Local Government and Transport Committee

4th Meeting, 2006

Tuesday 7 February 2006

The Committee will meet at 2 pm in Committee Room 5

1. **Subordinate legislation**: The Committee will consider the following negative instrument—

   *the Marriage (Approval of Places) (Scotland) Amendment Regulations 2005, (SSI 2005/657)*

2. **Local Electoral Administration and Registration Services (Scotland) Bill**: The Committee will take evidence at Stage 1 from—

   **Panel 1**
   Sir Neil McIntosh, Electoral Commissioner; and
   Andy O’Neill, Head of Scotland Office, The Electoral Commission

   **Panel 2**
   Dave Watson, UNISON Scotland

   **Panel 3**
   Kenneth Nisbet, Secretary, Scottish Association of Family History Societies; and
   Andrew Nicoll, Tay Valley Family History Society, Secretary, Scottish Association of Family History Societies

   **Panel 4**
   Carolyn MacPherson, Chief Registrar, Angus Council, Association of Registrars of Scotland

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Agenda item 1

Covering note on the Marriage (Approval of Places) (Scotland) Amendment Regulations 2005, (SSI 2005/657)  
Copy of the instrument

Agenda item 2

Submission from The Electoral Commission  
Submission from UNISON Scotland  
Submission from the Scottish Association of Family History Societies  
Submission from the Association of Registrars Scotland
SSI Cover Note For Committee Meeting

SSI title and number: The Marriage (Approval of Places) (Scotland) Amendment Regulations 2005

Type of Instrument: Negative

Meeting: 4th meeting, 7 February 2006

Date circulated to members: 6 January 2006

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: These Regulations amend the Marriage (Approval of Places) (Scotland) Regulations 2002 to alter the ground for refusal to approve a place on the basis of a connection with religion or religious practice.
Submission from the Electoral Commission
Local Electoral Administration and Registration Services (Scotland) Bill

This paper provides comment on the Local Electoral Administration and Registration Services (Scotland) Bill (LEARS Bill) for the Local Government and Transport Committee’s Stage One consideration.

The Electoral Commission has welcomed the introduction of the Bill and is pleased that it provides for many of the recommendations we have made to improve the accessibility, administration and security of the electoral system so that people can participate with confidence.

Key issues

The Electoral Commission welcomes provisions:

- Introducing performance standards for election officials intended to secure greater consistency in the way Scottish local government elections are administered;
- Creating new offences relating to fraudulent applications for postal or proxy voting at Scottish local government elections;
- Allowing independent observers to attend election processes; and
- Enabling Returning Officers to produce documents in alternative languages and formats in order to assist participation.

However, we are concerned that, taken together with the Electoral Administration Bill currently before the UK Parliament, the LEARS Bill only provides for the use of personal identifiers on a pilot basis. We believe that individual registration with the collection of individual identifiers should be fully introduced to secure the electoral system so that people can participate with confidence.

Provisions welcomed by the Commission

The Commission is particularly pleased to see that provisions have been made in the following key areas.

Performance standards (Sections 1 and 2)

The LEARS Bill enables Scottish Ministers to set performance standards for Returning Officers at local government elections and to publish reports. The Electoral Administration Bill creates a similar power for The Electoral Commission with regard to
Electoral Registration Officers in Scotland, and Returning Officers at parliamentary elections in Scotland after consulting with the Secretary of State.

The Commission has previously recommended the introduction of performance standards in order to provide a clear framework for quality services and accountability for those who deliver electoral registration and electoral services. We welcome the fact that Scottish Ministers intend to create a framework of standards for local government elections in Scotland and are prepared to assist the Scottish Executive in the development of a framework for Scottish local government elections to help ensure consistency in the scope and application of standards for all elections in Scotland.

Observers and Code of practice (Sections 7, 8 and 9)

The LEARS Bill creates a framework by which individuals and organisations may observe proceedings at local government elections in Scotland. The Electoral Administration Bill contains similar provisions relating to parliamentary elections in Scotland.

