

MARRIAGE AND CIVIL PARTNERSHIP (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY

Part 1 – Marriage

Chapter 5 – Other changes to marriage procedure

Overview

96. This Chapter makes a variety of changes to marriage law.
97. These include the introduction of powers for district registrars to require evidence of nationality from people wishing to get married; provisions on the timing of the issue of the Marriage Schedule; providing information to the district registrar on the ending of any civil partnership when a person is marrying outwith Scotland and is seeking a certificate about the person's legal capacity to do so; the automatic authorisation of Church of Scotland deacons to marry opposite sex couples and allowing civil marriage ceremonies to take place anywhere agreed by the couple and the registrar, other than religious premises.

Section 17: Power of district registrar to require evidence of nationality: marriage

98. This section makes amendments to sections 3 and 7 of the 1977 Act.
99. Section 3 of the 1977 Act makes provision about the documents which people wishing to enter into an opposite sex or same sex marriage have to supply to the district registrar.
100. Subsection (2) adds new subsections to section 3 of the 1977 Act so that a district registrar may require "specified nationality evidence" in relation to the intended parties to a marriage. Guidance can be issued by the Registrar General about what evidence is required.
101. Subsection (3) amends section 7 of the 1977 Act. This amendment means that where a person wants to marry outwith Scotland and seeks a certificate about legal capacity from the district registrar, that person may be required to provide evidence of nationality.

Section 18: The Marriage Schedule

102. This section amends the 1977 Act in relation to the power to prescribe the form of the Marriage Schedule and makes a number of changes to how quickly the marriage schedule and a certificate of no impediment should be issued after notice of intention to marry has been submitted by the parties to an intended marriage.
103. Subsection (2) amends section 6 of the 1977 Act so that regulations prescribing the form of the Marriage Schedule may make different provision for different cases or

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Act 2014 (asp 5) which received Royal Assent on 12 March 2014*

circumstances. This would, for example, allow the Marriage Schedule to take one form for opposite sex marriage and another for same sex marriage.

104. Section 6(4)(a) of the 1977 Act provides that a district registrar shall not issue a Marriage Schedule within 14 days of receiving a marriage notice. A Schedule may be issued earlier, on a specified date, where there is a written request and the Registrar General authorises the registrar to issue the Schedule on the specified date. The amendment at subsection (2)(b) changes the 14 day period to 28 days.
105. Section 7 of the 1977 Act relates to the issue of a certificate of no impediment to marry where a person residing in Scotland intends to marry outwith Scotland. Section 7(2) provides that the certificate shall not be issued earlier than 14 days after receiving the marriage notice. The amendment at subsection (3) changes the 14 day period to 28 days.
106. Section 19 of the 1977 Act provides that an authorised registrar shall not solemnise a marriage within 14 days of receiving a marriage notice. The amendment at subsection (4) changes this period to 28 days. An exception in section 19(1) of the 1977 Act allows the marriage to be solemnised earlier, on a specified date, where there is a written request and the Registrar General authorises the registrar to solemnise the marriage on the specified date.

Section 19: Marriage outside Scotland: evidence of dissolution of former civil partnership

107. This section amends section 7 of the 1977 Act. The effect of the amendment is that where a person wants to marry outwith Scotland and seeks a certificate about the person's legal capacity from the district registrar the person must provide a copy of the decree of dissolution or annulment of any civil partnership which the person has previously been in.

Section 20: Religious marriages: solemnisation by Church of Scotland deacons

108. This section amends the provisions of section 8(1)(a)(i) of the 1977 Act about automatic authorisation of ministers of the Church of Scotland in respect of opposite sex marriage. The effect is that Church of Scotland deacons, like Church of Scotland ministers, are automatically authorised to solemnise opposite sex marriage.

Section 21: Places at which civil marriages may be solemnised

109. This section makes amendments, principally to section 18 of the 1977 Act, so that civil marriage ceremonies can take place anywhere, other than in religious premises, agreed by the couple and the registrar, rather than at "approved places" (places approved by the local authority). This section applies to both opposite sex and same sex marriages. The section provides definitions for "appropriate place", "local registration authority" and "religious premises".
110. Specifically, these amendments mean that a civil marriage ceremony can take place in either:
 - the registration office of the authorised registrar; or
 - at an appropriate place in the registration district of the authorised registrar; or
 - with the approval of the Registrar General, at the registration office of another authorised registrar; or
 - with the approval of the Registrar General, at an appropriate place in the registration district of another authorised registrar; or
 - with the approval of the Registrar General, at an appropriate place in Scottish waters.

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111. As a result of the above, some amendments are necessary to the 1977 Act. Section 18A (on approved places) is repealed. Section 19 (on the marriage ceremony and registration) and section 26 (on interpretation and definitions) are amended where they refer to the place where a marriage has taken place. Those amendments are made in subsections (3) to (5).

Section 22: Second marriage ceremony: form of endorsement

112. This is a minor amendment to section 20 of the 1977 Act. This makes provision for a couple to go through a second marriage ceremony in Scotland if they have already married outwith the United Kingdom but there is some doubt about the validity of the overseas ceremony. The second marriage ceremony in Scotland must be civil in nature.
113. Section 20 of the 1977 Act sets out the process for a second marriage ceremony. Section 20 currently provides for an endorsement to be made to the Marriage Schedule by the authorised registrar, and the wording of that endorsement refers to years starting “19” reflecting only the 20th century. The amendment made by section 22 repeals those figures.