making an order to apportion expenditure in respect of these goods.
- 207. *Subsections (6) to (9)* specify additional criteria relevant to previous *subsections* of this section.

Section 103: Regulation by court of rights of occupancy of family home

- 208. This section sets out the regulation by the court of rights of occupancy of the family home. *Subsections (1) and (2)* detail the type of order a civil partner may apply for from the court in connection with occupancy of the family home or possession or use of goods owned or hired by one of the civil partners.
- 209. *Subsection (3)* sets out the factors that the court will consider in determining an application for an order. *Subsection (4)* gives the court power to make an interim order under certain circumstances. *Subsection (5)* prevents the court from making an order, if the effect of that order would be to exclude the non-applicant civil partner from the family home.
- 210. *Subsection (6)* allows the court, on the granting of an order under *subsections (3) or (4)*, to grant a warrant allowing a messenger-at-arms or sheriff officer to enter the family home or other premises to search for and take possession of the item required to be delivered and to deliver the item in accordance with the order that is granted. *Subsection (7)* provides that such a warrant be executed only after the end of a period specified in the order for delivery.
- 211. *Subsection (8)* provides that the court can order one civil partner to pay compensation to the other if it appears to the court that the latter has suffered a loss of occupancy rights, impaired occupation of the family home, or impaired use of the items in the civil partner’s possession as a consequence of any act or default on the part of the other civil partner.

212. *Subsection (9)* provides for a civil partner to renounce rights to apply under *subsection (2)* for the possession or use of any item as detailed in that *subsection*.

Section 104: Exclusion orders

213. This section provides that either civil partner in the family home can apply to the court for an order which suspends the occupancy rights of the other civil partner in a family home. *Subsection (2)* sets out that the court is to make an exclusion order if it appears necessary to protect the applicant or any child of the family from the conduct of the other civil partner. This is subject to *subsection (3)* which sets out where it would appear unjustified or unreasonable to make an exclusion order.
214. *Subsection (4)* sets out the types of exclusion order that the court can grant, where this is necessary. *Subsection (5)* sets out further directions that the court may attach when making an exclusion order. *Subsection (6)* gives the court power to make an interim order and sets out that *subsections (4)* and *(5)* will apply in the same way to an interim order as to an exclusion order. *Subsection (7)* sets out that an interim order can only be made if the non-applicant partner has been given an opportunity to be heard or represented before the court.
215. If both civil partners are entitled or permitted by a third party to occupy the family home, *subsection (8)* makes it incompetent for one civil partner to bring an action to eject the other from the family home. This is without prejudice to *subsections (1)* and *(6)*.

Section 105: Duration of orders under sections 103 and 104

216. This section sets out the duration of orders made under sections 103 and 104. *Subsection (1)* gives the court the power to vary or cancel an order made under these sections, at the request of one of the civil partners. *Subsection (2)* sets out the circumstances where such an order (unless varied or cancelled) will cease to have effect. In addition, *subsection (3)* provides that where an order has been granted under section 103(3) or (4), which grants possession or use of items, this will cease if a third party revokes permission for these possessions to be retained in the family home.

Section 106: Continued exercise of occupancy rights after dealing

217. This section sets out the occupancy rights in relation to dealings with third parties. *Subsection (1)* provides protection for the non-entitled partner with occupancy rights in relation to the entitled partner's dealings with third parties. *Subsection (2)* provides a definition of dealing for the purposes of *subsection (1)*. *Subsection (2)* also provides that a civil partner is not an entitled partner where they are only entitled to occupy the family home by virtue of permission from a third party, or they share entitlement to occupy along with a person who is not the other civil partner, irrespective of whether that person has waived their rights. *Subsections (3)* and *(4)* deal with the circumstances in which this section does not apply.

Section 107: Dispensation with civil partner's consent to dealing

218. This section allows the court to dispense with the non-entitled partner's consent to a dealing which has taken place or is proposed in certain circumstances. *Subsection (1)* sets out the circumstances under which this can occur. *Subsection (2)* defines when a non-entitled partner is to be regarded as having unreasonably withheld consent. *Subsection (3)* places an onus on the court to consider all the circumstances of the case in considering whether to make an order. *Subsection (4)* provides that where the entitled partner makes an application to the court for an order under this section and the non-entitled partner has brought proceedings in court for enforcement of occupancy rights, the non-entitled partner's proceedings will not be decided until the conclusion of the application by the entitled partner.