The Commission welcomes these proposals, which are based on an earlier recommendation by the Commission. We believe that allowing observers access to various aspects of the electoral system will foster a greater sense of transparency in the electoral process. In commenting on parallel provisions within the Electoral Administration Bill the Commission has supported proposals to further enhance and simplify provisions on access for observers.

Key areas of concern

Personal identifiers: piloting etc. (Section 19)

Section 19 of the LEARS Bill would allow Scottish Ministers to pilot the use of personal identifiers (signatures and dates of birth) at local government elections in Scotland. This may involve, for example requiring voters to include a signature and date of birth on their postal voting statement (currently, the declaration of identify). These identifiers could then be compared against those identifiers collected either when they registered to vote or applied for a postal or postal proxy vote. The collection of identifiers is not within the scope of the LEARS Bill because this is a reserved matter. The collection of identifiers is instead enabled, on a pilot basis, by provisions in the Electoral Administration Bill.

We remain concerned that the Electoral Administration Bill does not make provision for full individual registration to replace the outdated household registration system, which is open to abuse and error. Individual registration is both desirable in principle and vital as a means of underpinning the security of postal voting. It would allow voters to participate with confidence in the electoral process.

We share the UK Government’s concerns about the potential impact of individual registration on registration rates. However, if our preference for the immediate introduction of a full scheme of individual registration is not supported by the UK Parliament, we believe that local pilot schemes are not the best interim step. This is not only because we believe strongly in the principle of individual registration, but also because we are concerned that the pilot schemes proposed will not offer sufficiently widespread safeguards against postal voting abuse and are unlikely to provide an effective guide to the likely impact of a national scheme. Crucially, this approach gives
no guarantees of improvements in security for postal voters ahead of the next Scottish Parliamentary and local government or UK Parliamentary elections. 8.1% of electors in the 2005 UK Parliamentary general election in Scotland were issued with postal votes.

We also question the need for further piloting given the lessons that have been learnt from the Northern Ireland experience. We should build on this experience and provide a platform of shared standards in promoting electoral integrity across the United Kingdom.

Specifically, the Commission has the following concerns about the practicability, purpose and effectiveness of the piloting approach proposed:

- Outside the local pilot areas, postal voting will still be available without an adequate system of security checks;
- Postal voting at the next Scottish elections will still take place under a system which lacks the security that individual registration provides;
- Relying on applications in respect of local authority areas risks a scattered approach to piloting which will fail to provide a sufficient evidence base;
- The value of the proposed pilots in providing evidence of the likely impact of individual registration on registration rates is questionable. For example, if the pilots are locally based, it will be very difficult to mount an effective mass advertising campaign to explain the changes to the public.

Instead, we would support an alternative interim step towards individual registration in which it would be optional for electors to provide personal identifiers when they register, but mandatory if they want to vote by post or postal proxy, regardless of when they apply for their absent vote. The transitional approach would tackle the most pressing objective of improving security for absent voting. It would also effectively address the risk of voters dropping off the register, as well as being a positive step towards individual registration.

The transitional scheme

The transitional approach we are proposing incorporates the minimum steps we believe must be taken to enhance the security of postal voting. It also addresses the concerns that have been raised about the impact of an immediate move to individual registration on levels of registration.

The proposed transitional scheme focuses on tackling the issue of postal voting security while not erecting unnecessary barriers in terms of people getting and staying on the electoral register. It therefore provides a step towards a system of full individual registration in the future, but provides an immediate degree of reassurance for postal voters across Great Britain.

The transitional arrangement would give people the option to provide their signature and date of birth on a voluntary basis when responding to the annual canvass. However, it would be mandatory for those wishing to vote by post or postal proxy that their signature and date of birth be provided and recorded for future use, by the registration officer. These identifiers could be provided via the annual canvass form, an individual rolling registration form or on their application to vote by post or postal proxy. The mandatory collection of personal identifiers for postal and postal proxy voting would allow the following checks to be performed:

- Where signatures and dates of birth are provided at the annual canvass, or on rolling registration forms, these identifiers could then be checked against the
identifiers provided on postal and postal proxy vote applications, and again when postal or postal proxy votes were actually cast; or
- Where identifiers are not provided at the annual canvass, but are subsequently provided on applications for postal and postal proxy votes, these identifiers would be used to check against identifiers provided when postal or postal proxy votes were cast, and would be added permanently to the register to allow further checks at future elections.

