

EQUALITY IMPACT ASSESSMENT RECORD

Title of legislation	The Marriage and Marriage Registration (Prescription of Forms) (Scotland) Amendment Regulations 2023 & The Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Amendment Regulations 2023
Minister	The Cabinet Secretary for Constitution, External Affairs and Culture
Non-ministerial office-holder	The Registrar General for Scotland
Directorate: Division: Team	Justice: Civil Law and Legal System: Family Law National Records of Scotland (NRS)
Is this new policy or revision to an existing policy?	New policy

Screening

Policy Aim

The Marriage and Marriage Registration (Prescription of Forms) (Scotland) Amendment Regulations 2023 (the “Marriage and Marriage Registration SSI”) would be made by the Registrar General for Scotland (“the Registrar General”) with the approval of the Scottish Ministers.

The Marriage and Marriage Registration SSI would amend:

- the Marriage (Prescription of Forms) (Scotland) Regulations 1997 (SI 1997/2349) to replace the form which each party to a proposed marriage gives notice to the district registrar of their intention to marry; and
- the Gender Recognition (Marriage and Civil Partnership Registration) (Scotland) Regulations 2016 to replace the form by which a married couple can apply to have the marriage re-registered after either or both of them has been issued with a full gender recognition certificate (“GRC”).

The only difference in these forms from the previous forms would be the addition of an optional designation as “Groom” to the existing options of “Bride”, “Bridegroom” or not to be designated in the documentation relating to the marriage, such as the entry in the register for the marriage.

The Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Amendment Regulations 2023 (the “Marriage between Civil Partners SSI”) would be made by the Scottish Ministers following consultation with the Registrar General for Scotland.

The Marriage between Civil Partners SSI would amend the Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Regulations 2014 (“the 2014 Regulations”) to:

- replace the form by which a couple can apply to have their civil partnership changed into a marriage under the 2014 Regulations to add the designation of “Groom”;
- increase the fee payable for submission of an application to change a civil partnership to a marriage from £30 to £45;
- repeal now obsolete provisions of the 2014 Regulations; and
- make minor amendments for clarification purposes and to correct an error in the 2014 Regulations.

This EQIA record will focus on the key policy changes proposed which are the change to the registration forms to provide for the designation of “Groom” and the proposed increase in the fee for an application to change a civil partnership to a marriage.

Background

Marriage Designations

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; for a couple in a civil partnership to change that civil partnership to a marriage; and for married people to obtain a full GRC without being required to divorce.

These changes 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 is now asked whether they wish to be described as “Bridegroom” or “Bride” or to have no designation. However, individuals have subsequently raised concerns with National Records of Scotland (“NRS”) and with the Scottish Ministers noting that in a male same sex marriage, “Bridegroom” is inappropriate because there is no “Bride”.

Fee for changing a civil partnership to a marriage

Where the parties to a qualifying civil partnership¹ wish to change their civil partnership into a marriage, the parties must complete and submit an application to do so and appear in person before a district registrar.

The level of fee is, in this case, set by the Scottish Ministers following consultation with the Registrar General. The service is delivered by registrars and other staff employed by local authorities, as is the case for registration of marriage and civil partnership more generally. Local authorities determine how registration services are delivered in practice and the appropriate staff resources and the chosen service model can affect the costs incurred in delivery. However, fixing statutory registration fees centrally ensures consistency of access to these services across Scotland.

There is currently a £30 fee for an application to change a civil partnership to a marriage which has remained unchanged since introduction in 2014.

Objective

Marriage designations

The addition of the designation of “Groom” to certain registration forms is intended to address the concern that in a male same sex marriage, “Bridegroom” is inappropriate because there is no “Bride”.

The other designation options of “Bridegroom” and “Bride” would be 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.

Fee for changing a civil partnership to a marriage

The Scottish Government’s policy as set out in guidance in the Scottish Public Finance Manual is that charges for public services should generally allow for full cost recovery.

For previous Scottish Statutory Instruments fixing registration services fees, this approach has meant that the aim is for each of the registration services fees set to recover the full cost of the statutory service to which they relate.

This is the first proposed change in the fee to change a civil partnership to a marriage since this became possible in late 2014.

¹ These are (a) a civil partnership registered in the United Kingdom which has not been dissolved, annulled or ended by death or (b) an [overseas relationship](#) registered outwith the UK which is treated as a civil partnership in UK and has not been dissolved, annulled or ended by death: [I want to change my Civil Partnership into a Marriage. How do I go about it? | National Records of Scotland \(nrscotland.gov.uk\)](#)

National Performance Framework

The proposals, if implemented, would contribute to the achievement of the following outcomes of the [National Performance Framework](#):

- we live in communities that are inclusive, empowered, resilient and safe; and
- we respect, protect and fulfil human rights and live free from discrimination.

