

Executive Note

The Divorce (Religious Bodies) (Scotland) Regulations 2006 SSI/2006/253

The above instrument is made in exercise of the powers conferred by section 3A(7) of the Divorce (Scotland) Act 1976(a). This instrument is subject to negative resolution procedure.

Policy Objective

The purpose of the instrument is to prescribe any Hebrew Congregation as a religious body for the purposes of the definition of “religious marriage” contained in section 3A of the Divorce (Scotland) Act 1976. That section gives a court in a divorce action the power to postpone granting decree until any impediment has been removed which would prevent a party to the action from entering into a future religious marriage. The section defines “religious marriage” by reference to the marriage being solemnised by a marriage celebrant of a religious body prescribed in regulations. The instrument will come into effect on 3 June 2006.

The Family Law (Scotland) Act 2006 received Royal Assent on 20 January. The Act introduces a range of reforms to family law and includes provisions on marriage, divorce, cohabitation and the parental responsibilities and rights of unmarried fathers.

The legislation seeks to remedy the difficulty caused by the refusal to grant a religious bill of divorce known in Jewish law as a “get”. Under Jewish Law, a civil divorce does not end the religious marriage. A marriage can only be dissolved by the voluntary granting by the husband to the wife of a “get” and by the wife’s voluntary acceptance of the “get”. A woman can only remarry under Orthodox Jewish Law if she has received a “get” from her previous husband. The Jewish community worked with the Executive to find a remedy in law, although the issue affects only a small number of people in Scotland each year, the positive effect this will have for them is significant.

Financial Effects

This instrument has no financial effects on the Scottish Executive, local government or on business.

Scottish Executive, Justice Department
May 2006