

*Draft Regulations laid before the Scottish Parliament under section 18A(10) of the Marriage (Scotland) Act 1977, for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2002 No.**

**MARRIAGE**

**The Marriage (Approval of Places) (Scotland) Regulations 2002**

<i>Made</i>	- - - -	2002
<i>Coming into force</i>	- -	2002

The Scottish Ministers, in exercise of the powers conferred by section 18A(1) and (2) of the Marriage (Scotland) Act 1977(1) and of all other powers enabling them in that behalf, hereby make the following Regulations, being the first to be made thereunder, a draft of which has in accordance with section 18A(10) of that Act, been laid before, and approved by resolution of the Scottish Parliament:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Marriage (Approval of Places) (Scotland) Regulations 2002 and shall come into force on 10th June 2002.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the Marriage (Scotland) Act 1977;

“applicant” means an applicant for an approval, and “application” shall be construed accordingly;

“approval” means a period approval or a temporary approval;

“approval holder” means the person on whose application the approval was granted pursuant to these Regulations, or a person who is deemed to be the approval holder under regulation 17;

“approved place” means a place which has been approved by an authority under these Regulations and for which said approval is still current;

“authority” in relation to any place means the local authority for the area in which the place is situated;

“in writing” includes transmission by electronic means;

“local registration authority” has the meaning assigned to it by section 5 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(2);

“period approval” means an approval granted under regulation 3;

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(1) 1977 c. 15; section 18A was inserted by section 1(3) of the [Marriage \(Scotland\) Act 2002 \(asp 8\)](#).

(2) 1965 c. 49.

“place” means any place whose position within the registration district<sup>(3)</sup> can at the relevant time be suitably defined in words or figures for the purpose of recording where the civil marriage was solemnised and, without prejudice to the foregoing generality, includes any premises, fixed buildings, temporary structures, enclosures and similar structures, land (including any land covered with water in so far as within the jurisdiction of the registration district) and any vessels or vehicles; and

“temporary approval” means an approval granted under regulation 4.

(3) In these Regulations—

- (a) any reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations; and
- (b) any reference in a regulation to a numbered paragraph is a reference to the paragraph in that regulation bearing that number.

### **Applicants**

2.—(1) An application for a period approval may, following the procedures set out in regulation 3, be made to the authority by any person.

(2) An application for a temporary approval may, following the procedures set out in regulation 4, be made to the authority by either of the parties to an intended civil marriage in respect of any place which at the time of the application does not have a period approval, other than one that will expire before the date of the intended civil marriage.

### **Period approvals**

3.—(1) An applicant for a period approval shall deliver to the authority an application in writing to include—

- (a) the name and address of the applicant; and
- (b) a description of the place where it is intended that civil marriages will be solemnised sufficient to identify that place and to allow the authority to inspect it and, in the case of a vessel or vehicle, a description of that vessel or vehicle and the location at which it may be inspected.

(2) If the authority so requires, a fee, or an amount on account of that fee, determined in accordance with regulation 13, must accompany the application.

(3) The applicant shall provide the authority with such additional information as the authority may reasonably require in order to determine the application.

(4) The authority may, if it considers it to be appropriate after receiving the application, arrange for the place to be inspected.

### **Temporary approvals**

4.—(1) An applicant for a temporary approval shall deliver to the authority an application in writing to include—

- (a) the name and address of the applicant;
- (b) the date and time of the intended civil marriage; and
- (c) a description of the place where it is intended that the civil marriage be solemnised sufficient to identify that place and to allow the authority to inspect it and, in the case of

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(3) See the definition of “registration district” in section 5 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (“the 1965 Act”). By virtue of section 26(1) of the Marriage (Scotland) Act 1977, expressions used in the 1965 Act and the 1977 Act will have the same meaning in the 1977 Act as in the 1965 Act.

a vessel or vehicle, a description of that vessel or vehicle and the location at which it may be inspected.

(2) If the authority so requires, a fee, or an amount on account of that fee, determined in accordance with regulation 13, must accompany the application.

(3) The applicant shall provide the authority with such additional information as the authority may reasonably require in order to determine the application.

(4) The authority may, if it considers it to be appropriate after receiving the application, arrange for the place to be inspected.

### **Notification of applications**

**5.**—(1) As soon as practicable after receiving an application the authority shall, in accordance with paragraph (2), cause public notice to be given of that application.

