POLICY NOTE

THE REGISTRATION OF BIRTHS, STILL-BIRTHS, DEATHS AND MARRIAGES (PRESCRIPTION OF FORMS) (SCOTLAND) AMENDMENT REGULATIONS 2024

SSI 2024/275

The above instrument is made by the Registrar General for Scotland in exercise of the powers conferred by sections 43(3), (4) and (5) and 54(1)(b) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965. In accordance with section 54(1) of the 1965 Act, the Scottish Ministers have approved the making of these Regulations. The instrument is laid, but not subject to further procedure.

Summary Box

Purpose of the instrument: To amend forms contained in the schedules to the Registration of Births, Still-Births, Deaths and Marriages (Prescription of Forms) (Scotland) Regulations 1997 ("the 1997 Regulations") used by National Records of Scotland ("NRS") for applications to record a change of name.

Policy Objectives

Under section 43 of the 1965 Act, NRS run a system which allows people who were born or adopted in Scotland to record a change of forename or surname in the birth or adoption registers. (The system also covers people covered by a parental order in Scotland – parental orders can be granted by the courts when a child has been born through surrogacy - and people who are subject to an entry in the Gender Recognition Register).

NRS deal with around 400 applications per month.

There are three application forms in relation to recording a change of name. These three forms are laid down in the 1997 Regulations as amended, and are:

- For children where the forename was changed before the child reached 12 months or the child's birth was registered without a forename. Only one such change can be recorded. (Known as "Form 21".)
- To record a change of forename or surname for a child under 16. Only one such change of forename and one such change of surname can be recorded (and an application to change a forename under this type of application cannot be made if a change of forename has already been recorded for a child under 12 months). (Known as "Form 23".)
- To record a change of forename or surname for a person over 16. Only one change of forename and three changes of surname may be recorded under this type of application. A period of five years must elapse after one change of surname is recorded before another such change may be recorded. (Known as "Form 24".)

Forms 21 and 23 are used by a "qualified applicant". A qualified applicant means –

a) where only one parent has parental responsibilities in relation to the child, that parent;
b) where both parents have such responsibilities, both parents; and
c) where neither parent has such responsibilities, any other person who has such responsibilities.

The changes proposed to the forms are minor. They include:

- Removing references to the "General Register Office for Scotland", the old name for NRS.
- General formatting amendments to clarify for the applicant what is needed and reduce the chances of minor errors when applications are made (and additional text to assist completion).
- Removing out of date contact details for NRS.
- Removing references to requesting an extract (copy) of an entry in a register – this is now done via the Scotland's People website[1]
- Asking applicants for their email address so it is easier to contact them if required.
- Adding questions about parental responsibilities and rights on forms 21 and 23 in relation to recording a change of name for a child.

The aim is to improve the accuracy of the information contained in the forms and make them clearer for the public, thus reducing unnecessary customer queries.

NRS are also taking the opportunity to update the non-statutory guidance provided to the public in relation to the forms

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

There has been no consultation. The changes made to the forms are minor.

Impact Assessments

The Scottish Government and NRS have prepared a Child Rights and Wellbeing Impact Assessment (CRWIA). Copies can be obtained from the Family Law Unit, Directorate for Justice, Scottish Government, St Andrew's House, 2 Regent Road, Edinburgh, EH1 3DG.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has not been prepared as the instrument has no financial effects on the Scottish Government, local government, legal aid or on business. There may be some very modest savings to NRS as the revised forms should reduce the number of queries arising before an application to record a change of name is considered.

[1] https://www.scotlandspeople.gov.uk

Scottish Government and National Records of Scotland
October 2024