
Changes to legislation: Civil Partnership Act 2004, Part 2 is up to date with all changes known to be in force on or before 14 March 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

SCHEDULES

SCHEDULE 28

CONSEQUENTIAL AMENDMENTS: SCOTLAND

PART 2

AMENDMENTS OF THE FAMILY LAW (SCOTLAND) ACT 1985 (C. 37)

- 11 In section 1(1) (obligation of aliment), after paragraph (b) insert—
“(bb) a partner in a civil partnership to the other partner,”.
- 12 (1) Amend section 2 (actions for aliment) as follows.
(2) in subsection (2), after paragraph (a) insert—
“(aa) for dissolution of a civil partnership, separation of civil partners or declarator of nullity of a civil partnership,”.
(3) In subsection (9), after “wife” insert “ or the partners in a civil partnership ”.
- 13 In section 6(1) (interim aliment)—
(a) in paragraph (a), for “party” (in both places) substitute “ person ”,
(b) after paragraph (b) insert—
“(c) in an action for dissolution of a civil partnership, separation of civil partners or declarator of nullity of a civil partnership, by either partner against the other partner,”.
- 14 (1) Amend section 8 (orders for financial provision) as follows.
(2) In subsection (1)—
(a) after “either party to the marriage” insert “ and in an action for dissolution of a civil partnership, either partner ”, and
(b) in each of paragraphs (a) to (c), for “marriage” substitute “ action ”.
(3) In subsection (5), after “marriage” insert “ or the partners in a civil partnership ”.
- 15 (1) Amend section 9 (principles to be applied in deciding what order if any to make for financial provision) as follows.
(2) In subsection (1)—
(a) in paragraph (a), at the end insert “ or as the case may be the net value of the partnership property should be so shared between the partners in the civil partnership ”,
(b) in paragraph (b), for “party” (in each place) substitute “ person ”,
(c) in paragraph (c), the existing words “after divorce, for a child of the marriage under the age of 16 years” become sub-paragraph (i), after that sub-paragraph insert—

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“(ii) after dissolution of the civil partnership, for a child under that age who has been accepted by both partners as a child of the family,”,

and for “parties” substitute “ persons ”,

(d) in paragraph (d), for “party” (in both places) substitute “ person ”, the existing words “the date of the decree of divorce, to the loss of that support on divorce” become sub-paragraph (i) and after that sub-paragraph insert—

“(ii) the date of the decree of dissolution of the civil partnership, to the loss of that support on dissolution,” and

(e) in paragraph (e), for “party” substitute “ person ”, after first “divorce” insert “ or of the dissolution of the civil partnership, ” and after second “divorce” insert “ or dissolution ”.

(3) In subsection (2), in the definitions of “economic advantage” and “contributions”, after “marriage” insert “ or civil partnership ”.

16 (1) Amend section 10 (sharing of value of matrimonial property) as follows.

(2) In subsection (1)—

- (a) after “property” insert “ or partnership property ”, and
- (b) for “the parties to the marriage” substitute “ persons ”.

(3) In subsection (2)—

- (a) omit first “matrimonial”,
- (b) for “the parties or either of them” substitute “ one or both of the parties to the marriage or as the case may be of the partners ”,
- (c) in paragraph (a), after “property” insert “ or before the registration of the partnership so far as they relate to the partnership property ”, and
- (d) in paragraph (b), at the end insert “ or partnership ”.

(4) In subsection (3)—

- (a) in paragraph (a), for “parties” substitute “ persons ”, and
- (b) in paragraph (b), at the end insert “ or for dissolution of the civil partnership ”.

(5) After subsection (4) insert—

“(4A) Subject to subsection (5) below, in this section and in section 11 of this Act “the partnership property” means all the property belonging to the partners or either of them at the relevant date which was acquired by them or by one of them (otherwise than by way of gift or succession from a third party)—

- (a) before the registration of the partnership for use by them as a family home or as furniture or furnishings for such a home, or
- (b) during the partnership but before the relevant date.”

(6) In subsection (5)—

- (a) for “party” (in each place) substitute “ person ”, and
- (b) at the end insert “ or partnership property ”.

