

Mailing list for the Marriage and Civil Partnership (Scotland) Act 2014

Implementation Circular 1/2014

In 2014 Scotland Welcomes the World



April 2014

Dear Colleague

IMPLEMENTATION OF THE MARRIAGE AND CIVIL PARTNERSHIP (SCOTLAND) ACT 2014

Introduction

1. We are sending this implementation circular to a number of bodies who have expressed an interest in the past in this legislation. Please advise me if you wish to be removed from our mailing lists about this legislation. Please pass this circular to any other people who you think may be interested.
2. This is the first of a series of implementation circulars. We will issue more when more information becomes available.

The Marriage and Civil Partnership (Scotland) Act 2014

3. The Act received Royal Assent on 12 March 2014. It can be found at <http://www.legislation.gov.uk/asp/2014/5/contents/enacted>. The Explanatory Notes for the Act are currently being finalised.

Implementation timetables

4. Full implementation of the legislation will require the Scottish Government to make around 25 to 30 Scottish Statutory Instruments. These cover a variety of areas and include:
 - 4.1 Regulations on an administrative route to change civil partnerships registered in Scotland to marriages.
 - 4.2 Regulations on prescribing religious bodies to solemnise marriage and register civil partnerships.

4.3 Regulations on qualifying requirements for religious and belief bodies to meet before solemnising marriage and registering civil partnerships. (The Government's current thinking is that these requirements may be kept at a basic level at first).

4.4 Regulations on marriage and civil partnership forms.

4.5 Regulations and orders relating to gender recognition.

4.6 Regulations on jurisdiction of the courts in cases relating to same sex marriage.

4.7 Commencement Orders.

5. In addition, an Order has to be made at Westminster under section 104 of the Scotland Act 1998, on consequential provision in relation to reserved matters. This needs to cover a variety of areas including:

5.1 Amendments to the Equality Act 2010 to protect religious and belief celebrants and others¹.

5.2 Amendments to reserved legislation in areas such as pensions².

5.3 The recognition of same sex marriages solemnised in Scotland as civil partnerships in Northern Ireland.

6. The Scottish Government is aiming to complete this work as soon as possible.

7. Currently, we expect it to be completed by the end of the 2014 which suggests the first same sex marriages in Scotland could take place around the end of 2014.

8. It is not clear yet if changes of civil partnerships to marriages and the provisions on transgender people will also be in place at the end of 2014.

Provisions which may be commenced earlier

9. Some provisions in the 2014 Act are straightforward and it may be possible to commence them sooner. Some of the possible areas which might be commenced sooner than the end of the year include:

9.1 Section 7 (abolition of the defence for wives against the crime of incest).

9.2 Sections 17 and 25 (power of district registrar to require evidence of nationality: marriage and civil partnerships).

9.3 Section 19 (marriage outside Scotland: evidence of dissolution of former civil partnership).

¹ A draft of these amendments is at

http://www.scottish.parliament.uk/S4_EqualOpportunitiesCommittee/3_Feb_SG.pdf

² This could include, for example, provision for Scotland similar to Parts 5 and 6 of Schedule 4 to the Marriage (Same Sex Couples) Act 2013: <http://www.legislation.gov.uk/ukpga/2013/30/contents>

9.4 Section 20 (religious marriages: solemnisation by Church of Scotland deacons).

9.5 Section 21 (places at which civil marriages may be solemnised).

9.6 Section 22 (second marriage ceremony: form of endorsement).

9.7 Section 23 (sheriff court jurisdiction in relation to declarator of marriage).

9.8 Section 27 (dissolution of civil partnership: evidence).

9.9 Section 32 (provision of certain information to district registrars).

Other work being carried out by the Government

10. The Government is also carrying out other related work. This includes:

10.1 A review of civil partnership³.

10.2 A review of the minimum age for gender recognition.

10.3 A forthcoming consultation on allowing civil partners in a partnership registered outwith Scotland to change their relationship to a marriage in Scotland (section 9 of the 2014 Act refers).

Conclusion

11. If you have any inquiries about this Circular, please contact Simon Stockwell, Civil Law and Legal System Division, The Scottish Government, St Andrew's House, Edinburgh, EH1 3DG. E-mail: simon.stockwell@scotland.gsi.gov.uk, telephone: 0131 244 3322.

Yours sincerely

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³ The remit for this review is at <http://www.scotland.gov.uk/Resource/0043/00434010.pdf>