The Commission believes the two key benefits of this transitional approach are that:

- A household form would continue to be used for the canvass, and no additional information would be required from an elector in order to vote at a polling station. There is therefore no reason to fear a drop in registration rates; and
- Unlike geographically-based pilot schemes, postal voting across Great Britain would immediately benefit from improved security while requiring no change to the registration process for the majority who still choose to vote in a polling station.

Signatures in polling stations (Schedule 1, Electoral Administration Bill)

Provisions within Schedule 1 of the Electoral Administration Bill introduce a mandatory requirement for an elector at a polling station to provide a signature in order to be given a ballot paper, and be able to vote. The Commission believes that the provision for the mandatory requirement for voters to sign for ballot papers in polling stations should be removed from the Electoral Administration Bill. These measures do not apply to Scottish Parliamentary and local government elections but it may be anticipated that similar measures could be introduced in the future in order to promote consistency across different types of election in Scotland.

We consider that this provision cannot be an effective security measure in the absence of individual identifiers against which to check the signatures. Without individual identifiers there will be no way for administrators to verify the signature provided. Furthermore, we believe that:

- A compulsory requirement to sign for ballot papers is a disproportionate response to the risk of personation in polling stations. There is currently little evidence of personation in polling stations, and equally, little perception of risk attaching to voting in polling stations among voters. There is, in our view, a real risk that signing for ballot papers could deter some people from participating, either because of the extra hurdle it would introduce or because it could raise new concerns about the extent to which their vote is in fact secret and untraceable;
- The provision could lead to administrative problems, including delays and queues at polling stations. This risk has been highlighted to the Commission by a number of senior Returning Officers; and
- There could be a substantial increase in the numbers of staff needed in polling stations, so increasing the cost of running elections.

If Government remains convinced that this provision is necessary, we urge that the change is piloted and evaluated before any decision is taken on wider implementation.
Further information

For further information, please contact Andy O’Neill, Head of Office Scotland on 0131 225 0200 or aoneill@electoralcommission.org.uk.
Executive Summary

• UNISON Scotland supports in principle the proposals contained in the Registration Services (Scotland) Bill which we believe will improve the service delivered to the local community.

• We acknowledge that many of the proposals are needed to bring legislation into line with current practices.

• We do not accept, however, that the needs of citizens have to be posed against the needs of the service providers. Valued and committed staff will provide the high quality, modern and efficient service the Registrar General seeks.

• We need assurances that the technology to be used will be reliable and accurate and that all technological issues will be resolved prior to implementation of the proposals.

• We envisage that there could be staffing implications due to closure of some offices and that the proposals could result in increased workloads and responsibilities for the staff involved. We expect that any changes will be the subject of negotiations with the relevant trade unions.

• Our main concern is with the proposals for Marriage in Scottish Waters which we believe will cause difficulty for many of our members. We have outlined our concerns and need assurances that the difficulties will be addressed.

• At the present time UNISON Scotland does not support the proposals for e-registration for the reasons highlighted in this response.
**Introduction**

UNISON is Scotland’s largest trade union representing over 150,000 members working in the public sector. UNISON Scotland represents workers from registration services throughout Scotland, with members amongst the Registrars themselves, to administrative and support staff in Registration Departments.

Unison Scotland welcomes the opportunity to comment on the proposals contained in the Registrar General’s consultation paper for a new Registration Services (Scotland) Bill which will amend the Registration of Births, Deaths and Marriages (Scotland) Act 1965 and the Marriage (Scotland) Act 1977.

**General Response**

UNISON acknowledges that the current legislation is 40 years old and has to be updated to take account of changes to the way society in general is organised, technological progress and changes to the local authority structures that have occurred since 1965.

We also accept that several of the proposals suggested are currently in use and new legislation is needed to regularise that position.

Nevertheless, we have concerns at the viability of some of the changes proposed as well as the adverse effects that some of the proposals could have on our members working in the service.