Section 108: Interests of heritable creditors

219. This section explains the rights that a heritable creditor has where there is an interest in the family home. *Subsection (1)* provides the grounds under which a creditor, who has an interest in the family home, can seek an order from the court for the non-entitled partner to make a payment, where such a payment is due. *Subsections (2) to (4)* attach conditions and exceptions to this situation.

Section 109: Provisions where both civil partners have title

220. This section covers the situation where both civil partners have title of the property and are entitled to occupy the family home.

Section 110: Rights of occupancy in relation to division and sale

221. This section explains the circumstances that the court must take into account where a civil partner brings an action for the division and sale of a family home owned jointly with the other civil partner. The section allows the court to refuse to grant a decree, to postpone granting a decree or granting a decree with certain conditions applied.

Section 111: Adjudication

222. This section protects the interests and rights of a civil partner where a decree of adjudication has been pronounced by the court on property or furnishing belonging to the other civil partner, which the former uses.

Section 112: Transfer of tenancy

223. This section allows the court to make an order to transfer the tenancy of a family home to the non-entitled partner and provides for the non-entitled partner to make an appropriate payment to the entitled partner in compensation. The section sets out the circumstances under which this can apply and the consideration that the court should give.

Chapter 4 - Interdicts

Section 113: Civil partners: competency of interdict

224. This section means that the Court of Session or the sheriff can grant a relevant interdict in respect of a couple living together in a civil partnership. A relevant interdict for these purposes and for the purposes of section 114, is an interdict which is designed to prevent any inappropriate conduct on the part of one civil partner towards the other or a child of the family, or to prevent a civil partner from returning to the family home or its vicinity.

Section 114: Attachment of powers of arrest to relevant interdicts

225. This section allows the court to attach a power of arrest to any relevant interdict on the application of a civil partner. The section sets out the conditions which apply to this power.

Section 115: Police powers after arrest

226. This section sets out the action that the police may take where a non-applicant civil partner has been arrested as set out in *subsection (4)* of section 114. It also provides that the facts and circumstances that gave rise to the arrest will be reported to the procurator fiscal who will determine whether criminal proceedings should follow.

Section 116: Procedure after arrest

227. This section covers the procedure that arises where the non-applicant civil partner is not released after arrest, but where the procurator fiscal decides that no criminal proceedings should follow.

Chapter 5 – Dissolution, Separation and Nullity

Section 117: Dissolution

228. This section provides that an action for the dissolution of a civil partnership can be brought in the Court of Session or in the sheriff court. It sets out the terms under which a court may grant a decree, and when the irretrievable breakdown of a civil partnership is taken to be established.

Section 118: Encouragement of reconciliation

229. This section provides that if it seems to the court that there is a reasonable prospect of a reconciliation between the civil partners, the court must continue the action for dissolution for as long as it thinks is proper to enable attempts to be made to effect a reconciliation. *Subsection (2)* provides that where a couple still wish to dissolve their civil partnership after a period of living together again (during the court action), that period will not be taken into account for the purposes of the action.

Section 119: Effect of resumption of cohabitation in certain actions

230. *Subsection (1)* provides that the irretrievable breakdown of a civil partnership on grounds of desertion for a continuous two year period will not be taken to be established if, at the end of that two year period, the parties start living together again and do so at any time after the end of the three months which begin from the date the parties resumed living together. *Subsection (2)* provides that this is subject to section 118(2).
231. *Subsection (3)* provides that, when considering whether any period of desertion or non-cohabitation provided for in section 117(3)(b) to (d) is continuous, the court should not take account of any period or periods of time, not exceeding 6 months in total, in which the civil partners resumed cohabiting with one another. However (as a separate issue from whether the period is to be regarded as “continuous”) no such period of cohabitation can count as part of the period of non-cohabitation for the purposes of section 117(3). So for example, non-cohabitation for 2 years can be proved, even if the civil partners lived together for, say, 2 months during the relevant period, so long as the total period of non-cohabitation adds up to 2 years (excluding those 2 months).

Section 120: Separation

232. This section provides that an action for the separation of civil partners may be brought in the Court of Session or in the sheriff court. The court may grant such a decree if satisfied that any of the facts listed in section 117(3)(a) to (d) are established.

