

# Equalities, Human Rights and Civil Justice Committee

8th Meeting, 2023 (Session 6), Tuesday 28 March 2023

## Subordinate legislation

### Note by the Clerk

#### Purpose of the paper

1. This paper invites the Committee to consider the following three negative instruments:
  - [The First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland \(Rules of Procedure\) \(Miscellaneous Amendment\) Regulations 2023 \(SSI 2023/40\)](#) - Policy Note and any associated documents are at [Annexe A](#).
  - [The Marriage and Marriage Registration \(Prescription of Forms\) \(Scotland\) Amendment Regulations 2023 \(SSI 2023/53\)](#) - Policy Note and any associated documents are at [Annexe B](#).
  - [The Marriage Between Civil Partners \(Procedure for Change and Fees\) \(Scotland\) Amendment Regulations 2023 \(SSI 2023/55\)](#) - Policy Note and any associated documents are at [Annexe C](#).

## The First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Rules of Procedure) (Miscellaneous Amendment) Regulations 2023 (SSI 2023/40)

2. This instrument is to amend the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022 ([SSI 2022/364](#)) and Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022 ([SSI 2022/365](#)) in light of errors in both instruments noted by the Delegated Powers and Law Reform Committee at its meeting on [10 January 2023](#) and subsequently considered by the Equalities, Human Rights and Civil Justice Committee at its meeting on [31 January 2023](#).

## Delegated Powers and Law Reform Committee Consideration

3. The Delegated Powers and Law Reform Committee (DPLR) considered this instrument at its meeting on [7 March 2023](#) and agreed that it did not need to draw the Parliament's attention to the instrument on any grounds within its remit.

## Equalities, Human Rights and Civil Justice Committee Consideration

4. These Regulations were laid on 20 February 2023 and referred to the Equalities, Human Rights and Civil Justice Committee. The Regulations are subject to the negative procedure and are due to come into force on 1 April 2023.
5. **The Committee is invited to consider any issues which it wishes to raise on the instrument and report to the Parliament by 31 March 2023.**

## The Marriage and Marriage Registration (Prescription of Forms) (Scotland) Amendment Regulations 2023 (SSI 2023/53)

6. Regulation 2 of these Regulations amends the Marriage (Prescription of Forms) (Scotland) Regulations 1997 to replace the form by which a person gives notice to the district registrar of their intention to marry.
7. Regulation 3 amends the Gender Recognition (Marriage and Civil Partnership Registration) (Scotland) Regulations 2016 to replace the form by which the parties to a marriage can apply to have the marriage re-registered after either party, or each party, has been issued with a full gender recognition certificate.
8. While these Regulations amend the form for re-registering a marriage following the issue of a full GRC under the Gender Recognition Act 2004, there is no effect on the process for obtaining such a GRC.
9. The new forms differ from the previous forms only by an addition to the options available to each party to the marriage as to how they wish to be described in the marriage register and, where applicable, the marriage schedule. In addition to the options of being described as 'bride' or 'bridegroom' or not being assigned any designation the new forms give each party the option of being described as 'groom'.

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

10. These Regulations amend the Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Regulations 2014 (“the 2014 Regulations”) to make amendments to the procedure by which certain civil partnerships can become marriages other than as a result of the parties taking part in a marriage ceremony.
11. These amendments include the replacement of the form by which a couple can apply to have their civil partnership changed into a marriage and an increase in the fee payable on making an application to change a civil partnership into a marriage under the 2014 Regulations from £30 to £45.
12. The Regulations provide for modifications to how provisions of the Gender Recognition Act 2004 that have since been repealed were to have effect in relation to persons in civil partnerships changed into marriages under the 2014 Regulations. The Policy Note at Annexe B provides more detailed explanation.

## Delegated Powers and Law Reform Committee Consideration

13. The Delegated Powers and Law Reform Committee (DPLR) considered SSI 2023/53 at its meeting on [7 March 2023](#) and SSI 2023/55 at its meeting on [14 March 2023](#) and agreed that it did not need to draw the Parliament’s attention to either of the instruments on any grounds within its remit. However, the DPLR did note that the Scottish Government will correct an error in the Policy Note for SSI 2023/55 and that the corrected Policy Note will be published on [legislation.gov.uk](https://legislation.gov.uk) in due course. Correspondence with the Scottish Government in this regard is included at [Annexe D](#).

