

## ANGUS COUNCIL

## RESOURCES AND CENTRAL SERVICES COMMITTEE – 17 MARCH 2005

## REGISTRATION SERVICES (SCOTLAND) BILL

## REPORT BY THE DIRECTOR OF LAW AND ADMINISTRATION

**ABSTRACT**

This Report proposes an Angus Council response to a consultation paper about proposed legislation from the Registrar General of Births, Deaths and Marriages for Scotland.

**1. RECOMMENDATION**

It is recommended that the attached response (**Appendix 1**) be adopted by the Committee as the Council's response to the consultation paper and that a copy be also sent to COSLA.

**2. INTRODUCTION**

At its meeting on 8 February 2001, the Policy and Resources Committee approved a response to an earlier consultation paper from the Registrar General of Births, Deaths and Marriages for Scotland entitled "Civil Registration in the 21<sup>st</sup> Century". Following this consultation, the then Registrar General announced proposals to be taken forward to improve and modernise the registration service so that it more effectively met the needs of the people of Scotland in a changing world.

Some of these proposals have already been implemented, but some need a change in the law. Accordingly, this consultation paper seeks views on the necessary legislation, and a draft Registration Services (Scotland) Bill is annexed to it. A copy of the paper is available in the Members' Lounge.

**3. BACKGROUND**

The key proposals in the consultation paper are:

- to adjust registration boundaries and opening times to make them more convenient for customers;
- to permit the registration of births and deaths at **any** registration office in Scotland (in Angus, this can only be done at the local registration offices in Arbroath, Forfar and Montrose);
- to allow electronic notification of registered events to government departments and local authorities – and, at the specific request of those registering the events, to other bodies;
- to open up opportunities for local authorities to provide family history search centres;
- to provide the existing change of name procedures at an earlier point in time;
- to set up a new arrangement for the solemnisation of marriages in the territorial waters adjacent to Scotland;
- to allow people with a Scottish connection to have events occurring abroad recorded in a book in Scotland held by the Register General; and
- to set up an all-Scotland website list of forthcoming marriages, to supplement existing local advertisement.

This consultation paper also seeks views on an alternative way for people to register births and deaths other than by going to a registration office. The possibility of registration over the telephone or using the internet was mentioned in the 2000 consultation document but found little favour. Chapter 3.8 of this consultation paper suggests, however, that provision should be made to enable registration over the internet, when the time is right.

#### **4. CONTEXT FOR LEGISLATION**

This is set out in Section 2 of the consultation paper. As members are aware, the registration service in Scotland is a partnership between the Registrar General's department – the General Register Office for Scotland (GROS), which is part of the devolved Scottish administration – and the 32 local councils. Registrars are employees of local authorities, which are responsible for pay and conditions and for accommodation, but their registration work is governed by the Registration of Births, Deaths and Marriages (Scotland) Act 1965 and the Marriage (Scotland) Act 1977. It is also governed by instructions and guidelines set by the Registrar General. This partnership has worked well and there are no plans to change the basic structure. This is to be welcomed as are the key principles and core values which are referred to in the paper.

The context section of the consultation paper concludes with the following important paragraph:

*“Transactions with the civil registration system are infrequent. Customers may visit the newsagent daily, the bank cash-machine weekly, the supermarket fortnightly, fill in tax-returns and renew licences and insurance policies annually. But the average citizen will encounter the registration system only a handful of times in a lifetime: when arranging to get married, when recording the birth of a child, when registering the death of a parent. The apparently simple interactions of civil registration mark important, often very dramatic, changes in the pattern of our lives. The public acknowledgement of a chosen partner to share one's life, the arrival of a first new baby, the passing of a parent who was always there to turn to, are life-changing occasions. The civil registration system should continue to respect these changes.”*

#### **5. RESPONSE TO CONSULTATION PAPER**

The consultation paper includes the draft Registration Services (Scotland) Bill. This makes provision for the proposals described in the consultation paper, mainly by amending the Registration of Births, Deaths and Marriages (Scotland) Act 1965 and the Marriage (Scotland) Act 1977. The proposed changes to the legislation were the subject of a presentation to the annual seminar attended by the Council's Chief Registrar and the Central Services Manager (to whom she reports) in Dumfries on 24 November 2004. This helped inform the preparation of the attached response, which it is recommended that the Council should give to the paper (Appendix 1). In addition, it is suggested that a copy be sent to COSLA to assist in the preparation of its own response.

