

# MARRIAGE AND CIVIL PARTNERSHIP (MINIMUM AGE) ACT 2022

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Marriage and Civil Partnership (Minimum Age) Act which received Royal Assent on 28 April 2022 (c. 28).

- These Explanatory Notes have been prepared by the Ministry of Justice and the Home Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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## Overview of the Act

- 1 The purpose of the Act is to address the practice of child marriage in England and Wales. The Act raises the minimum age of marriage and civil partnership to 18 in England and Wales. This brings an end to provisions allowing for 16-17-year olds to marry or enter a civil partnership with parental or judicial consent.
- 2 The anticipated effect of this change on the common law means that any marriages which take place overseas, or in Scotland or Northern Ireland, involving under 18s where one of the parties is domiciled in England and Wales, will not be legally recognised in England and Wales. This change to recognition also applies to civil partnerships. This does not affect the validity of any marriages or civil partnerships entered before the Act comes into force.
- 3 The Act also makes it illegal for a person to arrange the marriage of a person under the age of 18 in England and Wales in those circumstances where that is not already illegal.

## Policy background

- 4 Prior to the implementation of the Act, people can enter a marriage or civil partnership at the age of 18, or at 16-17 with parental or judicial consent. Statistics show that the numbers of people marrying in England and Wales at 16 or 17 were small and continued to decline. Of nearly 235,000 marriages in 2018, only 134 involved one or both persons who were aged 16 or 17<sup>1</sup>.
- 5 Before this Act, it was already an offence for a person to force another person of any age into a marriage, when they used violence, threats or any other form of coercion, and for a person to arrange the marriage of a person who lacks capacity to consent to the marriage under the Mental Capacity Act 2005, whether or not they used violence, threats or any other form of coercion. Both of these provisions encompass any religious or civil ceremony of marriage, whether or not it is legally binding. However, it is not currently an offence (prior to the implementation of the Act), for a person to arrange the marriage of a person under the age of 18, who has capacity to consent under the Mental Capacity Act 2005, where there has been no use of violence, threats or any other form of coercion.
- 6 Both the legal marriage of people aged 16 or 17, and the ‘marriage’ in a ceremony which is not legally binding of a person under the age of 18, represent child marriage. Moreover, research has shown that child marriage is often associated with leaving education early, limited career and vocational opportunities, serious physical and mental health problems, developmental difficulties for the children born to young mothers, and an increased risk of domestic abuse<sup>2</sup>. Statistics show that girls are more likely to be impacted. In England and Wales in 2018, 28 boys married legally under the age of 18 compared with 119 girls.
- 7 The UN Sustainable Development Goals require all countries to “eliminate all harmful practices, such as child, early and forced marriage and female genital mutilations by 2030”<sup>3</sup>. The UN Committee on the Rights of the Child also recommends that there should be no legal way for anyone to marry before they turn 18, even if there is parental consent. In 2016, the Committee recommended to the UK that it raise the minimum age to 18<sup>4</sup>.

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<sup>1</sup> [Marriages of 16 and 17 year olds, England and Wales, 2016 to 2019 - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/people-in-the-uk/marriages-divorces-and-separations/marriages-in-england-and-wales)

<sup>2</sup> World Bank Document “ECONOMIC IMPACTS OF CHILD MARRIAGE: (CONFERENCE EDITION) JUNE 2017 GLOBAL SYNTHESIS REPORT” page 53-65

<sup>3</sup> <https://www.gov.uk/government/publications/implementing-the-sustainable-development-goals/implementing-the-sustainable-development-goals--2>

<sup>4</sup> [UN CRC Committee's Concluding Observations 2016 - CRAE](https://www.unhcr.org/refugees/article/2016/06/14/un-crc-committee-concluding-observations-2016-crae)

- 8 The anticipated effect on the common law of the change to the minimum age of marriage means that marriages of under 18s, which take place abroad, will not be legally recognised in England and Wales if either party is domiciled in England and Wales. The Act establishes a further obstacle to those seeking to take children abroad to marry. It also offers clarity to professionals such as teachers and social workers who are uncertain whether they should report children travelling abroad to marry to the police.
- 9 The changes in the law means there is one less obstacle to children completing their education. Children will also have more time to grow and mature before entering marriage or civil partnership; which is a life-long commitment with significant legal and financial consequences.