## Equalities, Human Rights and Civil Justice Committee Consideration

14. Both SSI 2023/53 and SSI 2023/55 were laid on 24 February 2023 and referred to the Equalities, Human Rights and Civil Justice Committee. The Regulations are subject to the negative procedure and are due to come into force on 24 April 2023.
15. **The Committee is invited to consider any issues which it wishes to raise on either of these instruments and is required to report to the Parliament by 17 April 2023 on both instruments.**

## Procedure for negative instruments

16. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. The annulment process would require a motion to be agreed in the Chamber.
17. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
18. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
19. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
20. If the Parliament resolves to annul an SSI then what has been done under authority of the instrument remains valid but it can have no further legal effect. Following a resolution to annul an SSI the Scottish Ministers (or other responsible authority) must revoke the SSI (make another SSI which removes the original SSI from the statute book). Ministers are not prevented from making another instrument in the same terms and seeking to persuade the Parliament that the second instrument should not be annulled.
21. Each negative instrument appears on the Equalities, Human Rights and Civil Justice Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not *always* possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.
22. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

Clerks to the Committee  
March 2023

# Annexe A

## SSI 2023/40

### The First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Rules of Procedure) (Miscellaneous Amendment) Regulations 2023

The above instrument is made in exercise of the powers conferred by paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014 (“the 2014 Act”). The instrument is subject to the negative procedure.

In accordance with paragraph 4(3) of schedule 9 of that Act, the Scottish Ministers have consulted the President of the Scottish Tribunals in respect of these Regulations, as well as the Lord President as an appropriate person under paragraph 4(3)(b) of that Schedule.

## Purpose of the instrument

The purpose of the instrument is to amend the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022 (SSI 2022/364) and Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022 (SSI 2022/365), both of which were made 8 December 2022 and laid 12 December 2022.

## Policy objectives

The Tribunals (Scotland) Act 2014 (the “2014 Act”) creates a new structure for the devolved tribunals in Scotland. The First-tier Tribunal for Scotland (“First-tier Tribunal”) and the Upper Tribunal for Scotland (“Upper Tribunal”) were established by the 2014 Act. The First-tier Tribunal is organised into chambers according to, among other things, the different subject matters falling within the Tribunal's jurisdiction. The Upper Tribunal will in due course be organised into divisions. The 2014 Act also allows the Scottish Ministers to transfer the functions of tribunals listed in schedule 1 of that Act to the Scottish Tribunals.

A suite of regulations has been laid in Parliament to effect the transfer of functions of the Council Tax Reduction Review Panel (“CTRRP”) (The First-tier Tribunal for Scotland (Transfer of Functions of the Council Tax Reduction Review Panel) Regulations 2023) and the Valuation Appeal Committees (“VACs”) (The First-tier Tribunal for Scotland (Transfer of Functions of the Valuation Appeal Committees) Regulations 2023) to the Local Taxation Chamber of the First-tier Tribunal, and the transfer of the valuation rating appeal functions of the Lands Tribunal for Scotland to

the Upper Tribunal (The Upper Tribunal for Scotland (Transfer of Valuation for Rating Appeal Functions of the Lands Tribunal for Scotland) Regulations 2023).

The First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022 (SSI 2022/364) were made 8 December 2022 and laid on 12 December 2022. They make provision for the rules of procedure which are to apply in the Local Taxation Chamber of the First-tier Tribunal when hearing appeals under the Valuation Acts, council tax appeals, appeals against a determination of an application for council tax reduction, and penalty notice appeals under the Non-Domestic Rates Act 2020.

The transfer in to the First-tier Tribunal of the functions of the VACs and CTRRP has provided an opportunity to bring together, so far as appropriate, the rules of procedure of the VACs and the CTRRP. The First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022 set down one set of rules for the Local Taxation Chamber which will cover all cases which would have gone to the VACs or the CTRRP. However, due to the nature of these appeals, the instrument contains bespoke rules, as well as general rules, which relate to the specific functions to be exercised by the Local Taxation Chamber.

The Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022 (SSI 2022/365) make provision for the rules of procedure which are to apply in the Upper Tribunal in relation to any appeal or complaint under the Valuation Acts referred to it by the First-tier Tribunal, or when hearing an appeal against a decision by the First-tier Tribunal not to make such a referral.

