

**2022 No. 201**

**GENDER RECOGNITION**

**MARRIAGE**

**CIVIL PARTNERSHIP**

**The Gender Recognition (Marriage and Civil Partnership  
Registration) (Scotland) Amendment Regulations 2022**

*Made* - - - - - *7th June 2022*

*Laid before the Scottish Parliament* *9th June 2022*

*Coming into force* - - - *23rd September 2022*

The Registrar General makes the following Regulations in exercise of the powers conferred by paragraph 20A(1) and (3) of schedule 3 of the Gender Recognition Act 2004<sup>(a)</sup> and all other powers enabling him to do so.

In accordance with paragraph 20A(1) of schedule 3 of that Act, the Scottish Ministers have approved the making of these Regulations.

**Citation and commencement**

**1.** These Regulations may be cited as the Gender Recognition (Marriage and Civil Partnership Registration) (Scotland) Amendment Regulations 2022 and come into force on 23 September 2022.

**Amendment of the Gender Recognition (Marriage and Civil Partnership Registration) (Scotland) Regulations 2016**

**2.—**(1) The Gender Recognition (Marriage and Civil Partnership Registration) (Scotland) Regulations 2016<sup>(b)</sup> are amended as follows.

(2) In regulation 2 (interpretation), at the end of the definition of “authorised registrar” insert “or, as the case may be, under section 87 of the Civil Partnership Act 2004”.

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<sup>(a)</sup> 2004 c. 7. Paragraph 20A was added by paragraph 9(2)(b) of schedule 2 of the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5) and amended by paragraph 5(19)(b) of schedule 2 of the Civil Partnership (Scotland) Act 2020 (asp 15). Paragraph 12 of schedule 3 of the 2004 Act contains a definition of “the Registrar General”.

<sup>(b)</sup> S.S.I. 2016/66.

(3) For regulation 6 (qualifying Scottish marriages solemnised outside the United Kingdom) substitute—

**“Qualifying Scottish marriages solemnised outside the United Kingdom**

**6.**—(1) This regulation applies where an application under regulation 3(1) relates to a qualifying Scottish marriage that is treated as having been solemnised in Scotland by virtue of section 25(3), (4) or (5) of the 2004 Act<sup>(a)</sup>.

(2) The marriage is to be entered in the draft new register of marriages entry as if it had been solemnised by an authorised registrar, in post on the applicable date, in the City of Edinburgh registration district.

(3) In this regulation, “applicable date” means the date entered by the Registrar General in the draft new register of marriages entry as the date the marriage was solemnised.”.

(4) In regulation 9 (particulars to be entered in civil partnership register entry)—

(a) in paragraph (1) for “paragraph (2)” substitute “this regulation and regulations 9A and 9B”,

(b) for paragraph (2) substitute—

“(2) The draft new civil partnership register entry must reflect the name and gender referred to on the full gender recognition certificate, or certificates, granted to one or each of the civil partners.

(3) Where any of the particulars would indicate that a civil partnership of persons of different sexes was registered before 1 June 2021, the Registrar General must not enter those particulars in the draft new civil partnership register entry unless the civil partners request those particulars to be entered.

(4) If by virtue of the prohibition in paragraph (3), the Registrar General is unable to enter the date on which the civil partnership was registered—

(a) the civil partnership is to be entered in the draft new civil partnership register entry as if it had been registered on the date on which the draft new civil partnership register entry is made; and

(b) the particulars to be entered in the draft new civil partnership register entry must be those applicable on that date, except that—

(i) the witnesses with addresses particular<sup>(b)</sup> must remain blank; and

(ii) where the civil partnership was registered by an authorised registrar, the civil partnership is to be entered in the draft new civil partnership register entry as if it had been registered by an authorised registrar, in post on the date referred to in paragraph (4)(a), at the registration office of the registration district entered in the existing civil partnership register entry.”.

(5) After regulation 9 insert—

**“Qualifying Scottish civil partnerships that are religious or belief civil partnerships**

**9A.**—(1) The Registrar General must not enter in the draft new civil partnership register entry any particulars that would indicate that a civil partnership of persons of the same sex was a religious or belief civil partnership if, on the applicable date, the person who registered the civil partnership was not—

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(a) Section 25(2) to (6) was inserted by paragraph 2(d) of schedule 2 of the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5).

(b) The witnesses with addresses particular is at box 12 of the form of page of the civil partnership register, prescribed by the Registration of Civil Partnerships (Prescription of Forms, Publication and Errors) (Scotland) Regulations 2005 (S.S.I. 2005/458), regulation 6 and schedule 3.

- (a) a person who may register a civil partnership between persons of the same sex under section 94A(1)(a)(i) of the Civil Partnership Act 2004<sup>(a)</sup>;
- (b) registered under section 94B of that Act to register civil partnerships between persons of the same sex; or
- (c) temporarily authorised under section 94E of that Act to register civil partnerships between persons of the same sex.

(2) The Registrar General must not enter in the draft new civil partnership register entry any particulars that would indicate that a civil partnership of persons of different sexes was a religious or belief civil partnership if, on the applicable date, the person who registered the civil partnership was not—

- (a) a person who may register a civil partnership between persons of different sexes under section 94A(2A)(a)(i) of the Civil Partnership Act 2004;
- (b) registered under section 94B of that Act to register civil partnerships between persons of different sexes; or
- (c) temporarily authorised under section 94E of that Act to register civil partnerships between persons of different sexes.