(2) The notice referred to in paragraph (1) shall—

- (a) identify the place and the applicant;
- (b) state the date and time of the intended civil marriage, in relation to a temporary approval;
- (c) state that objections to the application may be made to the authority in accordance with regulation 6; and
- (d) state the address at which the application can be inspected and the address to which such objections should be given.

### **Objections**

**6.**—(1) Any person may give notice in writing to the authority of an objection to an application for the grant of an approval in accordance with this regulation.

(2) The authority shall consider the objection provided that the objection—

- (a) specifies the name and address of the person making it;
- (b) specifies reasons for the objection; and
- (c) was made to the authority within 21 days from the date on which public notice was given under regulation 5.

(3) On special cause shown, the authority may consider an objection to which this regulation applies notwithstanding that it was not made within the period required by paragraph 2(c).

(4) The authority shall send a copy of any objection submitted in accordance with this regulation to the applicant.

### **Determination of applications**

**7.**—(1) The authority shall not grant an approval if the application has not been made in accordance with these Regulations.

(2) The authority shall not grant an approval if, in its opinion—

- (a) the place will compromise the solemnity and dignity of civil marriage;
- (b) the place has a recent or continuing connection with any religion or religious practice which would be incompatible with the use of that place for the solemnisation of civil marriages; or
- (c) the place does not fulfil any other reasonable requirements which the authority considers appropriate to ensure that the facilities provided at the place are suitable.

(3) The authority shall not grant an approval without—

- (a) having regard to the guidance issued by the Registrar General under regulation 19; and
  - (b) taking account of any objections in respect of the application which have been made in accordance with regulation 6.
- (4) The authority shall not grant a period approval if, in its opinion, the applicant is not a fit and proper person.

#### **Conditions attached to approvals**

8. In granting an approval the authority—
- (a) shall attach to a period approval the standard conditions contained in the Schedule; and
  - (b) may attach to a temporary approval such conditions, and to a period approval such further conditions, as it considers reasonable in order to ensure that the facilities provided at the place are suitable.

#### **Notification of decisions**

- 9.—(1) The authority shall, within 7 days of its decision, notify the applicant in writing of that decision including any conditions attached to an approval under regulation 8.
- (2) If an application for an approval is refused, or if any conditions are attached under regulation 8(b), the authority shall include with the notification under paragraph (1)—
- (a) the reasons for its decision; and
  - (b) details of the right of appeal to the sheriff against that decision under section 18A of the Act.
- (3) The authority shall, at the same time as it notifies the applicant under paragraph (1), send a copy of any approval to the district registrar for the registration district in which the approved place is situated.

#### **Restriction on successive applications**

10. Where the authority has refused an application for an approval it shall not, within one year of that refusal, consider a subsequent application for the same kind of approval in respect of the same place unless, in its opinion, there has been a material change of circumstances.

#### **Duration of approvals**

- 11.—(1) Subject to regulations 12(3), 15 and 16, a period approval shall be valid from the date it is granted for a period of three years, or such lesser period as the authority may determine.
- (2) Subject to regulations 15 and 16, a temporary approval shall be valid only for the date stated in that temporary approval unless the authority, on the request of the applicant in writing, agrees to amend the stated date.

#### **Renewal of period approvals**

- 12.—(1) An application for renewal of a period approval may be made by the approval holder.
- (2) Regulations 3 and 5 to 11 shall apply to an application to renew a period approval as they apply to an application for a period approval and as though any reference in them—
- (a) to an applicant were to an applicant for renewal; and
  - (b) to a grant of a period approval were to a renewal of a period approval.

(3) If an application for renewal has been made in accordance with paragraphs (1) and (2) and that application has not been finally determined or withdrawn before the date on which the approval would otherwise expire, the approval shall continue in effect until such time as the application is finally determined or withdrawn.

### **Fees for applications and renewals**

**13.**—(1) An authority may, in accordance with this regulation, determine a fee in respect of an application for an approval, or the renewal of a period approval, and may determine that fee either for that particular application or renewal or for applications or renewals generally or for any particular class.

(2) A fee determined for a particular application or renewal shall not exceed the amount which reasonably represents the costs incurred or to be incurred by the authority in respect of that application or renewal.

(3) A fee determined for applications or renewals generally or for a particular class shall not exceed the amount which reasonably represents the average costs incurred or likely to be incurred by the authority in respect of an application or renewal, or, as the case may be, in respect of an application or renewal of that class.