The Upper Tribunal for Scotland (Rules of Procedure) Regulations 2016 provide rules of procedure for the Upper Tribunal, but these relate to appeals from the First-tier Tribunal only, so it was necessary to constitute new rules for the Upper Tribunal when sitting as an initial appellate tribunal.

During the course of technical scrutiny of the instruments by Parliament's Delegated Powers and Law Reform Committee a number of drafting errors were identified. In The First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022, there were a number of incorrect references, and clarity needed on definitions and the position in relation to expenses. Clearer definitions were required for the Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022.

In light of the points raised by the Delegated Powers and Law Reform Committee, and in order to ensure that the instruments operate as intended giving full effect to the policy intent, this instrument makes amendments to the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022 and the Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022. The instrument will come into force on the same day as the regulations being amended.

Regulation 2 amends the Rules in the schedule of the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022. Amendments are made to rule 1, to insert additional defined terms and to amend the wording of

existing terms to improve clarity. Regulation 2 also makes minor corrections to rules 17, 20, 22, 23, 25, 26, 27 and 35. Provision to ensure that appellants and respondents provide the First-tier Tribunal and each other with relevant information in relation to their case is also added to rule 25 (appeals lodged prior to 1 April 2023).

Regulation 3 amends the Rules in schedule 1 of the Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022, and the form in schedule 3 of those Regulations for the purposes of the referral of an appeal from the First-tier Tribunal for Scotland to the Upper Tribunal for Scotland. This regulation also makes changes to clarify rules 31 and 32.

Fuller details of the policy objectives relating to the 2014 Act are described in the Policy Memorandum which accompanied the Tribunals (Scotland) Bill. The link below shows the passage of the Bill through Parliament and includes the Policy Memorandum:

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/62938.aspx>

## Consultation

A consultation regarding the suite of transfer regulations took place with interested parties between 20 September and 28 November 2021. There were 13 responses to this consultation. 11 respondents gave permission to publish their responses, which are available on the Scottish Government website:

<https://consult.gov.scot/justice/local-taxation-vac-etc-transfer-of-functions/>

The Lord President, President of Tribunals, and Chamber President have been consulted in relation to this instrument.

## Impact Assessments

An Equality Impact Assessment has already been completed for the Tribunals (Scotland) Bill – see link below:

<https://www.webarchive.org.uk/wayback/archive/20160112111506/http://www.gov.scot/Publications/2013/05/9299/downloads>

The Bill Equality Impact Assessment made a number of key findings:

- The operation of the tribunal jurisdictions transferring into the new structure will not be affected.
- Tribunal users will not be affected directly by the Bill provisions.
- Tribunals distinctiveness will be protected.
- Tribunal members will not be adversely affected and their independence will be enhanced.

Given the conclusions set out in the Bill Equality Impact Assessment, a separate Equality Impact Assessment is not considered to be necessary for these regulations.

A Business and Regulatory Impact Assessment was not considered to be required as the instrument has no financial effects on the Scottish Government, local government, the third sector or on business.

A Data Protection Impact Assessment was not considered to be required for the suite of transfer regulations and is not considered necessary for this instrument. This instrument does not involve a change in data controller or the data to be processed.

A Child Rights and Wellbeing Impact Assessment was not considered necessary as there are no children's impact issues arising.



## Annexe B

### SSI 2023/53

# The Marriage and Marriage Registration (Prescription of Forms) (Scotland) Amendment Regulations 2023

## Policy Note

The above instrument was made by the Registrar General for Scotland in exercise of the powers conferred by section 3(1) of the Marriage (Scotland) Act 1977 and by paragraph 20A(1) of schedule 3 of the Gender Recognition Act 2004, and all other powers enabling her to do so.

The Scottish Ministers have, as required, approved the making of the instrument.

The instrument is subject to the negative procedure.

## Purpose of the Instrument

These Regulations replace two forms: the form by which a person gives notice to the district registrar of their intention to marry (“the marriage notice form”); and the form by which the parties to a marriage can apply to have the marriage re-registered after either or both parties has been issued with a full gender recognition certificate (“GRC”).

## Policy Objectives

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 and married people to obtain a full GRC without being required to divorce.

The changes in the 2014 Act 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 would be asked whether they wish to be described as “Bridegroom” or “Bride” or to have no designation.