Responses to the consultation paper have been requested by 31 March 2005.

#### **6. FINANCIAL IMPLICATIONS**

There are no financial implications arising directly from this Report, although adoption of the legislation could have an adverse effect on income generation to the Council.

#### **7. HUMAN RIGHTS IMPLICATIONS**

There are no immediate human rights implications for the Council arising from this Report. However, if some or all of these changes were implemented, then there may be implications for Article 8 (Right to Respect for Privacy, Private and Family Life), Article 12 (Right to Marry) and Article 14 (Prohibition of Discrimination).

#### **8. CONSULTATION**

The Chief Executive, the Director of Finance, and the Director of Leisure Services have been consulted during the preparation of this response.

## 9. CONCLUSION

The consultation paper concludes by indicating that Scotland's Civil Registration System, first provided in the mid nineteenth century, has stood the test of time. The legislation by and large works well. But it can be improved – and this paper highlights the changes that the Registrar General would like to make. He plans to do so through primary legislation in the Scottish Parliament when a suitable opportunity arises. In the main, the Council should welcome the amendments to the legislation.

CATHERINE A COULL  
Director of Law and Administration

**Note:** The following background paper, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) was relied on in preparing this Report:

Consultation paper on Registration Services (Scotland) Bill published by Registrar General for Scotland in January 2005.

## REGISTRATION SERVICES (SCOTLAND) BILL CONSULTATION PAPER

### RESPONSE BY ANGUS COUNCIL

#### 3.1 REORGANISATION OF LOCAL REGISTRATION SERVICES

##### **Registration to follow council boundaries:**

*The Council welcomes the proposal that registration district boundaries should match local authority boundaries. This will deal with the anomalous situation in the Monifieth and Sidlaw areas, which are still part of the Dundee Registration district.*

##### **Opening hours:**

*The Council agrees that different opening hours should be possible depending on volume of work etc.*

#### 3.2 REGISTRATION OF BIRTHS AND DEATHS

##### **Registration in any district (births & deaths):**

*The Council agrees that this is a sensible approach.*

##### **Re-registration of births:**

*The Council agrees with the proposal to allow local registrars to re-register births following, for instance, the marriage of the parents (the most common reason for a re-registration). However, it is not understood why this would be restricted to registers that have been examined and returned to New Register House. Many births will fall into this category.*

##### **Abbreviated extract from death register:**

*The Council agrees wholeheartedly with the sentiments behind this but does not agree that it should be provided free of charge. A very high percentage of customers only purchase one extract and this would have a severe impact on the Council's income. The free abbreviated death extract has been described as analogous (or similar) to the free abbreviated birth extract. It would make much more sense to offer both abbreviated extracts if anyone wishes them, but charge accordingly. The abbreviated birth certificate has name, sex, date and place of birth. The proposed abbreviated death certificate will leave out the details of the cause of death. This means that all other details, namely, date of birth, occupation, parentage, spouses details, address etc will be included. In the Council's opinion, that is more than "analogous".*

#### 3.3 NOTIFICATION OF BIRTHS, DEATHS, MARRIAGES ETC

##### **Automatic notification of vital events to public bodies:**

*The Council welcomes this proposal as it will assist the detection of benefit fraud.*

##### **Notification of vital events to the private sector on request:**

*The Council agrees with this suggestion in principle, but has some serious reservations. Firstly, insurance companies can be swallowed up by bigger companies and this would be a problem if the informant doesn't have all that information, resulting in registrars notifying an insurance company that does not exist anymore. Furthermore, there should be a limit to the bodies that have to be notified to prevent the informant visiting a registration office months later asking for some 'body' they have just learned about to be informed. How the fee would be set, per company notified or a set fee for any amount of notifications? Who will be responsible when something goes wrong with the notification and a bereaved person complains to the Council?*

**Notification of death to third parties:**

*This is obviously going to have an effect on how many extracts the Council sells or, if the Council participates in the scheme above, how many companies we would be paid to notify.*

