



Civil Partnership Act 2004

2004 CHAPTER 33

PART 3

CIVIL PARTNERSHIP: SCOTLAND

CHAPTER 6

MISCELLANEOUS AND INTERPRETATION

Miscellaneous

126 Regulations

- (1) In this Chapter and in Chapters 2 [^{F1}(except in section 88F)] and 5, “prescribed” means prescribed by regulations made by the Registrar General.
- (2) Regulations so made may make provision (including provision as to fees) supplementing, in respect of the provision of services by or on behalf of the Registrar General or by local registration authorities (as defined by section 5(3) of the 1965 Act), the provisions of Chapter 2 of this Part.
- (3) Any power to make regulations under subsection (1) or (2) is exercisable by statutory instrument; and no such regulations are to be made except with the approval of the Scottish Ministers.
- (4) A statutory instrument containing regulations under subsection (1) or (2), or regulations under section [^{F2}94A(1)(a)(i) [^{F3}, (2A)(a)(i)] or (5), 94B(3), 94E(4)] [^{F4}, 106(3)(a)(i) or 121A(7)], is subject to annulment in pursuance of a resolution of the Scottish Parliament.

Changes to legislation: Civil Partnership Act 2004, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F1** Words in s. 126(1) inserted for specified purposes (1.3.2015) by [The Referral and Investigation of Proposed Marriages and Civil Partnerships \(Scotland\) Order 2015 \(S.I. 2015/396\)](#), art. 1(2), **Sch. 3 para. 7** (with art. 1(3))
- F2** Words in s. 126(4) inserted (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), **ss. 24(20)**, 36; S.S.I. 2014/287, art. 3, sch.
- F3** Words in s. 126(4) inserted (18.1.2021 for specified purposes, 1.6.2021 in so far as not already in force) by [Civil Partnership \(Scotland\) Act 2020 \(asp 15\)](#), **ss. 7(2)(f)**, 16; S.S.I. 2020/457, reg. 2(b); S.S.I. 2021/23, reg. 2, sch. (with reg. 3)
- F4** Words in s. 126(4) substituted (1.2.2021 for specified purposes, 1.6.2021 in so far as not already in force) by [Civil Partnership \(Scotland\) Act 2020 \(asp 15\)](#), **ss. 11(3)**, 16; S.S.I. 2020/414, reg. 2(1)(c); S.S.I. 2021/23, reg. 2, sch. (with reg. 3)

127 Attachment

Where an attachment has been executed of furniture and plenishings of which the debtor's civil partner has the possession or use by virtue of an order under section 103(3) or (4), the sheriff, on the application of that civil partner made within 40 days after the execution of the attachment, may—

- (a) declare the attachment null, or
- (b) make such order as he thinks appropriate to protect such possession or use by that civil partner,

if satisfied that the purpose of the attachment was wholly or mainly to prevent such possession or use.

128 Promise or agreement to enter into civil partnership

No promise or agreement to enter into civil partnership creates any rights or obligations under the law of Scotland; and no action for breach of such a promise or agreement may be brought in any court in Scotland, whatever the law applicable to the promise or agreement.

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

F5

Textual Amendments

- F5** S. 129 repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp. 2\)](#), ss. 45(2), 46(2), **Sch. 3**; S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)

130 Civil partner of accused a competent witness

F6

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Textual Amendments

- F6** S. 130 repealed (28.3.2011 with effect as mentioned in the Schedule to the commencing instrument) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 86\(2\), 206\(1\); S.S.I. 2011/178, art. 2, Sch.](#)

131 Succession: legal rights arising by virtue of civil partnership

- (1) Where a person dies survived by a civil partner then, unless the circumstance is as mentioned in subsection (2), the civil partner has right to half of the moveable net estate belonging to the deceased at the time of death.
- (2) That circumstance is that the person is also survived by issue, in which case the civil partner has right to a third of that moveable net estate and those issue have right to another third of it.
- (3) In this section—
 - “issue” means issue however remote, and
 - “net estate” has the meaning given by section 36(1) (interpretation) of the Succession (Scotland) Act 1964 (c. 41).
- (4) Every testamentary disposition executed after the commencement of this section by which provision is made in favour of the civil partner of the testator and which does not contain a declaration to the effect that the provision so made is in full and final satisfaction of the right to any share in the testator’s estate to which the civil partner is entitled by virtue of subsection (1) or (2), has effect (unless the disposition contains an express provision to the contrary) as if it contained such a declaration.
- (5) In section 36(1) of the Succession (Scotland) Act 1964 (c. 41), in the definition of “legal rights”, for “and legitim” substitute “legitim and rights under section 131 of the Civil Partnership Act 2004”.

132 Assurance policies

Section 2 of the Married Women’s Policies of Assurance (Scotland) Act 1880 (c. 26) (which provides that a policy of assurance may be effected in trust for a person’s spouse, children or spouse and children) applies in relation to a policy of assurance—

- (a) effected by a civil partner (in this section referred to as “A”) on A’s own life, and
- (b) expressed upon the face of it to be for the benefit of A’s civil partner, or of A’s children, or of A’s civil partner and children,

as it applies in relation to a policy of assurance effected as, and expressed upon the face of it to be for such benefit as, is mentioned in that section.

133 Council Tax: liability of civil partners

After section 77 of the Local Government Finance Act 1992 (c. 14), insert—

“77A Liability of civil partners

- (1) Where—

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- (a) a person who is liable to pay council tax in respect of any chargeable dwelling and any day is in civil partnership with another person or living with another person in a relationship which has the characteristics of the relationship between civil partners; and
- (b) that other person is also a resident of the dwelling on that day but would not, apart from this section, be so liable,

those persons shall be jointly and severally liable to pay the council tax payable in respect of that dwelling and that day.

- (2) Subsection (1) above shall not apply as respects any day on which the other person there mentioned falls to be disregarded for the purposes of discount—
 - (a) by virtue of paragraph 2 of Schedule 1 to this Act (the severely mentally impaired); or
 - (b) being a student, by virtue of paragraph 4 of that Schedule.”

134 General provisions as to fees

- (1) Subject to such exceptions as may be prescribed, a district registrar may refuse to comply with any application voluntarily made to him under this Part until the appropriate fee, if any, provided for by or under this Part is paid to him; and any such fee, if not prepaid, is recoverable by the registrar to whom it is payable.
- (2) Circumstances, of hardship or otherwise, may be prescribed in which fees provided for by or under this Part may be remitted by the Registrar General.

Commencement Information

- II** S. 134 wholly in force at 5.12.2005; s. 134 not in force at Royal Assent see s. 263; s. 134 in force at 14.9.2005 for certain purposes by [S.S.I. 2005/428](#), [art. 2](#), [Sch.](#) and otherwise 5.12.2005 insofar as not already in force by [S.S.I. 2005/604](#), [art. 2\(b\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 103(10) inserted by [2023 asp 3 s. 56\(5\)](#)
- s. 108(5) inserted by [2023 asp 3 s. 56\(8\)](#)
- s. 213(1A) inserted by [2013 c. 30 Sch. 2 para. 5\(2\)](#)