The objective of these Regulations is to allow a party to a marriage the additional choice of the designation of “Groom” when they complete a marriage notice form or when, following gender recognition, they re-register their marriage. The intention is to address a concern raised by a number of individuals since the 2014 Act was

implemented that, in a male same sex marriage, “Bridegroom” is inappropriate because there is no “Bride”.

The other designation options of “Bridegroom” and “Bride” are 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.

In addition, minor changes are made in the new marriage notice form to correct an error in the numbering of the fields for completion and in the relative positioning of the choices of designation.

While these Regulations amend the form for re-registering a marriage following the issue of a full GRC under the Gender Recognition Act 2004, there is no effect on the process for obtaining such a GRC.

## Consultation

The Registrar General has made these Regulations in the light of the feedback from individuals whilst continuing to respect the outcomes of the previous consultation carried out at the time of the 2014 Act. No additional consultation has been carried out.

## Impact Assessments

A Business and Regulatory Impact Assessment (BRIA) and an Equality Impact Assessment (EQIA) have been completed and are available via the links below:

- Business and Regulatory Impact Assessment (BRIA): [The Marriage and Marriage Registration \(Prescription of Forms\) \(Scotland\) Amendment Regulations 2023 \(legislation.gov.uk\)](#)
- Equality Impact Assessment (EQIA): [The Marriage and Marriage Registration \(Prescription of Forms\) \(Scotland\) Amendment Regulations 2023 \(legislation.gov.uk\)](#)

No changes to the policy objectives were required as a result.

The minimum age of marriage and civil partnership is 16 and these Regulations do not impact differently for 16 and 17 year olds who choose to marry or enter a civil partnership. Consequently, we have not undertaken a Child Rights and Wellbeing Impact Assessment. Any impacts for children are considered in the EQIA.

The effect of the changes made by these Regulations on island communities is not different from that on other communities.

These Regulations do not impact on how personal data is collected or handled, or on the environment, nor is the policy considered to constitute a strategic decision in respect of the socio-economic inequality duty.

## Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is linked in the previous section above.

The policy has no impact on business, as the forms affected are completed by individuals seeking to marry or re-register their marriage.

There will be costs for National Records of Scotland in updating information technology systems to reflect the changes to these forms. These are considered to be minimal.

## Annexe C

### SSI 2023/55

# The Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Amendment Regulations 2023

## Policy Note

The above instrument was made by the Scottish Ministers in exercise of the powers conferred by section 10 of the Marriage and Civil Partnership (Scotland) Act 2014 and all other powers enabling them to do so.

The Scottish Ministers have, as required, consulted the Registrar General for Scotland, before making this instrument.

The instrument is subject to the negative procedure.

## Purpose of the Instrument

These Regulations amend the Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Regulations 2014 (“the 2014 Regulations”) to make amendments to the procedure by which certain civil partnerships can become marriages other than as a result of the parties taking part in a marriage ceremony. These amendments include the replacement of the form by which a couple can apply to have their civil partnership changed into a marriage and an increase in the fee payable on making an application to change a civil partnership into a marriage under the 2014 Regulations from £30 to £45.

## Policy Objectives

The Marriage and Civil Partnership (Scotland) Act 2014 (“the 2014 Act”) made a number of changes to the law on marriage and civil partnership. In particular, the 2014 Act allows same sex couples to get married and couples in a civil partnership are enabled to change their civil partnership to a marriage either by way of a marriage ceremony or by making an application to do so.

The form of application for changing a civil partnership into a marriage that was introduced in 2014 allows each party to choose how they wish to be designated in the documentation relating to the marriage. In line with other changes made at the time that took into account the introduction of same sex marriage each party is asked whether they wish to be described as “Bridegroom” or “Bride” or to have no designation.

One of the objectives of these Regulations is to allow a party to a civil partnership which is being changed to a marriage the additional choice to designate themselves as “Groom”. Regulation 2(6) replaces the existing form for this purpose. This reflects a similar change being made to the form by which a person gives notice to the district registrar of their intention to marry under separate Regulations made by the Registrar General for Scotland.

This change is intended to address a concern raised by a number of individuals since the implementation of the 2014 Act that, in a male same sex marriage, “Bridegroom” is inappropriate because there is no “Bride”.

