
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the registration of marriages and civil partnerships in which one or both parties have obtained a full gender recognition certificate under the Gender Recognition Act 2004 (c. 7). Changes made to the Gender Recognition Act 2004 by the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5) enable couples to remain married when one or each of the parties obtains a full gender recognition certificate, and to remain in a civil partnership when both parties obtain a full gender recognition certificate.

Regulation 3 provides for where one or both parties to a marriage are in receipt of a full gender recognition certificate under section 4(1) of the 2004 Act and wish to register their marriage to reflect the acquired gender. The parties must make an application to the Registrar General. If the Registrar General is satisfied with information contained in the application form he must prepare a draft of the register entry and send this to the district registrar for the registration district where the marriage was solemnised.

Regulation 4 provides that except in certain circumstances, the particulars to be entered are the same particulars as were recorded in the parties' existing entry, amended to reflect the name and gender of the party or parties to whom a full gender recognition certificate has been granted. Regulation 4(3) provides that if any of the particulars would indicate that a marriage of a same sex couple was solemnised before it would have been possible for such a marriage to be solemnised then the original particulars are not to be entered unless the couple request this.

Where the couple do not wish the original particulars to be entered, the marriage will be entered as if it had solemnised on the date that the new entry is made up, the details of the witnesses will be removed and the details of the registrar may be amended if the registrar that solemnised the marriage is no longer in post.

Regulation 5 prohibits the Registrar General from recording any particulars in the register that would indicate that a marriage was a religious or belief marriage solemnised by an authorised celebrant where on the date to be recorded as the date of the marriage that celebrant could not have solemnised the marriage. Such marriages are to be treated as having been solemnised by a registrar in a registration office.

Regulation 6 deals with marriages solemnised outside the United Kingdom according to the law of Scotland, these are marriages solemnised by UK consuls and through the UK armed forces.

Regulation 7 requires the district registrar to register the marriage by entering the particulars on the draft entry that has been sent by the Registrar General.

Regulations 8 to 10 make provision in relation to civil partnerships for a new civil partnership entry that will contain the same particulars as are entered in the original civil partnership entry amended to reflect the name and gender of the parties.

Regulation 11 allows the Registrar General to cancel an entry in relation to a person made in accordance with these Regulations if his or her full gender recognition certificate is revoked.

Regulation 12 makes clear for the avoidance of doubt that registration of a qualifying Scottish marriage under these Regulations has no effect on the continuity of that marriage.