(7) In subsection (6)—

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- (a) in paragraph (a), for “parties” substitute “ persons ” and at the end insert “ or partnership property ”,
 - (b) in paragraph (b), after “property” insert “ or partnership property ”, for “parties” substitute “ persons ” and at the end insert “ or partnership ”,
 - (c) in paragraph (c), for “party” substitute “ person ”,
 - (d) in paragraph (d), after “property” insert “ or partnership property ” and for “matrimonial” substitute “ family ”, and
 - (e) in paragraph (e), at the end insert “ or the dissolution of the civil partnership ”.
 - (8) In subsection (7), for “parties” (in both places) substitute “ persons ”.
- 17 (1) Amend section 11 (factors to be taken into account) as follows.
- (2) In subsection (2)—
 - (a) in paragraph (a), for “party” (in both places) substitute “ person ”, and
 - (b) in paragraph (b), after “property” insert “ or the partnership property ”.
 - (3) In subsection (3)(g), for “parties” substitute “ persons ”.
 - (4) In subsection (4)—
 - (a) in each of paragraphs (a) and (c), for “party” substitute “ person ”,
 - (b) in paragraph (b), for “party prior to divorce” substitute “ person prior to divorce or to the dissolution of the civil partnership ”, and
 - (c) in paragraph (d), for “parties” substitute “ persons ”.
 - (5) In subsection (5)—
 - (a) in paragraph (a), for “party” substitute “ person ”,
 - (b) in paragraph (b), at the end insert “ or of the civil partnership ”,
 - (c) in paragraph (c), for “parties during the marriage” substitute “ persons during the marriage or civil partnership ”, and
 - (d) in paragraph (d), for “parties” substitute “ persons ”.
 - (6) In subsection (6), for “party” substitute “ person ”.
 - (7) In subsection (7), after “party” insert “ to the marriage or as the case may be of either partner ”.
- 18 (1) Amend section 12 (orders for payment of capital sum or transfer of property) as follows.
- (2) In subsection (1)—
 - (a) in paragraph (a), at the end insert “ or of dissolution of a civil partnership ”, and
 - (b) in paragraph (b), for “decree of divorce” substitute “ the decree ”.
 - (3) In subsection (4), the existing words “either party to the marriage” become paragraph (a) and after that paragraph insert the following paragraph—
 - “(b) either partner.”.
- 19 (1) Amend section 12A (orders for payment of capital sum: pensions lump sums) as follows.
- (2) In subsection (1)—

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- (a) for “(“the liable party”)” substitute “ or a partner in a civil partnership (“the liable person”) ”, and
 - (b) in paragraph (a), after “property” insert “ or the partnership property ” and for “party” substitute “ person ”.
 - (3) In subsection (2), for “(“the other party”)” substitute “ or as the case may be to the other partner (“the other person”) ”.
 - (4) In each of subsections (3) to (8), for “party”, wherever it occurs, substitute “ person ”.
- 20 (1) Amend section 13 (orders for periodical allowance) as follows.
- (2) In subsection (1)—
 - (a) in paragraph (a), at the end insert “ or of dissolution of a civil partnership ”,
 - (b) in paragraph (b), for “decree of divorce” substitute “ the decree ”, and
 - (c) in paragraph (c), for “decree of divorce” substitute “ such decree ”.
 - (3) In subsection (4), after “executor” insert “ , or as the case may be either partner or his executor, ”.
 - (4) in subsection (7)—
 - (a) in paragraph (a), for “party” substitute “ person ” and for “party's” substitute “ person's ”, and
 - (b) for paragraph (b) substitute—
 - “(b) shall cease to have effect on the person receiving payment—
 - (i) marrying,
 - (ii) entering into a civil partnership, or
 - (iii) dying,
 - except in relation to any arrears due under it.”.
- 21 (1) Amend section 14 (incidental orders) as follows.
- (2) In subsection (1), at the end insert “ or of dissolution of a civil partnership ”.
 - (3) In subsection (2)—
 - (a) in paragraph (c), after “marriage” insert “ , or as the case may be the partners, ”,
 - (b) in paragraph (d), the existing words “the matrimonial home” become sub-paragraph (i), after that sub-paragraph insert “ or ” and the following sub-paragraph—
 - “(ii) the family home of the partnership,”,
 and for “party to the marriage” substitute “ person ”,
 - (c) in paragraph (e), for “parties” substitute “ persons ”, the existing words “the matrimonial home” become sub-paragraph (i) and after that sub-paragraph insert “ or ” and the following sub-paragraph—
 - “(ii) the family home of the partnership,”,
 - (d) in paragraph (g), for “party to the marriage” substitute “ person ”, and
 - (e) in paragraph (h), at the end insert “ or in any corresponding settlement in respect of the civil partnership ”.
 - (4) In subsection (3), for “decree of divorce” substitute “ the decree ”.
 - (5) After subsection (5) insert—

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“(5A) So long as an incidental order granting a partner in a civil partnership the right to occupy a family home or the right to use furnishings and plenishings therein remains in force then—

(a) section 102(1), (2), (5)(a) and (9) of the Civil Partnership Act 2004, and

(b) subject to section 15(3) of this Act, section 111 of that Act, shall, except to the extent that the order otherwise provides, apply in relation to the order in accordance with subsection (5B).

