

Marriage and Civil Partnership (Minimum Age) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Ministry of Justice, with consent of Baroness Sugg, the Member in Charge of the Bill, have been ordered to be published as HL Bill 121—EN.

Marriage and Civil Partnership (Minimum Age) Bill

[AS BROUGHT FROM THE COMMONS]

CONTENTS

Marriage

- 1 Marriage: increase of minimum age to 18
- 2 Offence of conduct relating to marriage of persons under 18

Civil partnership

- 3 Civil partnership: increase of minimum age to 18
- 4 Civil partnerships etc. registered outside England and Wales

Final provisions

- 5 Consequential amendments
- 6 Extent
- 7 Commencement
- 8 Saving provisions
- 9 Short title

Schedule – Minor and consequential amendments

[AS BROUGHT FROM THE COMMONS]

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TO

Make provision about the minimum age for marriage and civil partnership; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Marriage***1 Marriage: increase of minimum age to 18**

- (1) The Marriage Act 1949 is amended as follows.
- (2) In section 2 (marriages of persons under sixteen)—
 - (a) in the heading, for “sixteen” substitute “eighteen”;
 - (b) in the text, for “sixteen” substitute “eighteen”.
- (3) Omit section 3 (marriages of persons under eighteen).

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2 Offence of conduct relating to marriage of persons under 18

- (1) Section 121 of the Anti-social Behaviour, Crime and Policing Act 2014 (offence of forced marriage: England and Wales) is amended as follows.
- (2) After subsection (3) insert—

“(3A) A person commits an offence under the law of England and Wales if he or she carries out any conduct for the purpose of causing a child to enter into a marriage before the child’s eighteenth birthday (whether or not the conduct amounts to violence, threats, any other form of coercion or deception, and whether or not it is carried out in England and Wales).”
- (3) After subsection (5) insert—

“(5A) “Child” means a person under the age of 18 years.”
- (4) In subsection (6)—
 - (a) after “(1)” insert “or subsection (3A)”;
 - (b) for “that subsection” substitute “either of those subsections”.

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(5) After subsection (7) insert –

- “(7A) A person commits an offence under subsection (3A) only if –
- (a) the conduct is for the purpose of causing the child to enter into a marriage in England or Wales,
 - (b) at the time of the conduct, the person or child is habitually resident in England and Wales, or
 - (c) at the time of the conduct, the child is a United Kingdom national who –
 - (i) has been habitually resident in England and Wales, and
 - (ii) is not habitually resident or domiciled in Scotland or Northern Ireland.”

Civil partnership

3 Civil partnership: increase of minimum age to 18

- (1) The Civil Partnership Act 2004 is amended as follows.
- (2) In section 3 (eligibility), in subsection (1), in paragraph (c), for “16” substitute “18”.
- (3) Omit section 4 (parental etc. consent where proposed civil partner under 18).

4 Civil partnerships etc. registered outside England and Wales

- (1) The Civil Partnership Act 2004 is amended as follows.
- (2) In section 54 (validity of civil partnerships registered outside England and Wales) –
 - (a) in subsection (1) –
 - (i) in paragraph (a), omit “and”;
 - (ii) after paragraph (a), insert –
 - “(aa) void, if the civil partnership was registered when –
 - (i) one of the two people was domiciled in England and Wales, and
 - (ii) one of the two people was under 18, and”;
 - (b) in subsection (2) –
 - (i) in paragraph (a), omit “and”;
 - (ii) after paragraph (a), insert –
 - “(aa) void, if the civil partnership was registered when –
 - (i) one of the two people was domiciled in England and Wales, and
 - (ii) one of the two people was under 18, and”;

- (c) in subsection (2A)–
 - (i) in paragraph (a), omit “and”;
 - (ii) after paragraph (a), insert –
 - “(aa) void, if the marriage was solemnised there when –
 - (i) one of the two people was domiciled in England and Wales, and
 - (ii) one of the two people was under 18, and”.
- (3) In section 217 (person domiciled in a part of the United Kingdom), in subsection (2), in paragraph (a), for “16” substitute “18”. 10

Final provisions

5 Consequential amendments

- (1) The Schedule to this Act contains minor and consequential amendments.
- (2) The Secretary of State may by regulations made by statutory instrument make provision that is consequential on any provision made by this Act. 15
- (3) Regulations under this section –
 - (a) may include transitional or saving provision;
 - (b) may amend, repeal or revoke any provision of or made under primary legislation. 20
- (4) The provision referred to in subsection (3)(b) does not include a provision of legislation passed or made after the end of the session of Parliament in which this Act is passed.
- (5) A statutory instrument containing regulations under this section that amend, repeal or revoke primary legislation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 25
- (6) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 30
- (7) In this section “primary legislation” means –
 - (a) an Act;
 - (b) a Measure or Act of Senedd Cymru;
 - (c) an Act of the Scottish Parliament;
 - (d) Northern Ireland legislation. 35

6 Extent

- (1) This Act extends to England and Wales only, subject to subsections (2) and (3).

