

RE-REGISTRATION OF MARRIAGES AND CIVIL PARTNERSHIPS FOLLOWING GENDER RECOGNITION GUIDANCE FOR APPLICANTS

Introduction

1. This guidance has been produced by the Scottish Government and National Records of Scotland (NRS) to advise you on your options on the re-registration of your marriage or civil partnership, following the issue of a full Gender Recognition Certificate. In this guidance note, the full Gender Recognition Certificate is referred to as a “full GRC”.
2. This guidance only covers marriages and civil partnerships that are recorded in a marriage or civil partnership register in Scotland. This includes marriages and civil partnerships carried out through the UK consular service and UK armed forces overseas where the couple elected Scotland as the relevant part of the UK and NRS hold details of the marriage or civil partnership. If your marriage or civil partnership was registered elsewhere in the UK, or by an overseas country, you will need to approach the registration authorities in the relevant country about updating your marriage or civil partnership certificate to reflect gender recognition.
3. This guidance only covers the re-registration of marriages or civil partnerships following gender recognition. If the person(s) who has obtained a full GRC was born in Scotland, NRS will provide you separately with information on birth registration following gender recognition.
4. This guidance reflects the arrangements for re-registering a marriage or civil partnership after obtaining a full GRC under the current Gender Recognition Act 2004. It will be updated as required to reflect any relevant changes to marriage, civil partnership, gender recognition or other legislation that would impact these arrangements.

Marriage and civil partnership registers in Scotland

5. NRS and local authority registrars keep marriage and civil partnership registers. These are generally open to public inspection. All marriages and civil partnerships which take place in Scotland are recorded in these registers. An extract from the relevant entry in the marriage or civil partnership register forms what is commonly known as the marriage or civil partnership certificate.
6. Where the marriage or civil partnership took place overseas through the UK consular service or through the UK armed forces, the marriage or civil partnership is not registered in the main marriage or civil partnership registers for Scotland but a record of it is, instead, held separately by NRS.

Options available to you to re-register your marriage or civil partnership following gender recognition

7. First of all, you may choose not to re-register your marriage or civil partnership following gender recognition. This means that the original entry in the register will remain as it is and will remain open to public inspection.
9. Secondly, you can ask for your marriage or civil partnership to be re-registered through an administrative route. Generally, the registration entry will reflect your details as they were when you originally married or entered the civil partnership, with changes made to reflect the acquired gender(s) and any changes in your forename(s) and surname(s).
10. The Scottish Government and NRS recognise that one particular difficulty with the second option in some cases is that the new entry in the marriage or civil partnership register may show the couple to be in a same sex marriage or mixed sex civil partnership at a time when this was not legally possible in Scotland. This could mean that your new marriage or civil partnership entry might disclose your trans

status or history, because only trans people could be shown as being in a same sex marriage or mixed sex civil partnership which began before that time.

11. Therefore, a further option if you choose in these cases is for the marriage or civil partnership to be re-registered following gender recognition showing your details as they are now. In these cases:

- The entry will reflect current information, rather than information as at the time you married or entered a civil partnership.
- The details for witnesses will remain blank.
- The date shown as the date of the marriage or civil partnership will be the date the new entry is created following gender recognition, rather than the original date of the marriage or civil partnership.

12. Changes may also have to be made if:

- you are now in a same sex marriage;
- at the date shown on the new marriage entry, the religious or belief celebrant who originally solemnised the marriage was not authorised to solemnise same sex marriage.

13. Similarly, changes may have to be made if you are in a civil partnership and at the date of the original ceremony, the religious or belief celebrant who originally registered the civil partnership was not authorised to register same sex civil partnership or mixed sex civil partnership, as the case may be.

14. In these cases, the marriage or civil partnership will be shown as having been solemnised by a civil registrar at their registration office instead of by the original religious or belief celebrant. This reflects that some religious or belief bodies and celebrants have decided not to solemnise same sex marriages and some religious or belief bodies and celebrants may decide to register same sex civil partnership or mixed sex civil partnership but not both.

15. Additional changes may also be needed where the marriage or civil partnership took place overseas through the UK consular service and UK armed forces overseas. In particular, the new entry will show the marriage or civil partnership took place in Edinburgh.

16. Application forms are at Annex A of this guidance note (for marriages) and Annex B (for civil partnerships).

17. Please note that both parties in the relationship are required to apply.

Original entry in the marriage or civil partnership register not to be open to public

18. Where you choose to re-register your marriage or civil partnership following gender recognition, there will be two entries in the register: the original one and the new one¹. The original entry cannot be deleted as it is a record of what took place at the time. To provide more privacy, the Scottish Government has made legislation so that the original entry is not open to public inspection or search.

19. As a result, only the parties to the marriage or the civil partnership can obtain copies of the original entry from NRS (unless a court order is obtained requiring NRS to disclose information). The public will be able to see the new entry and obtain a copy as the new entry will be open to public inspection and search.

¹ Except that for consular and armed forces marriages and civil partnerships where the couple identified with Scotland, there is no original entry in the Scottish marriage or civil partnership register as the marriage or civil partnership did not take place in Scotland.

Procedure and fees

20. If you wish to re-register your marriage or civil partnership following gender recognition, NRS will, after you submit your application form, provide you with a draft of the new entry in the marriage or civil partnership register. NRS will also discuss with you whether there is any need for notes at the bottom of the entry, to reflect that this is a re-registration of an existing marriage or civil partnership.

21. Once you have agreed the draft entry with NRS, NRS will then ask the relevant local authority, where the marriage or civil partnership took place, to re-register the marriage or civil partnership. Where the marriage or civil partnership was carried out through the UK consular service or the UK armed forces, the re-registration will be in Edinburgh registration district.

22. There will be no fee for re-registering the marriage or civil partnership following gender recognition. There will be a fee, in the usual way, for any extracts (certificates) from the register.

Queries

23. NRS are happy to deal with any queries you may have on the re-registration of marriages or civil partnerships following gender recognition. Please contact GRUsupport@nrscotland.gov.uk