Section 121: Dissolution following on decree of separation

233. If a couple that has a decree of separation subsequently decide to dissolve their civil partnership, this section provides that they may apply to the court giving the same evidence upon which a decree of separation was based. The court can treat a decree of separation as proof of the facts under which the decree was granted. However, this does not entitle a court to grant a decree of dissolution of a civil partnership without receiving evidence from the civil partner seeking the dissolution.

Section 122: Registration of dissolution of civil partnership

234. This section requires the Registrar General for Scotland to maintain a register of decrees of dissolution of civil partnership (Register of Dissolutions of Civil Partnership). The Registrar General is also required to make and keep an alphabetical index of entries to this register. The form of the register is to be prescribed. On payment of the prescribed fee to the Registrar General, the index to the register may be searched and an extract of any entry provided. An extract of an entry in the register is sufficient evidence of the

decree of dissolution to which it relates. The Registrar General may also delete, amend or substitute an entry in the register. “Prescribed” is defined in section 126.

Section 123: Nullity

235. This section sets out that if a couple register as civil partners of each other in Scotland despite not meeting the eligibility criteria detail in section 86, or in circumstances where either of them did not validly consent to its formation, the civil partnership will be void, meaning that it will be treated as never having taken place. Either of the couple or another interested person may bring an action in the Court of Session to have the civil partnership declared void.

Section 124: Validity of civil partnerships registered outside Scotland

236. This section sets out the rules to be applied when determining whether, under the law of Scotland, a civil partnership which was not formed in Scotland is void or voidable. If the civil partnership is void or voidable, a court in Scotland which has jurisdiction under section 219 or 225 may make a declarator of nullity in respect of the civil partnership under the inherent declaratory power held by the Court of Session.
237. *Subsection (1)* ensures that a civil partnership which was formed in England and Wales is void or voidable for the purposes of the law of Scotland if that would be the effect of the English provisions in sections 49 or 50. (The only exception is where an interim gender recognition certificate under the Gender Recognition Act 2004 has been issued to either civil partner after the formation of the civil partnership, as mentioned in section 50(1)(d). In Scotland this will instead be a ground for dissolution of the civil partnership under section 117(2)(b).)
238. *Subsection (2)* ensures that a civil partnership which was formed in Northern Ireland is void or voidable for the purposes of the law of Scotland if that would be the effect of the Northern Ireland provisions in sections 173 or 174. (Again, the only exception is where an interim gender recognition certificate under the Gender Recognition Act 2004 has been issued to either civil partner after the formation of the civil partnership, as mentioned in section 174(1)(d). In Scotland this will instead be a ground for dissolution of the civil partnership under section 117(2)(b).)
239. *Subsection (4)* deals with the formation of civil partnerships outside the United Kingdom under an Order in Council made under section 210 or 211. Orders in Council made under those sections will include provision for determining the relevant part of the United Kingdom for certain purposes. Paragraphs (a)(i) and (b) of subsection (4) ensure that questions of nullity are then dealt with in exactly the same way as would apply under Scottish law if the civil partnership had actually been formed in that part of the United Kingdom.
240. In addition the civil partnership will be void if the condition in section 210(2)(a) or 211(2)(a) (whichever is relevant) was not met. For a partnership formed at a British consulate etc., the condition is that one party must be a United Kingdom national as defined in section 245. For a partnership formed in the armed services, the condition is that one of the proposed civil partners is a member of the armed forces serving in the country or territory where the partnership is formed, or falls within certain other related categories as set out in section 211(2)(a).
241. Finally the civil partnership will also be void if there is a breach of a requirement of the Order in Council which is prescribed for this purpose by the Order itself (this power will be used to define in the Order those requirements which are mandatory in order to ensure the validity of the civil partnership).
242. *Subsections (7) and (8)* set out the rules to be applied in relation to an apparent or alleged overseas relationship. An overseas relationship can be treated as a civil partnership under Chapter 2 of Part 5. But subsection (7) sets out that the civil partnership will be

void if it transpires that the relationship is in fact not an overseas relationship as defined in sections 212 to 214, or if one of the requirements for the overseas relationship to be treated as a civil partnership under sections 215 to 218 is not met. For example the civil partnership will be void if, under the law of the country where the overseas relationship was registered, the formalities necessary to enter into the overseas relationship were not fulfilled or there was no capacity to enter into the overseas relationship (see section 215(1)). It is also voidable in terms of subsection (8) if that is the effect of the law of the country where the registration took place (see the definition of “the relevant law” in *subsection (10)*). But if either party was domiciled in England and Wales or Northern Ireland, then the civil partnership will also be voidable in the circumstances set out in section 50(1) or 174(1) (except for the grant of an interim gender recognition certificate, which in Scotland will instead be a ground for dissolution of the civil partnership under section 117(2)(b)).