Who will the proposals affect if implemented?

- Couples
- Local authorities
- NRS

The proposed changes would affect couples who intend to marry or want to change their civil partnership to a marriage, or re-register their marriage following gender recognition. Each party would be able to choose the designation of “Groom”. Couples who were changing their civil partnership to a marriage would need to pay an increased fee of £45.²

Local authorities should benefit from the proposed increase in the fee for this application. Local authorities may need to update their website guidance, and this may have some costs.

NRS will, if the proposals proceed, need to update their information technology systems to reflect the new designation of “Groom” and to update their website guidance.

What might prevent the desired outcomes being achieved?

We have not identified any factors that might prevent the desired outcomes being achieved if the proposals proceed.

The number of couples who change their civil partnership to a marriage is very low. Statistics published by NRS show that in 2019 fewer than 60 civil partnerships were changed to a marriage.³ (This includes those which were changed by way of a marriage ceremony and not by making an application to the registrar.) However, the aim of the increase in the fee is to better reflect the increased costs of processing these applications, and to align with a change made to the equivalent fees for lodging a notice of intention to marry or a notice of intention of a proposed civil partnership. Those fees increased with effect from 1 May 2022 to £45 per party.⁴

² There is a fee for lodging a notice of intention to marry or to enter a civil partnership of £45 per party.

³ [List of Data Tables | National Records of Scotland \(nrscotland.gov.uk\)](#), Table 7.03(b)

⁴ [The Registration Services \(Fees, etc.\) \(Scotland\) Amendment Regulations 2022 \(legislation.gov.uk\)](#)

Stage 1: Framing

Results of framing exercise

All protected characteristics

The numbers of civil partnerships changed to marriages each year is very low. In 2019, there were fewer than 60 marriages which resulted either from civil partners going through a marriage ceremony, or from the use of the application⁵ for which the increased fee of £45 is proposed.

Protected characteristics of sex and sexual orientation

We are aware of individuals who have corresponded with the Scottish Government and NRS about the lack of an appropriate designation for those in a male same sex marriage, where there is no “Bride”. Adding the designation of “Groom” may promote equality of opportunity for those who do not identify with the term “Bridegroom”.

The provision made for civil partners to change their relationship to a marriage is open to both same sex and mixed couples but may benefit particularly same sex couples who entered their civil partnership before same sex marriage became possible under the 2014 Act.

There is statistical information on the numbers of civil partnership changing to a marriage on the NRS website.

Protected characteristic of religion or belief

When the Scottish Government was implementing the 2014 Act, it held a short consultation on changes to registration forms. One of the outcomes of that consultation was that some religious bodies noted that it is particularly important to retain the terms “Bridegroom” and “Bride” in relation to marriage. Adding the option of “Groom” for those who do not identify as a “Bridegroom” whilst retaining the designations of “Bridegroom” and “Bride” which may have religious significance to other individuals may help foster good relations between different protected groups.

Socio-economic status and certain protected characteristics

Some couples with a low income may be affected by the proposed increase in the fee for changing a civil partnership to a marriage. We know that the numbers of such applications are very low generally, but we also know that it is more common for people with certain protected characteristics to be affected by poverty and income inequality.⁶

⁵ [List of Data Tables | National Records of Scotland \(nrscotland.gov.uk\)](#) at Table 7.03(b)

⁶ [Poverty and Income Inequality in Scotland 2017-20 \(data.gov.scot\)](#)

However, in light of the low numbers of those in civil partnerships who change their relationship to a marriage, we have no evidence regarding the characteristics of those applicants. Additionally, we must also consider that the Scottish Government's general policy approach in the Scottish Public Finance Manual is that charges for public services should generally allow for full cost recovery.

Extent/Level of EQIA required

In light of the likely available evidence and the nature of the proposed changes, we consider that an EQIA is appropriate but that it should be limited in nature using only already available evidence.

