

# Civil Partnership (Scotland) Bill

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## Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

### Groupings of amendments

#### Interim recognition of relationships

1, 2

#### Change of marriages to civil partnership

10, 11

#### Minor amendments to family law

3, 7, 8, 9

#### Continuity of civil partnership following a change of gender

4, 5, 6

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## Amendments in debating order

### **Interim recognition of relationships**

**Alex Cole-Hamilton**

**Supported by: Shirley-Anne Somerville**

- 1 In section 3, page 3, line 8, at end insert—
- <(2A) Nothing in subsection (2) prevents persons in a civil partnership to which this section applies—
    - (a) presenting themselves as civil partners of each other,
    - (b) presenting their relationship as a civil partnership.>

**Alex Cole-Hamilton**

**Supported by: Shirley-Anne Somerville**

- 2 In section 3, page 3, line 9, leave out <Subsection (2) ceases> and insert <Subsections (2) and (2A) cease>

### **Change of marriages to civil partnership**

**Shirley-Anne Somerville**

- 10 After section 3, insert—
- <Power to enable marriages to become civil partnerships*
- Power to enable marriages to become civil partnerships**
- (1) The Scottish Ministers may by regulations make provision for, or in connection with, enabling the parties to a marriage—
    - (a) to register as civil partners of each other,
    - (b) to change their marriage into a civil partnership.
  - (2) Regulations under subsection (1) may in particular make provision—
    - (a) about the marriages to which the regulations apply,
    - (b) about the ways in which marriages may be changed into civil partnerships under the regulations,
    - (c) modifying the Civil Partnership Act 2004 in its application—
      - (i) to registering civil partnerships and changing marriages into civil partnerships under the regulations, and
      - (ii) to civil partnerships formed by registration and civil partnerships formed by marriages changing into civil partnerships under the regulations,
    - (d) modifying the definition of “qualifying civil partnership” in section 5 of the Marriage (Scotland) Act 1977,
    - (e) about the effect of registering civil partnerships and changing marriages into civil partnerships under the regulations,

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- (f) about when the resulting civil partnership is to be treated as having been formed and when the marriage is to be treated as having ended,
  - (g) for fees of such amounts as may be specified in or determined in accordance with the regulations.
- (3) Regulations which make provision under subsection (1)(b) may provide for the regulations to apply only to marriages in categories specified in the regulations.
  - (4) Before making regulations under subsection (1), the Scottish Ministers must consult the Registrar General of Births, Deaths and Marriages for Scotland.
  - (5) Regulations under subsection (1)—
    - (a) may make different provision for different purposes,
    - (b) may include incidental, supplementary, consequential, transitional, transitory or saving provision,
    - (c) may modify any enactment (including this Act),
    - (d) are (except where subsection (6) applies) subject to the negative procedure.
  - (6) Regulations under subsection (1) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure.>

### Shirley-Anne Somerville

- 11 After section 3, insert—

*<Recognition of marriages converted to civil partnerships outwith Scotland*

#### **Recognition of marriages converted to civil partnerships outwith Scotland**

- (1) The Scottish Ministers may by regulations make provision of the type described in subsection (2) in relation to a marriage that is converted into a civil partnership in accordance with provision made under—
  - (a) section 2(5)(a) of the Civil Partnerships, Marriages and Deaths (Registration etc) Act 2019, or
  - (b) section 8(5)(a) of the Northern Ireland (Executive Formation etc) Act 2019.
- (2) The provision mentioned in subsection (1) is—
  - (a) provision for such a marriage to be treated in the law of Scotland as if the parties had registered as civil partners of each other in England and Wales or (as the case may be) Northern Ireland,
  - (b) provision as to—
    - (i) the date on which the parties' marriage is to be treated as having ended,
    - (ii) the date on which the parties are to be treated as having registered as civil partners.
- (3) Regulations under subsection (1)—
  - (a) may make different provision for different purposes,
  - (b) may include incidental, supplementary, consequential, transitional, transitory or saving provision,
  - (c) may modify any enactment (including this Act),
  - (d) are (except where subsection (4) applies) subject to the negative procedure.