The other designation options in a marriage of “Bridegroom” and “Bride” (there are no designations for civil partners) are retained. This reflects that when the Scottish Government carried out a short consultation on changes to registration 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.

In addition, regulation 2(3) increases the fee for an application to change a civil partnership to a marriage from £30 to £45. This is the first change of fee for an application to change a civil partnership to a marriage since the process was introduced on 16 December 2014.

This change is consistent with the fee for lodging a notice of intention to marry and for a notice of a proposed civil partnership, both of which were increased to £45 from £30 with effect from 1 May 2022 by the [Registration Services \(Fees, Etc\) Regulations 2022 \(SSI 2022/68\)](#). 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. Consequently, the aim is for each of registration services fee to recover the true cost of the statutory service to which they relate.

These Regulations make a number of further minor changes to the 2014 Regulations.

Regulation 2(2) clarifies Regulation 3 of the 2014 Regulations by providing that the date and place to be entered in the marriage register when a civil partnership is changed into a marriage are the date and place of the signing of the application form by the parties and by the district registrar. The parties will still be treated as having been married to each other since the date on which their civil partnership was registered by virtue of section 11(2)(b) of the Marriage and Civil Partnership (Scotland) Act 2014.

Regulation 2(4) revokes regulations 6 and 8 of the 2014 Regulations as these had become obsolete. Regulation 6 made provision for a fee exemption for those applications to change a civil partnership to a marriage submitted before 16 December 2015. Regulation 8 provided for how certain provisions of the Gender Recognition Act 2004, which were repealed by the Civil Partnership (Scotland) Act 2020, were to have effect in relation to persons in civil partnerships changed into marriages.

Regulation 2(5) corrects an error in regulation 7(3) of the 2014 Regulations as to the situations in which a marriage resulting from being changed from a civil partnership is treated as being void.

## Consultation

In respect of the change to the form for changing a civil partnership to a marriage, the Registrar General has made these Regulations in the light of the feedback from individuals whilst continuing to respect the outcomes of the consultation carried out at the time of implementation of the 2014 Act.

National Records of Scotland 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 \(SSI 2022/68\)](#).

No consultation has been carried out on the other changes.

## Impact Assessments

A Business and Regulatory Impact Assessment (BRIA) and an Equality Impact Assessment (EQIA) have been completed and are available via the links below:

- Business and Regulatory Impact Assessment (BRIA): [The Marriage Between Civil Partners \(Procedure for Change and Fees\) \(Scotland\) Amendment Regulations 2023 \(legislation.gov.uk\)](#)
- Equality Impact Assessment (EQIA): [The Marriage Between Civil Partners \(Procedure for Change and Fees\) \(Scotland\) Amendment Regulations 2023 \(legislation.gov.uk\)](#)

No changes to the policy objectives were required as a result.

The minimum age of marriage and civil partnership is 16 and these Regulations do not impact differently for 16 and 17 year olds. Consequently, we have not undertaken a Child Rights and Wellbeing Impact Assessment. Any impacts for children are considered in the EQIA.

The effect of the changes made by these Regulations on island communities is not different from that on other communities.

These Regulations do not impact on how personal data is handled or processed, or on the environment, nor is the policy considered to constitute a strategic decision in respect of the socio-economic inequality duty.

## Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is linked in the previous section above.

The policy has no impact on business.

There will be costs for National Records of Scotland in updating information technology systems to reflect the changes made to the form for changing a civil partnership to a marriage and other forms and in updating their guidance. These costs are considered to be minimal.

The costs associated with the increase in the fees for submission of an application to change a civil partnership to a marriage will be borne by those who intend to change their civil partnership to a marriage.

While very few civil partnerships are changed to a marriage either by way of a marriage ceremony or by making use of the process provided in the 2014 Regulations, there should be a positive financial impact for local authorities whose registrars process all documentation associated with marriage and civil partnership because the fee will now better reflect the costs of providing the service. A full BRIA was also carried out in advance of and published alongside the [Registration Services \(Fees, Etc\) Regulations 2022 \(SSI 2022/68\)](#) in respect of the equivalent fee change for lodging a notice of intention to marry or a notice of proposed civil partnership.

## Annexe D

### SSI 2023/55

# Correspondence with the Scottish Government on the Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Amendment Regulations 2023

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)."