## Legal background

- 10 The Marriage Act 1949 (“MA 1949”), Marriage (Registrar General’s Licence) Act 1970 and the Matrimonial Causes Act 1973 are the principal statutes on marriage in England and Wales. The Civil Partnership Act 2004 (“CPA 2004”) relates to the law on civil partnerships.
- 11 Section 2 of the MA 1949 stipulates that any marriage solemnized between persons either of whom is under the age of 16 shall be void. Section 3 of the MA 1949 sets out the consent requirements for a marriage of a child.
- 12 Section 3 of the CPA 2004 stipulates that two people are not eligible to register as civil partners if either of them is under 16. Section 4 states that those under 18 must have the consent of an appropriate person.
- 13 The Anti-social Behaviour, Crime and Policing Act 2014 (“ASBCPA 2014”) is the principal statute on forced marriage in England and Wales (and Scotland).
- 14 Section 121 of the ASBCPA 2014 renders it an offence (forced marriage) for a person to use violence, threats or another form of coercion for the purpose of causing another person to enter into a marriage, so long as they believe, or ought reasonably to believe, that the conduct may cause the other person to enter into the marriage without free and full consent. That section also renders it an offence to carry out any conduct for the purpose of causing someone who lacks the capacity to consent to marriage (within the meaning of the Mental Capacity Act 2005) to enter into a marriage (whether or not the conduct amounts to violence, threats or any other form of coercion).
- 15 Section 121 specifies that in each case ‘marriage’ means any religious or civil ceremony of marriage, whether or not it is legally binding. It specifies that an offence is committed if at the time of the conduct: at least one of the victim or the defendant is in England or Wales; if neither of them is in England or Wales at the time of the conduct but one of them is habitually resident in England or Wales; or if neither of them is in the UK at the time of the conduct but at least one of them is a UK national. It specifies that the maximum sentence is 12 months imprisonment (six months until the relevant legislation enabling sentences of up to 12 months is brought into effect), a fine or both in the magistrates’ court, or seven years imprisonment in the Crown Court.

## Territorial extent and application

- 16 Section 6 sets out the territorial extent of the Act, that is the legal jurisdiction in which the Act is intended to form part of the law. The extent of an Act can be different from its application. Application is about where an Act will have a practical effect.
- 17 Subject to subsections (2) and (3), the extent and application of the Act is England and Wales only. Subsection (2) provides that the amendment made by Section 4(3) and Sections 5-8 also extend to Scotland and Northern Ireland. Section 4(3) amends section 217(2) of the CPA 2004 and the recognition of an overseas relationship where one of the parties was domiciled in England and Wales when the overseas relationship was registered. This amendment is to align the amendments at sections 1 and 3 of the Act in relation to a reserved matter (marriage and civil partnership in England and Wales). Subsection (2) also provides that section 5 relating to the power to make consequential amendments, section 6 itself, section 7 on commencement, section 8 on saving provision and section 9 containing the short title, all form part of the law of the United Kingdom.
- 18 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

## Commentary on provisions of Act

### Section 1 – Marriage: increase of minimum age to 18

- 19 This section amends the MA 1949.
- 20 Subsection (2) amends the MA 1949 to substitute “18” for “16” to provide that a marriage solemnised where one party is under the age of 18 is void.
- 21 Subsection (3) omits section 3 of the MA 1949 (the current provision which sets out consent requirements for those marrying under 18 years).

### Section 2 – Offence of conduct relating to marriage of persons under 18

- 22 This section amends section 121 of the ASBCPA 2014.
- 23 Subsection (2) inserts new subsection (3A) into section 121. This provides that a person commits an offence under the law of England and Wales if he or she carries out any conduct for the purpose of causing a child to enter into a marriage before the child’s eighteenth birthday (whether or not the conduct amounts to violence, threats, any other form of coercion or deception and whether or not it is carried out in England and Wales). Following existing subsection (4) of section 121, a marriage is defined as any religious or civil ceremony of marriage, whether or not it is legally binding.
- 24 Subsection (3) specifies that, for the purpose of the new offence inserted by subsection (2), a child is a person who is aged under 18 years.
- 25 Subsection (4) amends subsection (6) of section 121. Subsection (6) of section 121 provides that if someone uses violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage, as is required for a person to be convicted of the offence in subsection (1) of section 121, the violence, threats or other form of coercion need not have been directed at the person whom it was intended to cause to enter the marriage, but could instead have been directed at another person. Subsection (4) would make similar provision for the new offence inserted by subsection (2), meaning that, if a person carries out conduct for the purpose of causing a child to enter into a marriage before the child’s eighteenth birthday, that conduct need not have been directed at that child, but could have been directed at another person.