Section 125: Financial provision after overseas dissolution or annulment

243. This section introduces Schedule 11, which relates to applications for financial provision in Scotland after a civil partnership has been dissolved or annulled, in a country or territory outside the British Islands. “British Islands” is defined in the [Interpretation Act 1978 \(c. 30\)](#) as comprising the United Kingdom, the Channel Islands and the Isle of Man.

Chapter 6 – Miscellaneous and Interpretation

Section 126: Regulations

244. This section provides that, in Chapters 2 and 5, “prescribed” means prescribed in regulations made by the Registrar General for Scotland with the approval of the Scottish Ministers. A statutory instrument containing such regulations is subject to annulment in pursuance of a resolution of the Scottish Parliament.

Section 127: Attachment

245. This section protects the interests and rights of a civil partner where an attachment has been made on property or furnishing belonging to the other civil partner, which the former uses.

Section 128 - Promise of agreement to enter into civil partnership

246. This section sets out that if a couple make an agreement to register as civil partners of each other, it will not confer any rights or obligations under Scots law. If the promise or agreement to form a civil partnership is broken, no action can be brought in a court in Scotland and this is irrespective of the law applicable to the promise of agreement.

Section 129: Lord Advocate as party to action for nullity or dissolution of civil partnership

247. This section makes provision for intimation on the Lord Advocate of proceedings for either declarator of nullity or dissolution of a civil partnership. *Subsection (1)* provides that the Lord Advocate can become a party to either of these kinds of proceedings, and conduct his case in such manner as he considers appropriate. *Subsection (2)* allows the court to intimate these proceedings on the Lord Advocate if the court thinks it necessary to assist in the determination of the proceedings. *Subsection (3)* provides that, in any case where the Lord Advocate does become a party to the proceedings, no expenses can be claimed against him.

Section 130: Civil partner of accused a competent witness

248. This section provides that the civil partner of an accused person may be called as a witness by the accused, a co-accused, or the prosecutor. If a civil partner of an accused

is called as a witness, they cannot be forced to give evidence by the co-accused or the prosecutor, and cannot be forced to reveal communications between the civil partners while the civil partnership continues. If a civil partner of an accused person does not give evidence, neither the defence nor the prosecutor can take advantage of this in any submissions to the court.

Section 131: Succession: legal rights arising by virtue of civil partnership

249. This section ensures that civil partners have the same access to legal rights of succession following the death of a civil partner as a spouse would have following the death of a spouse.

Section 132: Assurance policies: Scotland

250. This section ensures that civil partners are recognised in terms of assurance policies in the same way that spouses are at present.

Section 133: Council Tax: liability of civil partners

251. This section adds a section to the Local Government Finance Act 1992 so that civil partners (and persons living together as such) are jointly and severally liable for the payment of council tax on a property in the same way as spouses (and persons living together as such).

Section 134: General provisions as to fees

252. This section enables a district registrar to refuse to comply with any application made under Part 3 until the appropriate fee has been paid to him. For example, this reflects section 19(2) of the Marriage (Scotland) Act 1977 which provides that an authorised registrar should not solemnise a marriage unless the prescribed fee has been paid. The section also enables the Registrar General to remit fees in cases of hardship. That provision follows what is provided in section 54 of the 1965 Act.

Section 135: Interpretation of this Part

253. This section defines certain expressions used in Part 3 (Civil Partnership: Scotland).

Section 136: The expression “relative” in the 1965 Act

254. This section provides that the definition of “relative” in section 56(1) of the 1965 Act should include “a civil partner and anyone related to the civil partner of the person”. In practical terms, this would (for instance) enable a civil partner or a relative of a civil partner to act as the informant for the registration of a death under section 23 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.