

Equalities, Human Rights and Civil Justice Committee

11th Meeting, 2022 (Session 6), Tuesday 19 April 2022

Subordinate legislation

Note by the clerk

Purpose of the paper

1. This paper invites the Committee to consider the following negative instrument:

- [SSI 2022/68: The Registration Services \(Fees, etc.\) \(Scotland\) Amendment Regulations 2022](#)

2022/68: The Registration Services (Fees, etc.) (Scotland) Amendment Regulations 2022

2. The SSI is being laid before the Scottish Parliament under section 3(1) of the Marriage (Scotland) Act 1977(a) and section 88(2) of the Civil Partnership Act 2004(b) and comes into force on 1 May 2022.
3. These Regulations amend the Registration Services (Fees, etc.) (Scotland) Regulations 2006 to increase the fees payable for submission of a marriage notice and submission of a notice of a proposed civil partnership from £30 to £45 per party to the intended marriage or civil partnership.

Delegated Powers and Law Reform Committee Consideration

4. The Delegated Powers and Law Reform Committee (DPLR) considered the instrument at its meeting on [8 March 2022](#). The DPLR Committee agreed that it did not need to draw the Parliament's attention to the instrument on any grounds within its remit.
5. A copy of the Scottish Government Policy Note is included at [Annexe A](#) together with links to other associated documents.

Equalities, Human Rights and Civil Justice Committee Consideration

Procedure for negative instruments

6. 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.
7. 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).
8. 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.
9. 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.
10. 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.
11. 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.
12. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.
- 13. The Committee is invited to consider the instrument and report to the Parliament by 21 April 2022.**

Clerks to the Committee, 14 April 2022

Annexe A

Scottish Government Policy Note

The Registration Services (Fees, etc.) (Scotland) Amendment Regulations 2022

The above instrument was made in exercise of the powers conferred by section 3(1) of the Marriage (Scotland) Act 1977 and section 88(2) of the Civil Partnership Act 2004. The instrument is subject to negative procedure.

Purpose of the instrument

These Regulations amend the Registration Services (Fees, etc.) (Scotland) Regulations 2006 to increase the fees payable for submission of a marriage notice and submission of a notice of a proposed civil partnership from £30 to £45 per party to the intended marriage or civil partnership.

Policy objectives

Each person submitting a marriage notice or a notice of a proposed civil partnership requires to pay a fee to the applicable local authority. The level of fee is set by the Registrar General for Scotland with the approval of the Scottish Ministers by regulations made under the Marriage (Scotland) Act 1977 and the Civil Partnership Act 2004.

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 the registration services fees set by the Registrar General to recover the true cost of the statutory service to which they relate.

The fees for marriage notices and notices of proposed civil partnership have been reviewed in the light of this policy.

This is the first increase in the fees for marriage notices and notices of proposed civil partnership since April 2010.

Consultation

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.

Impact Assessments

A Business and Regulatory Impact Assessment (BRIA), an Equality Impact Assessment (EQIA) and a Fairer Scotland Duty Assessment have been completed and are linked below:

- [Business and Regulatory Impact Assessment \(BRIA\)](#)
- [Equality Impact Assessment \(EQIA\)](#)
- [Fairer Scotland Duty Assessment](#)

Registration services are delivered by registrars and other staff employed by local authorities. The increase in the fees charged for the processing of these notices applies across all of Scotland. This ensures consistency of access to registration services across Scotland. The effect of these Regulations on island communities is not different from that on other communities.

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.

These Regulations do not impact on the collection of data or on the environment.

Financial Effects

A BRIA has been completed and is linked above.

These Regulations have no impact on business; the costs associated with the increase in the fees for submission of a marriage notice and submission of a notice of a proposed civil partnership will be borne by those who intend to marry or register a civil partnership.

There will be a positive financial impact for local authorities whose registrars process all documentation associated with marriage and civil partnership by ensuring that these fees will now better reflect the costs of providing the services.

National Records of Scotland
23 February 2022