**3.4 REGISTERS, SEARCHES ETC**

*The Council welcomes the opportunity provided by DIGROS to develop local family history search centres. Angus Council already provides a family history research facility at the Archive, and any development by the registration service will take this into account.*

**3.5 CHANGE OF NAME**

*The Council agrees that change of name should be offered earlier. The current system has worked well in the past. The need to use the name for 2 years before someone could apply to get it officially recorded had the effect of weeding out those that just had a notion for a new name. Using it for 2 years showed the person was serious. However, nowadays, using a name different from what is recorded on a birth certificate creates problems. A person cannot open a bank account, for instance, without proof of identity and that is difficult to get if they cannot back it up with a birth certificate. As a person can unofficially use any name they like, it makes sense to be able to record it at an earlier stage. The restrictions on how often someone can change a name will remain, which will be a safeguard to flippant changes.*

**Correction of errors:**

*This is a thoroughly sensible approach to the correction of errors. It posed many problems trying to get the correction done as the informant had to be present. Often errors were not noticed immediately. It also had the effect sometimes of compounding the misery of the informant.*

**3.6 REGISTRATION OF EVENTS OCCURRING OUTWITH SCOTLAND**

*This will be extremely useful for unexpected deaths of people on holiday. Often, the bereaved relative will not know how many official extracts they will need for business back home. However, the usefulness of being able to get copies from the BSC will be dependant on how quickly they can be obtained and how legal they will be. Many people are now being married abroad and a good percentage of these visit their local registration office to see if it has to be registered here. This should prove popular especially if legal copies can be obtained at a later date, as it is not always easy to advise people on how to get an extract of an event that has been registered abroad.*

**3.7 MARRIAGES****Advertisement of proposed marriages:**

*The Council agrees with the proposal for GROS to display all marriage notices on their website. It is really quite pointless displaying names locally when the couple may not have any connection with the district.*

**Scottish Certificate of No Impediment:**

*If registrars are obliged to check the all-Scotland index for previous marriages before issuing a Scottish Certificate of No Impediment that must be a good thing and it will give some credence to the certificate. However, this is bound to lead to much more work for the registrar. Presumably, if a previous marriage is found during the check then a corresponding divorce will also have to be looked for.*

**Certificates of No Impediment from other countries:**

*The Council agrees their worth is questionable and obtaining them does create problems for some people. As all countries do not issue them, it could be seen as discriminatory.*

**Marriage in Scottish Waters:**

*Although understanding the thinking behind this the Council cannot see how this could easily work by the method suggested by GROS. If the couple is given the choice of where to give notice, it may place an impossible burden on staff, for instance, giving notice in Dumfries & Galloway for a marriage on a ship leaving Montrose. Obviously the receiving authority could levy charges but it might be very difficult to plan ahead for any eventuality. Approval of the vessel, may be the responsibility of the 'berthing' authority, although a registrar from another authority is conducting the marriage.*

**3.8 E-REGISTRATION**

*The disadvantages outlined in the consultation cannot be argued. It is acknowledged that the accuracy of the information contained in the entry is of paramount importance both now and in generations to come. Without a doubt, face-to-face registration is the most successful way to extricate the true facts. Although not suggesting that informants deliberately conceal facts, there are numerous occasions when a registrar will have to explain that, for instance, all marriages of a deceased person must be listed, even if one was perhaps very short-lived. Sometimes informants try to conceal an earlier marriage because the family of a second marriage don't know about the first. Given the choice in an e-registration, it might be easy to say the question was misunderstood, whereas the way a registrar words or explains the question often throws up additional information. When a registrar registers an event, say a death, they often have a birth and marriage certificate in front of them. A quick glance at the marriage certificate can tell the registrar that the person has been previously married, whereas another glance at the birth tells them instantly if the deceased's parents were married to each other. In e-registration the informant is trusted to give that information. As the Council understands it, the e-registration will not be completed until the registrar has checked the bona fides of the informant and checked the details of the event with the Health Board database. The Council is not clear that there is any mechanism for checking for previous marriages etc. If not, then many informants may be selective with what they say, leading to inaccuracies in the registration.*

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