(5B) Those provisions apply—

(a) as if that partner were a non-entitled partner and the other partner were an entitled partner within the meaning of section 101 or 106(2) of that Act as the case may require,

(b) as if the right to occupy a family home under that order were a right specified in paragraph (a) or (b) of section 101(1) of that Act, and

(c) with any other necessary modification.”

(6) In subsection (7), at the end insert “ or of dissolution of a civil partnership ”.

22 (1) Amend section 16 (agreements on financial provision) as follows.

(2) In subsection (1)—

(a) after “marriage” insert “ or the partners in a civil partnership ”, and

(b) after “divorce” insert “ or on dissolution of the civil partnership ”.

(3) In subsection (3)—

(a) after “marriage” insert “ or the partners in a civil partnership ”,

(b) after first “divorce” insert “ or on dissolution of the civil partnership ”,

(c) in paragraphs (a) to (c), for “party” and “party's” (in each place) substitute, respectively, “ person ” and “ person's ”, and

(d) after second “divorce” insert “ or of dissolution of the civil partnership ”.

23 (1) Amend section 17 (financial provision on declarator of nullity of marriage) as follows.

(2) In subsection (1)—

(a) after first “marriage” insert “ or of a civil partnership ”,

(b) after first “divorce” insert “ or for dissolution of a civil partnership ”,

(c) after second “marriage” insert “ and “action for dissolution of a civil partnership” includes an action for declarator of nullity of a civil partnership ”, and

(d) for “and “divorce”” substitute “ , “divorce” and “dissolution of a civil partnership” ”.

(3) In subsection (2)—

(a) after first “marriage” insert “ or of nullity of a civil partnership ”, and

(b) at the end insert “ or civil partnership ”.

24 In section 18(1) (orders relating to avoidance transactions), for “party” (in both places) substitute “ person ”.

25 In section 21 (award of aliment or custody where divorce or separation refused)—

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- (a) for “or separation” substitute “ , separation or dissolution of a civil partnership ”, and
 - (b) for “parties” substitute “ persons ”.
- 26 (1) In section 22 (expenses of action)—
 - (a) for “party to a marriage” substitute “ person ”,
 - (b) for paragraph (a) substitute—
 - “(a) an action for aliment brought—
 - (i) by either party to a marriage, or
 - (ii) by either party in a civil partnership,
 on his own behalf against the other party or partner,”
 - (c) in paragraph (b), after “separation” insert “ (whether of the parties to a marriage or the civil partners in a civil partnership) ”,
 - (d) after paragraph (b) insert—
 - “(bb) an action for dissolution of a civil partnership, declarator that a civil partnership exists or declarator of nullity of a civil partnership,” and
 - (e) after fifth “marriage” insert “ or the other partner in the civil partnership ”.
- 27 In section 24(1) (marriage not to affect property rights or legal capacity)—
 - (a) after fifth “marriage” insert “ or civil partnership ”,
 - (b) in paragraph (a), after “marriage” insert “ , or as the case may be the partners in the civil partnership, ”, and
 - (c) in paragraph (b), for “the parties to the marriage” substitute “ those parties or partners ”.
- 28 (1) Amend section 25 (presumption of equal shares in household goods) as follows.
 - (2) In subsection (1)—
 - (a) after first and third “marriage” insert “ or civil partnership ”, and
 - (b) after second “marriage” insert “ or the partners in a civil partnership ”,
 - (3) In subsection (2), the existing words “the parties were married” become paragraph (a) and after that paragraph insert—
 - “(b) the partners were in civil partnership,” and
 - (4) In subsection (3)—
 - (a) for “in any matrimonial” substitute “ or civil partnership in any family ”, and
 - (b) after second “marriage” insert “ or the partners ”.
- 29 In section 26 (presumption of equal shares in money and property derived from housekeeping allowance)—
 - (a) after first “marriage” insert “ or civil partnership ”,
 - (b) after second “marriage” insert “ or as the case may be of a partner in a civil partnership ”, and
 - (c) after second and third “party” insert “ or partner ”.
- 30 In section 27(1) (interpretation)—
 - (a) at the appropriate places insert—
 - ““civil partnership”, in relation to an action for declarator of nullity of a civil partnership, means purported civil partnership,”

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- ““partner”, in relation to a civil partnership, includes a person who has a partner in a civil partnership which has been terminated and an ostensible partner in a civil partnership which has been annulled,” and
- (b) in the definition of “family”, at the end insert “ and in relation to a civil partnership means the members of the civil partnership together with any child accepted by them both as a child of the family. ”

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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\(2\)](#)