

## POLICY NOTE

### THE MARRIAGE AND MARRIAGE REGISTRATION (PRESCRIPTION OF FORMS) (SCOTLAND) AMENDMENT REGULATIONS 2023

#### SSI 2023/53

The above instrument was made by the Registrar General for Scotland in exercise of the powers conferred by section 3(1) of the Marriage (Scotland) Act 1977 and by paragraph 20A(1) of schedule 3 of the Gender Recognition Act 2004, and all other powers enabling her to do so.

The Scottish Ministers have, as required, approved the making of the instrument.

The instrument is subject to the negative procedure.

These Regulations replace two forms: the form by which a person gives notice to the district registrar of their intention to marry (“the marriage notice form”); and the form by which the parties to a marriage can apply to have the marriage re-registered after either or both parties has been issued with a full gender recognition certificate (“GRC”).

#### Policy Objectives

The Marriage and Civil Partnership (Scotland) Act 2014 (“the 2014 Act”) made a number of changes to the law on marriage, civil partnership and gender recognition. In particular, the 2014 Act allows same sex couples to get married and married people to obtain a full GRC without being required to divorce.

The changes in the 2014 Act required a number of changes to forms. In particular, a change was made so that it was no longer automatic that couples would be described as “Bridegroom” and “Bride” in the documentation relating to the marriage. Instead, each would be asked whether they wish to be described as “Bridegroom” or “Bride” or to have no designation.

The objective of these Regulations is to allow a party to a marriage the additional choice of the designation of “Groom” when they complete a marriage notice form or when, following gender recognition, they re-register their marriage. The intention is to address a concern raised by a number of individuals since the 2014 Act was implemented that, in a male same sex marriage, “Bridegroom” is inappropriate because there is no “Bride”.

The other designation options of “Bridegroom” and “Bride” are retained. This reflects that when the Scottish Government carried out a consultation on changes to forms following the 2014 Act, some religious bodies indicated that it is particularly important to retain the terms “Bridegroom” and “Bride” in relation to marriage.

In addition, minor changes are made in the new marriage notice form to correct an error in the numbering of the fields for completion and in the relative positioning of the choices of designation.

While these Regulations amend the form for re-registering a marriage following the issue of a full GRC under the Gender Recognition Act 2004, there is no effect on the process for obtaining such a GRC.

### **Consultation**

The Registrar General has made these Regulations in the light of the feedback from individuals whilst continuing to respect the outcomes of the previous consultation carried out at the time of the 2014 Act. No additional consultation has been carried out.

### **Impact Assessments**

A Business and Regulatory Impact Assessment (BRIA) and an Equality Impact Assessment (EQIA) have been completed and are attached. No changes to the policy objectives were required as a result.

The minimum age of marriage and civil partnership is 16 and these Regulations do not impact differently for 16 and 17 year olds who choose to marry or enter a civil partnership. Consequently, we have not undertaken a Child Rights and Wellbeing Impact Assessment. Any impacts for children are considered in the EQIA.

The effect of the changes made by these Regulations on island communities is not different from that on other communities.

These Regulations do not impact on how personal data is collected or handled, or on the environment, nor is the policy considered to constitute a strategic decision in respect of the socio-economic inequality duty.

### **Financial Effects**

A BRIA has been completed and is attached. The policy has no impact on business, as the forms affected are completed by individuals seeking to marry or re-register their marriage. There will be costs for National Records of Scotland in updating information technology systems to reflect the changes to these forms. These are considered to be minimal.

### **National Records of Scotland February 2023**