Stage 2: Data and evidence gathering, involvement and consultation

Characteristic	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
<p>AGE</p>	<p>The evidence indicates that the youngest adults have the highest poverty rates. In the 15 years to 2020, the youngest adults (16–24-year-olds) have been consistently more likely to be in relative poverty compared to older adults. As a consequence, younger adults <i>might</i> be more affected by an increase in the fee for changing a civil partnership to a marriage.</p> <p>The mean ages of civil partners who changed their relationship to a marriage are published. In 2019, the mean age was 48.5. In 2017-20, married adults or adults in a civil partnership were the least likely to be in poverty (13%, 260,000).</p> <p>This suggests that the increase in the fee for changing a civil partnership to a marriage is not likely to disproportionately affect younger people.</p> <p>When it became possible to change a civil partnership to a marriage on 16 December 2014, there was no fee payable in the first year for civil partners wishing to change their civil partnership to marriage under the administrative route, provided that their civil partnership was registered before 16 December 2014 when same sex marriage was not available in Scotland.</p>	<p>Poverty and Income Inequality in Scotland 2017-20 (data.gov.scot)</p> <p>List of Data Tables National Records of Scotland (nrscotland.gov.uk) Table 7.</p> <p>Poverty and Income Inequality in Scotland 2017-20 (data.gov.scot)</p> <p>Regulation 6 of The Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Regulations 2014 (legislation.gov.uk)</p>	

Characteristic	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
	<p>A summary report from 2017 of information about sexual orientation in Scotland indicated that around three in ten (29 per cent) of lesbian, gay, bisexual and other adults answering the Scottish Survey Core Questions were aged 16-24 compared to heterosexual adults (14%). This might suggest that the addition of the designation of “Groom” may particularly benefit younger people in a male same sex relationship.</p>	<p>Sexual orientation in Scotland 2017: summary of evidence base - gov.scot (www.gov.scot)</p>	
DISABILITY	<p>We know that poverty rates are higher for households in which somebody is disabled compared to those where no-one is disabled. In 2017-20, the poverty rate after housing costs for people in households with a disabled person was 23% (500,000 people each year).</p> <p>However, we do not have statistics on the numbers of disabled people are in a civil partnership and who might decide to change this to a marriage.</p> <p>We have not identified relevant evidence regarding those with the protected characteristic of disability in relation to marriage designations.</p>	<p>Poverty and Income Inequality in Scotland 2017-20 (data.gov.scot)</p>	
SEX	<p>We are aware of concerns raised in correspondence and in Parliamentary questions regarding the lack of a designation of “Groom” in the form submitted by each party to the district registrar of their intention to marry. These concerns have been raised in the context of male same sex marriage, where there is</p>		

Characteristic	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
	no "Bride" and the parties do not want to choose "Bridegroom" or not to be designated.		
PREGNANCY AND MATERNITY	We have not identified evidence.		
GENDER REASSIGNMENT	<p>There are no published statistics about those couples who re-register their marriage in Scotland following gender recognition and so would potentially be affected by the addition of the designation of "Groom" to the relevant statutory form.</p> <p>The statistics for all applications made to the Gender Recognition Panel for those with this protected characteristic seeking legal recognition in accordance with their lived sex are published. The vast majority of those applicants who receive a full GRC are single. (In 2021, 451 applicants receiving a full GRC were single and 38 were married.)</p> <p>The consultation on the Review of the Gender Recognition Act 2004 set out the numbers of successful applicants whose birth had been registered in Scotland between 2005 and 2016. On average over that period, there were 24 successful applicants each year who were born in Scotland. Not all will have re-registered a marriage, as this is</p>	<p>Tribunals statistics - GOV.UK (www.gov.uk)</p> <p>Review of the Gender Recognition Act 2004: consultation - gov.scot (www.gov.scot)</p>	

Characteristic	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
SEXUAL ORIENTATION	<p>optional, and the process requires both parties to a marriage to agree on re-registration.</p> <p>We do not have evidence regarding whether those entering a same sex marriage disproportionately choose not to be designated in the public record of their marriage, when compared to men in heterosexual marriages.</p> <p>We are aware of concerns raised in correspondence and in Parliamentary questions regarding the lack of a designation of “Groom” in the form submitted by each party to the district registrar of their intention to marry. These concerns have been raised in the context of male same sex marriage, where there is no “Bride” and the parties want to have a designation.</p> <p>An informal discussion involving Scottish Government officials and representatives from the Equality Network⁷ suggest that they are supportive of adding the designation of “Groom” to the registration forms.</p>		
RACE	<p>In 2015-20, people from non-white minority ethnic groups were more likely to be in relative poverty after housing costs compared to those from the ‘White - British’ and ‘White - Other’ groups.</p>	<p>Poverty and Income Inequality in Scotland 2017-20 (data.gov.scot)</p>	

⁷ [Equality Network — Promoting lesbian, gay, bisexual and transgender equality & rights across Scotland \(equality-network.org\)](#)