- (2) Sections 4(3) and 5 to 9 also extend to Scotland and Northern Ireland.
- (3) An amendment or repeal made by the Schedule has the same extent as the provision amended or repealed.

7 Commencement

- (1) The provisions of this Act come into force on such day as the Secretary of State may by regulations appoint. 5
- (2) Different days may be appointed for different purposes.
- (3) The Secretary of State may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act. 10
- (4) Regulations under this section are to be made by statutory instrument.

8 Saving provisions

- (1) An amendment made by a provision of this Act does not affect the validity of—
 - (a) any marriage solemnised, or 15
 - (b) any civil partnership registered,
 before the day on which that provision comes into force.
- (2) The amendment made by section 4(3) does not affect the treatment as a civil partnership of an overseas relationship that is registered under the relevant law as having been entered into before that provision comes into force. 20
- (3) In subsection (2)—
 - “overseas relationship” has the same meaning as in the Civil Partnership Act 2004 (see section 212(1) of that Act);
 - “the relevant law” has the same meaning as in Chapter 2 of Part 5 of that Act (see section 212(2) of that Act). 25

9 Short title

This Act may be cited as the Marriage and Civil Partnership (Minimum Age) Act 2022.

SCHEDULE

Section 5

MINOR AND CONSEQUENTIAL AMENDMENTS

Marriage Act 1949

- 1 (1) The Marriage Act 1949 is amended as follows.
- (2) In section 16 (provisions as to common licences), in subsection (1), omit paragraph (c). 5
- (3) In section 25 (void marriages), in subsection (2), in paragraph (c), omit “subsection (3) of section three or”.
- (4) In section 28 (declaration to accompany notice of marriage), in subsection (1), omit paragraph (c). 10
- (5) Omit section 30 (forbidding of issue of marriage schedule).
- (6) In section 31 (marriage under marriage schedule) –
 - (a) in subsection (2) –
 - (i) in paragraph (a) omit “or”;
 - (ii) omit paragraph (b); 15
 - (b) omit subsection (3A).
- (7) In section 48 (proof of certain matters not necessary to validity of marriages), in subsection (1), omit paragraph (b).
- (8) In section 75 (offences relating to solemnization of marriages), in subsection (3) – 20
 - (a) in paragraph (b), at the end insert “or”;
 - (b) omit paragraph (c).

Marriage (Registrar General’s Licence) Act 1970

- 2 (1) The Marriage (Registrar General’s Licence) Act 1970 is amended as follows.
- (2) In section 3 (evidence of capacity, consent etc., to be produced), omit paragraph (b). 25
- (3) Omit section 6 (marriage of persons under eighteen).
- (4) In section 7 (issue of licence by Registrar General) –
 - (a) in paragraph (a), omit “or”;
 - (b) omit paragraph (b). 30

Matrimonial Causes Act 1973

- 3 In the Matrimonial Causes Act 1973, in section 11 (grounds on which a marriage is void), in paragraph (a), in sub-paragraph (ii), for “sixteen” substitute “eighteen”.

Civil Partnership Act 2004

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- 4 (1) The Civil Partnership Act 2004 is amended as follows.

- (2) In section 5 (types of pre-registration procedure), in subsection (3) –
- (a) in paragraph (a), omit “and”;
 - (b) omit paragraph (b).
- (3) In section 31 (offences relating to civil partnership schedule) –
- (a) in subsection (1) – 5
 - (i) at the end of paragraph (a) insert “or”;
 - (ii) in paragraph (b) omit “or”;
 - (iii) omit paragraph (c);
 - (b) in subsection (2), in paragraph (d), omit “or (c)”.
- (4) In section 32 (offence relating to General Registrar’s licence), in subsection (2), in paragraph (d), omit “or (c)”. 10
- (5) In section 33 (offences relating to the recording of civil partnerships) –
- (a) in subsection (5) omit “or (c)”;
 - (b) in subsection (7) omit “or (c)”.
- (6) In section 49 (grounds on which civil partnership is void) – 15
- (a) at the end of paragraph (a) insert “or”;
 - (b) in paragraph (b), in sub-paragraph (vi) omit “or”;
 - (c) omit paragraph (c).
- (7) In section 52 (proof of certain matters not necessary to validity of civil partnership) – 20
- (a) in subsection (1), omit paragraph (a);
 - (b) omit subsection (2).
- (8) In section 80 (false statements etc. with reference to civil partnerships), in subsection (1) –
- (a) at the end of paragraph (b) insert “or”; 25
 - (b) omit paragraph (c).
- (9) Omit Schedule 2 (civil partnerships of persons under 18: England and Wales).

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