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- 26 Subsection (5) inserts new subsection (7A) into section 121. Subsection (7A) would provide that an offence under new subsection (3A) (whose content is described in paragraph 23) is committed only if the conduct carried out for the purpose of causing a child to enter into a marriage before their eighteenth birthday is for the purpose of causing the child to enter into a marriage in England or Wales; or at the time of the conduct, at least one of the person carrying out the conduct or the victim is habitually resident in England and Wales; or at the time of the conduct the child is a United Kingdom national who has at some point been habitually resident in England and Wales and who is not habitually resident or domiciled in Scotland or Northern Ireland.

### Section 3 – Civil partnership: increase of minimum age to 18

- 27 This section amends the CPA 2004.
- 28 Subsection (2) amends section 3 of the CPA 2004 to substitute the age of “18” for “16” in the eligibility requirements.
- 29 Subsection (3) omits section 4 (the current provision which requires parental consent where a proposed civil partner is under 18).

### Section 4 – Civil partnerships etc. registered outside England and Wales

- 30 This section amends the CPA 2004.
- 31 Subsection 2 amends section 54 (validity of civil partnerships registered outside England and Wales). It inserts subsections that provide that where two people register as civil partners in Scotland or Northern Ireland, the partnership will be void if at time of registration, either of the two people were domiciled in England and Wales and either under 18.
- 32 Subsection 2 (c) also amends section 54 so that if two people convert their marriage into a civil partnership under Northern Irish regulations, it will be void if either of them was domiciled in England and Wales and either under 18 when the marriage was solemnised.
- 33 Subsection 3 amends section 217 (person domiciled in a part of the United Kingdom) which provides for an overseas relationship being registered by a person domiciled in England and Wales and increases the age under which two people are not to be treated as formed a civil partnership from 16 to 18. This is the only provision that extends to Scotland and Northern Ireland and therefore forms part of the law of Scotland and Northern Ireland.

### Section 5 – Power to make consequential amendments

- 34 This section allows the Secretary of State to make regulations by statutory instrument which make provision consequential on the provisions on the Act, including transitional or saving provision. Regulations may amend, repeal or revoke provisions made by or under primary legislation.

### Section 6 – Extent

- 35 Section 6 sets out the extent of the Act (see commentary in paras 16 to 19 above and Annex A for more information).

### Section 7 – Commencement

- 36 Subsections (1) and (2) provide that the provisions of the Act will come into force on such day as the Secretary of State may by regulations appoint and that different days may be appointed for different purposes.
- 37 Subsection (3) provides that the Secretary of State may make transitional, transitory or saving provision in connection with the coming into force of any provision of the Act.
- 38 Subsection (4) provides that regulations under this section are to be made by statutory instrument.

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## Section 8 – Saving Provision

- 39 This section provides that any amendments made by the Act do not affect the validity of any marriages or civil partnerships entered (or the treatment as a civil partnership of an overseas relationships registered under the relevant law) before the Act comes into force.

## Section 9 – Short title

- 40 Section 8 sets out the short title of the Act.

## Schedule – Minor and Consequential Amendments

### Paragraph 1 – Marriage Act 1949

- 41 Paragraph 1 makes amendments to the MA 1949, that are consequential on the amendments made by section 1 of the Act.
- 42 Subparagraphs (2), (3), (4), omit and/or amend sections of the MA 1949 which are no longer necessary or appropriate because they relate to the marriage of a child which will not be possible by virtue of section 1.
- 43 Subparagraph (5) removes section 30 MA 1949 (forbidding of issue of marriage schedule) as it will no longer be possible by virtue of section 1.
- 44 Subparagraph (6) and (7), omit sections of the MA 1949 which are no longer necessary or appropriate because they relate to the marriage of a child which will not be possible by virtue of section 1.
- 45 Subparagraph (8) amends section 75 (offences relating to solemnization of marriages) by omitting the offence consequential upon omitting the forbidding of issue of marriage schedule under section 30 MA 1949.

### Paragraph 2 – Marriage (Registrar General’s Licence) Act 1970

- 46 Paragraph 2 makes amendments to the Marriage (Registrar General’s Licence) Act 1970, that are consequential on the amendments made by section 1 of the Act.
- 47 Subparagraph (2) removes the subsection in section 3 (Evidence of capacity, consent etc. to be produced) relating to consent required for 16-17-year olds.
- 48 Subparagraph (3) removes section 6 (marriage of persons under eighteen) as this will no longer be possible by virtue of section 1.
- 49 Subparagraph (4) omits section 7(b) consequential on section 30 MA 1949 being omitted.