Characteristic	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
	<p>The poverty rate was 41% for the 'Asian or Asian British' ethnic groups (50,000 people each year), and 43% for 'Mixed, Black or Black British and Other' ethnic groups (no population estimate available due to the small sample).</p> <p>In 2015, adults in the UK who identified their ethnicity as 'mixed or multiple' were most likely to identify as lesbian, gay or bisexual (2.5 per cent). This compares to 1.8% white adults, 1% black/African/Caribbean/Black British and 0.8% of Asian adults.</p> <p>We don't have evidence regarding the race or ethnicity of those who enter a same sex marriage in Scotland.</p>	<p>3. Demographics - Sexual orientation in Scotland 2017: summary of evidence base - gov.scot (www.gov.scot)</p>	
RELIGION OR BELIEF	<p>We know from the short consultation carried out on changes to form required as a result of the implementation of the 2014 Act that some religious bodies consider it is important that the designations of "Bride" and "Bridegroom" were retained.</p> <p>The proposal to add the further optional designation of "Groom" will continue to allow for other individuals to select "Bridegroom".</p>		
MARRIAGE AND CIVIL PARTNERSHIP	<p>Not applicable- Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or</p>		

Characteristic	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
	practice relates to work, for example HR policies and practices.		

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			x	The policy is not intended for this.
Advancing equality of opportunity	x			The evidence suggests that lesbian, gay and bisexual adults are more likely to be aged 16-24 and those entering a male same sex marriage may benefit from the proposal to add the choice of the designation of "Groom".
Promoting good relations among and between different age groups			x	

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			x	The policy is not intended for this.
Advancing equality of opportunity			x	We don't have evidence.
Promoting good relations among and between disabled and non-disabled people			x	We don't have evidence.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	The policy is not intended for this.
Advancing equality of opportunity	x			The proposal to add a designation of Groom may help ensure that men who do not identify the designation "Bridegroom" have an option if they want to be designated.
Promoting good relations between men and women	x			The proposal to add a designation ensures that men who do not identify the designation "Bridegroom" have an option if they want to be designated.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	The policy is not intended for this.
Advancing equality of opportunity			x	We don't have evidence.
Promoting good relations			x	We don't have evidence.

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	The policy is not intended for this.
Advancing equality of opportunity			x	We don't have evidence.
Promoting good relations			x	We don't have evidence.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	The policy is not intended for this.
Advancing equality of opportunity	x			We know from concerns raised in ministerial correspondence and Parliamentary questions that some men will welcome the addition of the designation of "Groom".
Promoting good relations	x			We consider this change could promote good relations between gay and heterosexual people because it can be argued that it recognises that "Groom" and "Bridegroom" are both appropriate marriage designations.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	The policy is not intended for this.
Advancing equality of opportunity			x	We don't have evidence.
Promoting good race relations			x	We don't have evidence.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	The policy is not intended for this.
Advancing equality of opportunity			x	The proposal to add the designation of "Groom" should not affect those who prefer "Bride" and "Bridegroom" for religious reasons, but it does not offer a positive impact for them.
Promoting good relations	x			Adding the designation of "Groom" may promote good relations because the outcomes of the form consultation in 2014 regarding the designations of "Bride" and "Bridegroom" are respected.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	Yes, potential positive impacts have been identified for the protected characteristics of sex, sexual orientation and religion or belief.
Is the policy directly or indirectly discriminatory under the Equality Act 2010?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	No
If not justified, what mitigating action will be undertaken?	Not applicable

Describing how Equality Impact analysis has shaped the policy making process

We considered at any early stage whether the option for the parties to a marriage to be designated in the public record should be removed. This would be consistent with the position for civil partners who cannot chose a designation in an equivalent way to married couples. Further the designation of “Groom” is a derivation, in the context of marriage, from “Bridegroom” and could be considered to have no material difference from “Bridegroom”.

However, we took account of the concerns of some religious bodies, raised during the implementation of the 2014 Act (which introduced same sex marriage), that it was important that the designations of “Bride” and “Bridegroom” were retained, and that “Groom” could be added instead.

Monitoring and Review

National Records of Scotland will continue to monitor the registration forms in the light of feedback from registrars and customers.

Regular reviews of registration fees were carried out by NRS with input from CoSLA, local authorities and the Association of Registrars of Scotland before the COVID-19 pandemic. The Registrar General intends to start a review of other registration fees in 2023.

Stage 5 - Authorisation of EQIA

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken and give my authorisation for the results of this assessment to be published.

Name: Anne Slater

Position: Deputy Registrar General for Scotland

Authorisation date: 22 February 2023