

# LOCAL ELECTORAL ADMINISTRATION AND REGISTRATION SERVICES (SCOTLAND) ACT 2006

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## EXPLANATORY NOTES

### THE ACT

#### Part 2: Registration Services

#### Marriages and civil partnerships: procedure

#### *Section 48 Marriage procedure: marriages at sea*

112. Subsection (1) refers to the Marriage (Scotland) Act 1977 (“the 1977 Act”), which is the principal Scottish marriage legislation.
113. Subsection (2) defines the “district registrar” in line with the changes made by section 37 of the Act. It also makes special provision for the definition of the “district registrar”, where the marriage is to be solemnised in Scottish waters. The Marriage (Scotland) Act 2002 allowed civil marriages to be solemnised by registrars in a wide range of approved places, including on vessels. Marriage on board a vessel at sea between 2 places led to difficulty in determining the registration district in which the marriage was solemnised. Subsection (2) provides that any district registrar can accept notification of intention to marry, in the case of a religious marriage. In the case of a civil marriage, notification has to be given to the district registrar for the registration district which is to provide the registrar who will solemnise the marriage. Transitional provision was also made for marriage notices generally by article 4 of [S.S.I. 2006/469](#).
114. Subsection (3) makes similar provision for the definition of the district registrar who will record the intended marriage in the marriage notice book and the list of intended marriages.
115. Subsection (4) deals with what happens when arrangements for a marriage change and the marriage is taking place at sea rather than in a registration district or vice-versa. It allows the Registrar General to decide whether a new marriage schedule needs to be issued, or whether the new location can be substituted in the marriage schedule, or whether the couple have to submit a new marriage notice.
116. Subsection (5) provides that, where a marriage has been solemnised in Scottish waters, it should be registered in the district of the registrar who issued the initial marriage schedule.
117. Subsection (6) adds to the choice of places at which civil marriage may be solemnised, an approved vessel, while in Scottish waters. It defines “approved vessel” as a vessel approved by the local registration authority whose registrar will solemnise the marriage. This parallels the arrangements for approving other places outwith registration offices at which marriages can be solemnised.

*These notes relate to the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14) which received Royal Assent on 1 August 2006*

118. Subsection (7) widens Scottish Ministers' regulation-making powers concerning the approval by local authorities of places in their areas where civil marriages may be solemnized. The amendments ensure that regulations can cover vessels operating in Scottish waters, as well as places on dry land.
119. Subsection (8) ensures that a marriage taking place on an approved vessel in Scottish waters is properly registered by the authorised registrar.
120. Subsection (9) makes various provisions for interpretation, deleting the definition of "district registrar" which is no longer required, defining "Scottish waters" in line with the Scotland Act 1998, defining the meaning of "vessel" as a vehicle or other structure and defining exactly when a vessel is part of a registration district (e.g. when it is berthed) and when it is in Scottish waters.
121. [Section 48](#) was brought fully into force on 1st January 2007. The Marriage (Approval of Places) (Scotland) Amendment Regulations 2006 ([S.S.I.2006/573](#)) implemented this section with effect from that date to provide for new arrangements for the approval of vessels on board which civil marriages may be solemnised, in particular in Scottish waters.

***Section 49 Marriage procedure: miscellaneous amendments***

122. This section changes the arrangements for the display of a list of people who have submitted notice of their intention to marry. Until now, the list had to be displayed conspicuously at the registration office where the parties had submitted notice to marry. This was burdensome for a local registration authority with many registration offices, each of which had to display the forthcoming marriages for the entire registration district. Instead, it is now sufficient to display the list conspicuously at the main registration office in the local registration authority area. In addition, however, the district registrar is obliged to notify the intended marriage to the Registrar General, who will maintain a list of all proposed marriages in Scotland and make it available for public inspection, including on the GROS website. This will enable anyone with internet access, potentially anywhere in the world, to learn of a proposed marriage in Scotland and to offer a legal objection if they have good reason. Section 49 was brought into force on 1st January 2007.

***Section 50 Marriage procedure: electronic communications***

123. This section paves the way for completion of certain parts of marriage arrangements by electronic means.
124. Subsection (2) allows the marriage notice to be submitted electronically, and the prescribed fee and birth certificate to be submitted separately. Subsection (3) allows for an objection to marriage to be submitted separately from a medical certificate showing that a party to the marriage is incapable of understanding or consenting to marriage, which certificate can be submitted electronically. Subsection (4) allows electronic submission of a request by a marriage party for the marriage to take place within the normal 14 day notification period. Subsection (5) makes similar provision for electronic submission of objections, where a Scottish resident is getting married outwith Scotland. Subsection (6) allows the Registrar General to give notice by electronic means instead of in writing, where he rejects a nomination as authorised celebrant for a religious marriage, subsection (7) where the Registrar General removes a person from the register of celebrants, subsection (8) where the Registrar General issues a temporary authorisation of a marriage celebrant and subsection (9) where a party wishes a civil marriage to take place within the normal 14 days period of notice. Subsection (10) adds a new section 24A of the 1977 Act which enables documents to be prescribed in electronic form and for the manner of attestation of documents to be prescribed.
125. [Section 50](#) came into force on 1st January 2007 – but see regulation 2(b) of [S.S.I. 2006/597](#) for its initial use, temporarily preserving the existing position on attestation.

***Section 51 Civil partnership procedure: registrations at sea***

126. **Section 51** amends section 93 of the Civil Partnership Act 2004, which specifies where a civil partnership may be registered, to provide for which registrar is to register a civil partnership registered in Scottish waters, and in which register that registration is to be recorded, paralleling the provision made for marriage by Section 48 of the Act. Section 51 came into force on 1st January 2007 - but see [S.S.I. 2006/574](#) for its initial use, temporarily preserving the existing position on attestation.

***Section 52 Civil partnership procedure: miscellaneous amendments***

127. **Section 52** amends the Civil Partnership Act 2004 (“the 2004 Act”). Subsection (2) paves the way for electronic submission of the notice of a proposed civil partnership, by allowing regulations to provide for this, for the fee and the prescribed documents (including the partners’ birth certificates) to be sent separately, and by allowing the notice to be attested rather than signed. Subsection (3) brings the period of notice which must be given to the registrar of a civil partnership in Scotland into line with the period of notice for a marriage, correcting an error in the 2004 Act. Subsection (4) paves the way for electronic submission of an objection to a civil partnership registration by regulations and by allowing any supporting certificate to be sent separately and to be attested rather than signed. Subsection (5) mirrors, for a civil partnership which has been validly registered, existing provisions preventing challenge to the validity of a marriage on a minor technical flaw. Subsection (6) brings section 98 of the 2004 Act, which applies to civil partnerships certain sections of the 1965 Act, into line with the 1965 Act as amended by the Act. Subsection (7) amends section 122 of the 2004 Act to apply the provisions of section 39C of the 1965 Act (see section 44(5) of the Act) to the Register of Dissolutions of Civil Partnership.
128. **Section 52** was brought into force on 1st October 2006 and 1st January 2007, except for subsection (6) insofar as it relates to the new section 39A of the 1965 Act (to be inserted by section 44(5) of the Act).

***Section 53 Provision of information about civil partnerships for certain purposes: fees***

129. This section provides for fees for the issue of certificates or certified copies from the civil partnership register for certain specified purposes, and for those fees to be varied by order, in the same way as for the other statutory registers. It was brought into force on 1st October 2006.