### Paragraph 3 – Matrimonial Causes Act 1973

- 50 Paragraph 3 makes amendments to the Matrimonial Causes Act 1973, that are consequential on the amendments made by section 1 of the Act.
- 51 Section 11 (nullity) is amended so that the ground on which a marriage is void is amended to apply where either party is under the age of eighteen.

### Paragraph 4 – Civil Partnership Act 2004

- 52 Paragraph 4 makes amendments to the CPA 2004, that are consequential on the amendments made by section 3 of the Act.
- 53 Subparagraph (2) amends section 5 (types of pre-registration procedure) to remove provisions applicable for those who are under 18.

- 54 Subparagraph (3) amends section 31 (offences relating to civil partnership schedule) to remove the offence relating to civil partnerships of persons under 18 consequential on section 3.
- 55 Subparagraph (4) amends section 32 (offence relating to General Registrar's licence) consequential on section 49(c) CPA 2004 being omitted.
- 56 Subparagraph (5) amends section 33 (offences relating to the recording of civil partnerships) consequential on section 49(c) CPA 2004 being omitted.
- 57 Subparagraph (6) amends section 49 (grounds on which civil partnership is void) to remove the provision relating to a child and forbidden person, as this will no longer be relevant.
- 58 Subparagraph (7) amends section 52 (proof of certain matters not necessary to validity of civil partnership) to omit provisions relating to the requirement of consent for those under 18.
- 59 Subparagraph (8) amends section 80 (false statements etc. with reference to civil partnerships) to remove provision relating to the forbidding of a civil partnership between a child and another person.
- 60 Subparagraph (9) removes Schedule 2 which relates to civil partnerships of persons under 18 in England and Wales, consequential on section 3.

## Commencement

- 61 Section 7 provides for the Act to be brought into force by means of regulations made by the Secretary of State.
- 62 Consequential amendments to secondary legislation will be brought in to coincide with the commencement of the Act.



## Related documents

63 The following documents are relevant to the Act and can be read at the stated locations:

- Impact Assessment:  
[https://www.legislation.gov.uk/ukpga/2022/28/pdfs/ukpgaod\\_20220028\\_en\\_001.pdf](https://www.legislation.gov.uk/ukpga/2022/28/pdfs/ukpgaod_20220028_en_001.pdf)
- Family Impact Test:  
<https://publications.parliament.uk/pa/bills/cbill/58-02/0018/AgeofMarriageBillFamilyImpactTest.pdf>
- Equalities Statement:  
<https://publications.parliament.uk/pa/bills/cbill/58-02/0018/AgeofMarriageBillEqualitiesStatement.pdf>

## Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales	Scotland	Northern Ireland
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Section 1	Yes	Yes	No	No
Section 2	Yes	Yes	No	No
Section 3	Yes	Yes	No	No
Section 4	Yes	Yes	In part	In part
Section 5	Yes	Yes	No	No
Section 6	Yes	Yes	No	No
Section 7	Yes	Yes	No	No
Section 8	Yes	Yes	No	No
Section 9	Yes	Yes	No	No
Schedule 1	Yes	Yes	No	No
Schedule 2	Yes	Yes	No	No

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## Annex B – Hansard References

64 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	16 June 2021	No debate
Second Reading	19 November 2021	<a href="#">Vol. 703</a>
Money Resolution	15 December 2021	No debate
Committee	12 January 2022	<a href="#">Col. 1</a>
Report	25 February 2022	<a href="#">Vol. 709 Col. 600</a>
Third Reading	25 February 2022	<a href="#">Vol. 709 Col. 606</a>
<i>House of Lords</i>		
Introduction	28 February 2022	No debate
Second Reading	1 April 2022	<a href="#">Vol. 820 Col. 1794</a>
Order of Commitment discharged	7 April 2022	<a href="#">Vol. 820</a>
Third Reading	26 April 2022	<a href="#">Vol 821 Col. 134</a>
Royal Assent	28 April 2022	<a href="#">Vol 821 Col. 383</a>

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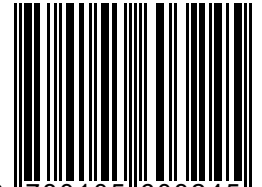
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