(4) An authority may charge a fee in respect of an application or renewal, or an amount on account of such fee, where it has not yet incurred any costs in respect of that application or renewal.

### **Fees for attendance of registrars**

**14.** An authority may determine a fee in respect of the attendance by authorised registrars at approved places and any such fee shall—

- (a) not exceed the amount which reasonably represents the costs incurred or to be incurred directly or indirectly by the local registration authority in respect of that attendance; and
- (b) be payable to the local registration authority by the persons to be married not less than 7 days, or such lesser period at the local registration authority's discretion, prior to the solemnisation of the marriage.

### **Revocation and suspension of approvals**

**15.**—(1) An authority may revoke or suspend an approval in accordance with the provisions of this paragraph.

(2) An authority may revoke or suspend an approval if in its opinion—

- (a) the approval holder has failed to comply with one or more of the conditions attached to the approval under regulation 8;
- (b) the approved place is no longer suitable for the solemnisation of civil marriages, having regard to regulation 7(2); or
- (c) in the case of a period approval, the approval holder is not or is no longer a fit and proper person.

(3) Subject to paragraph (6), an authority in considering whether or not to revoke or suspend an approval may, but before doing so shall, give—

- (a) the approval holder; and
- (b) any person who has made representations relevant to the matters to be considered at the hearing,

an opportunity to be heard by the authority or, if that person prefers, to submit written representations.

(4) The authority shall have complied with its duty under paragraph (3) if it has caused to be sent to the persons referred to in that paragraph, not later than 21 days before the hearing, notice in writing that the authority propose to hold a hearing, together with a copy of any representations referred to in paragraph (3)(b) and a note of the grounds upon which the revocation or suspension of the approval is to be considered.

(5) A revocation or suspension of an approval shall, subject to paragraph (6), come into force—

- (a) upon expiry of the period for lodging an appeal under section 18A of the Act; or
- (b) where such an appeal has been lodged, when the appeal has been abandoned or determined in favour of the revocation or suspension.

(6) If an authority, at any time after granting an approval, determines that the circumstances justify immediate suspension it may, without prejudice to its other powers and duties under this regulation, suspend the approval immediately.

(7) The period of suspension of an approval under this regulation shall be the unexpired portion of the duration of that approval, or such shorter period as the authority may fix; and the effect of suspension shall be that the approval shall cease to have effect during the period of the suspension.

(8) An authority may, whether upon an application made to them or not, recall a suspension of an approval made under this regulation.

(9) An authority shall, within 7 days of its decision under paragraph (1) above, send written notice of its decision, together with details of the right of appeal by the approval holder under section 18A of the Act, to the approval holder and to any person who, in pursuance of paragraph (3)(b) was heard by, or submitted written representations to, the authority before it reached its decision.

(10) Upon receipt of a notice of revocation or suspension under paragraph (9) the approval holder shall forthwith give notice of the revocation or suspension to all parties who have made arrangements to marry, but whose marriages have not yet been solemnised, in the place in respect of which the notice of revocation or suspension has been received.

### **Variation of approvals**

**16.—**(1) Subject to the following paragraphs an authority may, at any time, vary the conditions attached to an approval under regulation 8(b) on any grounds it thinks fit.

(2) An authority, before proceeding to vary an approval under paragraph (1) shall, no later than 7 days before the day on which the proposed variation is to be considered, notify the approval holder in writing of the proposed variation and shall give that person an opportunity to be heard by the authority on that day or, if preferred by the approval holder, to submit written representations.

(3) An authority shall, within 7 days of its decision under paragraph (1), send written notice of the decision to the approval holder, together with details of the right of appeal under section 18A of the Act.

(4) A variation of an approval shall come into force—

- (a) upon expiry of the period for lodging an appeal under section 18A of the Act; or
- (b) where such an appeal has been lodged, when the appeal has been abandoned or determined in favour of the variation.

### **Deemed approval holder**

**17.—**(1) Without prejudice to the provisions of these Regulations as to the duration, or the revocation, suspension or variation, of an approval, a period approval shall remain in force notwithstanding that the approval holder ceases to have an interest in the approved place and the person to whom his or her interest is transferred shall be deemed to be the approval holder in his or her place.

