

Delegated Powers and Law Reform Committee

9th Meeting, 2023 (Session 6) Tuesday, 14 March 2023

Instrument Responses

Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Amendment Regulations 2023 (SSI 2023/55)

On 3 March 2023, the Committee asked the Scottish Government:

It is narrated in the preamble of the instrument that consultation has taken place in accordance with section 10(4) of the Marriage and Civil Partnership (Scotland) Act 2014. It is also noted in the second paragraph of the accompanying policy note that the Scottish Ministers consulted, as required, prior to making the instrument. Section 10(4) requires that before making regulations under section 10(1) the Scottish Ministers must consult the Registrar General of Births, Deaths and Marriages for Scotland.

Under the consultation heading in the accompanying policy note there is reference to the Registrar General making these regulations and the NRS consulting COSLA and AROS on the level of fees in advance of Registration Services (Fees, Etc) Regulations 2022 (SSI 2022/68). Further that no consultation has been carried out on the other changes.

For clarification, please confirm whether the consultation requirement set out in section 10(4) has been complied with in relation to this instrument? Please confirm whether any corrective action is proposed, and if so, what action and when.

On 7 March 2023, the Scottish Government responded:

We confirm that the consultation requirement set out in section 10(4) has been complied with in relation to this instrument. We thank the Committee's legal advisers for drawing the errors in the "Consultation" part of the Policy Note to our attention. That part should be replaced with:

"The Scottish Ministers have, as required by section 10(4) of the Marriage and Civil Partnership (Scotland) Act 2014, consulted the Registrar General for Scotland before making this instrument. In respect of the change to the form for changing a civil partnership to a marriage, the Scottish Ministers have also made these Regulations having considered feedback from individuals, while continuing to respect the outcomes of the consultation carried out at the time of the implementation of the 2014 Act. National Records of Scotland also consulted the Convention of Scottish Local Authorities (CoSLA) and the Association of Registrars of Scotland (AROS) on the level of fees in advance of the Registration Services (Fees, Etc) Regulations 2022 (SSI 2022/68)."

The Scottish Government intends to replace the Policy Note published on www.legislation.gov.uk with an amended version.