(3) Where paragraph (1) or (2) applies, the civil partnership is to be entered in the draft new civil partnership register entry as if it had been registered by an authorised registrar, in post on the applicable date, at the registration office of the registration district entered in the existing civil partnership register entry.

(4) In this regulation—

“religious or belief civil partnership” has the same meaning as in section 94A(4)(b) of the Civil Partnership Act 2004;

“applicable date” means the date entered by the Registrar General in the draft new civil partnership register entry as the date the civil partnership was registered.

### **Qualifying Scottish civil partnerships registered outside the United Kingdom**

**9B.**—(1) This regulation applies where an application under regulation 8(1) relates to a qualifying Scottish civil partnership that is treated as having been registered in Scotland by virtue of section 25(2) of the 2004 Act.

(2) The civil partnership is to be entered in the draft new civil partnership register entry as if it had been registered by an authorised registrar, in post on the applicable date, in the City of Edinburgh registration district.

(3) In this regulation, “applicable date” means the date entered by the Registrar General in the draft new civil partnership register entry as the date on which the civil partnership was registered.”.

(6) In regulation 12 (continuity of qualifying Scottish marriages)—

- (a) the regulation heading becomes “**Continuity of qualifying Scottish marriages and qualifying Scottish civil partnerships**”,
- (b) at the end insert “or a qualifying Scottish civil partnership”.

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(a) Sections 94A, 94B and 94E were inserted by section 24(13) of the 2014 Act and amended by sections 7 and 8 of the Civil Partnership (Scotland) Act 2020 (asp 15).

(7) For the form in schedule 2 (application form to register a civil partnership following issue of full gender recognition certificate) substitute the form in the schedule of these Regulations.

*ANNE SLATER*  
Deputy Registrar General

New Register House,  
Edinburgh  
7th June 2022

Approved by the Scottish Ministers

*CHRISTINA McKELVIE*  
Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
7th June 2022

## SCHEDULE

Regulation 2(7)

### APPLICATION FORM TO REGISTER A CIVIL PARTNERSHIP FOLLOWING ISSUE OF FULL GENDER RECOGNITION CERTIFICATE

Please read the attached guidance note before completing this form

	Applicant 1	Applicant 2
1. If you registered your civil partnership before 1 June 2021 and only one of you has obtained a full gender recognition certificate do you wish the civil partnership register to show the original date of your civil partnership?	Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
	No <input type="checkbox"/>	No <input type="checkbox"/>
	N/A <input type="checkbox"/>	N/A <input type="checkbox"/>
2. Forename(s)*		
Surname(s)*		
Surname(s) when existing civil partnership was registered		
3. Date of existing civil partnership registration		
4. Place of existing civil partnership registration		
5. Occupation*		
6. Country of birth*		
7. Usual residence*		
8. Father's/Parent's forename(s), surname(s), occupation or whether retired, and whether living*		
9. Mother's/Parent's forename(s), surname(s), occupation or whether retired, and whether living*		
10. Contact telephone number		
11. Email address		

12.	
(Signed by applicant)	(Signed by applicant)
(Date)	(Date)
*at the time of this application. You only need to provide these details if your civil partnership was registered before 1 June 2021; only one of you has obtained a full gender recognition certificate; and you do not wish the register to show the original date of your civil partnership.	

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Gender Recognition (Marriage and Civil Partnership Registration) (Scotland) Regulations 2016 (“the 2016 Regulations”) which provide for the making of a new entry in the register of marriages or the civil partnership register when a full Gender Recognition Certificate is issued to a party, or to each party, to a marriage or civil partnership.

The 2016 Regulations have previously only made provision for the making of a new entry relating to a civil partnership when both partners have been issued with full Gender Recognition Certificates. In consequence of the introduction of mixed sex civil partnership in Scotland and the associated amendments to the Gender Recognition Act 2004 made by the Civil Partnership (Scotland) Act 2020, it has become possible for a full Gender Recognition Certificate to be issued to only one of the parties to a civil partnership and for the civil partnership to continue.

These Regulations make consequential amendments to the 2016 Regulations to provide for the making of a new entry in the civil partnership register when a full Gender Recognition Certificate has been issued to either one or both partners.

The provisions added by regulation 2(4) and (5) provide for the particulars recorded in the original civil partnership register entry to be modified in the new entry where necessary to prevent a party’s transgender status or history being disclosed by showing either the date the civil partnership was registered, the identity of the religious or belief celebrant who registered it, or the place where it was registered.

Regulation 2(7) and the schedule substitute the form to be used for an application by civil partners.

Regulation 2(3) amends the provisions of the 2016 Regulations relating to applications by married couples to prevent a party’s transgender status or history being disclosed where the marriage was originally solemnised outside the UK in accordance with certain enactments.

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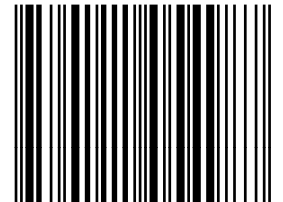
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