(2) Where a person is deemed to be an approval holder under paragraph (1) that person shall immediately notify the authority of that fact, whereupon the authority shall consider the matter and may revoke, suspend or vary the approval, in accordance with regulations 15 and 16.

### **Registers of approved places**

**18.**—(1) Each authority shall keep a register of every approved place within its area for which a period approval has been granted, containing—

- (a) the name, description and full postal address (if any) of the approved place;
- (b) the name and address of the approval holder;
- (c) the date of grant of the approval and, where that approval is renewed, the date of such renewal; and
- (d) the due date of expiry of that approval and, where the approval is suspended, the date on which such suspension takes effect, the period of that suspension, and any date of recall.

(2) The authority shall make the appropriate entries in the register forthwith on the grant of any approval and shall amend the register forthwith on notification that any of the details listed in paragraph (1) have changed, or on revocation of an approval.

(3) The authority shall, on making or amending any entry in the register under paragraph (2), deliver forthwith a copy of that entry or amendment to the Registrar General and to the district registrar for the registration district in which the approved place is situated.

(4) The authority shall make the register available for public inspection during the normal working hours of the authority.

### **Guidance concerning grants of approval and approved places**

**19.** The Registrar General shall from time to time issue guidance supplementing the provisions made by these Regulations.

St. Andrew's House,  
Edinburgh  
2002

Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 8(a)

STANDARD CONDITIONS TO BE ATTACHED TO PERIOD APPROVALS

1. The approval holder is responsible for compliance with these conditions and must make arrangements to ensure that in his or her absence a person of suitable responsibility is available in this regard.

2. The approval holder (or his or her delegate) shall be available in or at the approved place for a minimum of one hour prior to each civil marriage ceremony and throughout the ceremony itself.

3. The approval holder must notify the authority immediately of any change to any of the following—

- (a) the nature of the approved place from that described in the application for approval;
- (b) the name, description and full postal address (if any) of the approved place; and
- (c) the address of the approval holder.

4. Where a person is deemed to be an approval holder under regulation 17, that person shall be obliged to notify the authority immediately of that fact in accordance with regulation 17(2).

5. The approved place must be made available for inspection by the authority at all reasonable times.

6. No food or drink may be sold or dispensed or consumed in any approved place in which a marriage ceremony is to take place within one hour prior to that ceremony or during the ceremony itself, except where the ceremony takes place in a separate room or similarly defined space within the approved place in which case this restriction shall apply only to that room or space.

7. The arrangements made by the approval holder for each civil marriage ceremony must meet with the prior written approval of the district registrar of the registration district in which the approved place is situated.

8.—(1) Any reference to an approved place on any sign or notice, or on any stationery or publication, or within any advertisement, relating to that place may state, subject to subparagraph (2), that the approved place has been approved by the authority as a venue for civil marriages in pursuance of the Act and if it does so, must state that such an approval does not bind the authority to perform or provide a service without prior consultation with and agreement of said authority.

(2) Any reference under (1) shall not state or imply any recommendation of the approved place or its facilities by the authority, the Registrar General or any of the officers or employees of either of them.

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**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision for and in relation to the approval of places by local authorities for the solemnisation of civil marriages. In particular the Regulations set out—



- (a) the parties who may apply for approval of a place for the solemnisation of a civil marriage (regulation 2) and the application procedures which those parties must follow for the different types of approval (period approvals and temporary approvals) (regulations 3 and 4);
- (b) the requirements for notification of applications by the local authority and third party objection procedure (regulations 5 and 6);
- (c) the considerations to be taken into account by a local authority in determining an application (regulation 7);
- (d) the procedure for attaching standard conditions to a period approval (as set out in the Schedule to the Regulations) and non-standard conditions to either period or temporary approvals (regulation 8), the notification of decisions (regulation 9), and a restriction on successive applications (regulation 10);
- (e) the duration of approvals and the procedure for renewal (regulations 11 and 12);
- (f) the determination and charging of fees by a local authority for the approval of places and renewal of approvals and in respect of the attendance by authorised registrars at approved places (regulation 13 and 14);
- (g) the grounds and procedures for revocation, suspension and variation of an approval (regulations 15 and 16);
- (h) the deeming of a person who takes over the interest in a period approval as the approval holder (regulation 17);
- (i) the requirements for the keeping of registers of approved places (regulation 18); and
- (j) the duty on the Registrar General to issue supplementary guidance (regulation 19).