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- (4) Regulations under subsection (1) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure.>

### **Minor amendments to family law**

#### **Shirley-Anne Somerville**

- 3 In schedule 2, page 13, line 18, at end insert—

<( ) in subsection (1)(a) after “married to” insert “or in a civil partnership with”,>

#### **Shirley-Anne Somerville**

- 7 In schedule 2, page 17, line 36, at end insert—

<( ) In section 122 (registration of dissolution of civil partnership)—

- (a) in subsection (1), after “dissolution” insert “and of declarator of nullity”,
- (b) in subsection (5), after “dissolution” insert “or, as the case may be, of the declarator of nullity of civil partnership”,
- (c) the section title becomes “**Registration of dissolutions and declarators of nullity of civil partnerships**”.>

#### **Shirley-Anne Somerville**

- 8 In schedule 2, page 17, line 36, at end insert—

<( ) In section 225 (jurisdiction of Scottish courts)—

- (a) after subsection (3) insert—

“(3A) The sheriff has jurisdiction to entertain an action for declarator of nullity of a civil partnership if (and only if)—

- (a) the requirements as to domicile or habitual residence that would apply were the action to have been begun in the Court of Session under subsection (3) (other than paragraph (c)) are met, and
- (b) either of the ostensible civil partners—
  - (i) was resident in the sheriffdom for a period of 40 days ending with the date when the action is begun, or
  - (ii) had been resident in the sheriffdom for a period of not less than 40 days ending not more than 40 days before that date and has no known residence in Scotland at that date.”,

- (b) in subsection (4)—

- (i) “(but only where the court is the Court of Session)” is repealed,
- (ii) for “(3)” in both places that it appears substitute “(3A)”.>

#### **Shirley-Anne Somerville**

- 9 In schedule 2, page 17, line 36, at end insert—

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- <( ) In section 237 (supplementary provisions relating to recognition of dissolution etc.), in subsection (2)(b)(ii), for “legal relationships between two people of the same sex” substitute “relationships of the sort that the civil partnership in question is (whether generally, between two persons of the same sex, or between two persons of different sexes)”.>

### **Continuity of civil partnership following a change of gender**

#### **Shirley-Anne Somerville**

- 4 In schedule 2, page 17, line 12, at end insert—

- <( ) For section 11B substitute—

#### **“11B Change in gender of civil partner**

- (1) This section applies in relation to a protected civil partnership if (by virtue of section 4(2)(c) or 4A) a full gender recognition certificate is issued to a party to the partnership.
- (2) The continuity of the protected civil partnership is not affected by the relevant change in gender.
- (3) If the protected civil partnership is a protected overseas relationship, the continuity of the civil partnership continues by virtue of subsection (2) notwithstanding any impediment under the relevant law.
- (4) In this section—

“impediment” means anything which would affect the continuation of the overseas relationship merely by virtue of the relevant change in gender,

“relevant change in gender” means the change or changes in gender occurring by virtue of the issue of the full gender recognition certificate or certificates,

“relevant law”, in relation to the protected overseas relationship in question, has the same meaning as in Chapter 2 of Part 5 of the Civil Partnership Act 2004.”.>

#### **Shirley-Anne Somerville**

- 5 In schedule 2, page 17, line 20, after <(1)> insert <—

( )>

#### **Shirley-Anne Somerville**

- 6 In schedule 2, page 17, line 21, at end insert—

- <( ) in the definition of “protected civil partnership”, for the words from “means” to the end substitute “means—

- (a) a civil partnership under the law of England and Wales or under the law of Northern Ireland, or
- (b) an overseas relationship that is treated as a civil partnership by virtue of Chapter 2 of Part 5 of the Civil Partnership Act 2004,

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and “protected overseas relationship” means a protected civil partnership within paragraph (b),”.>

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