We are especially concerned that one of the key principles is stated as “putting first the needs of citizens rather than service providers”. UNISON is fully committed to the principle of the delivery of first class services, and this can only be achieved by sufficient committed, well trained, well rewarded staff, who feel valued and fully motivated. To pose this as opposition between citizens and service providers is unnecessarily confrontational and poorly thought through.
Most of the proposals outlined in the consultation rely on increased technology. The recent poor history of new computer systems operated by the private sector in the public services are well documented and we need to ensure that any new systems are capable of doing the job they were purchased for.

Several of the proposals could lead to greater workload and responsibility for our members staffing the Registration Services. Any increased duties and responsibility may lead to the need for increased grades for the members affected.

Increased duties and responsibilities can result in stress for the staff concerned and every effort must be made to ensure that management addresses any potential issues.

Response

3.1 Reorganisation of Local Registration Services

The proposal to change the boundaries of the Registration Districts to make them co-terminus with local authority boundaries is one aspect which is already current practice in many areas. We see this as an opportunity to correct some of the anomalies in areas that have not yet moved their services into single registration districts.

However, we are concerned that this could lead to the closure of some offices previously used by some of the smaller districts, and we require assurances that this process will not be used as a means of cutting jobs in the service. Nor would we wish to see Registration staff being forced into other roles, either in conjunction with some registration duties, or completely performing other duties.

With regard to the proposal for different registration offices to have different opening hours, we expect any changes to working practices to be negotiated with the trade unions to ensure that no employees are forced to work hours, or from locations which cause them difficulties. In this connection the use of flexible working may be necessary to ensure cover for longer opening hours and annual and sickness leave.

3.2 Registration of Births and Deaths

UNISON Scotland agrees that these provisions will provide greater flexibility for service users.
With regard to the proposal to allow registration in any district, we have some concerns, at the possibility of breakdown between the district where registration takes place and the Registration District in which the person is resident. The systems put in place to provide for this must be robust.

We also believe that the provisions in this section have the potential to cause job losses for our members and again require assurances that the aim of the proposals is not to achieve cost savings.

With regard to the provision to issue abbreviated extracts from the death register, we are concerned at the potential loss of revenue if the extracts are provided without charge.

3.3 Notification of Births, Deaths, Marriages, etc.

UNISON Scotland supports the provisions contained in this section which would provide an improved service to the public and public bodies.

We believe, however, that this could cause increased workload for our members and any changes to workload need to be negotiated and monitored to ensure that proper staffing levels are maintained.

We also require assurances that civil liberties will be respected and that notification to other bodies will only be carried out on request.

In order to provide accuracy and security of information processed in this way, we require assurances that the IT equipment utilised is able to provide this capacity of work.

3.4 Registers, searches, etc.

UNISON Scotland supports the proposals to allow searches in Registration Districts across Scotland which will provide an improved service for communities. We also note that this allows for an increase in fee revenue for local authorities. We expect that the question of location of the search facility, the funding for it and the staffing issues will be discussed with the local trade union in each Authority. We also believe that the Registrar would be the appropriate person to conduct such searches, to maintain security of the information.

3.5 Change of Name and Correction of Errors

UNISON Scotland is concerned at the proposals to remove the requirement for a 2-year gap between changes of name, as we are concerned that this could open up the process to abuse. We are also concerned that "spur of the moment" decisions could later be regretted.
We believe that there must be some requirement for documentary evidence of the desire to change the name.

We are happy to support the proposals to correct errors.

3.6 Registration of Events Occurring Outwith Scotland

UNISON Scotland is happy to support the proposals regarding Registration of Events Occurring Outwith Scotland as this will provide a useful service to users that previously was very cumbersome. In addition we understand this could create additional income to authorities. Any additional increased duties and responsibilities will however, have to be monitored.

We acknowledge the need for the authentication of proposed register entries by the Registrar General and accept that he will have to issue guidelines on what constitutes "a connection with Scotland".

3.7 Marriage

UNISON Scotland is happy to support the advertisement of proposed marriages as the common marriage notice list is believed to be working well.

In addition we see no problems with the removal of the requirement of Certificates of No Impediment from other countries which will bring the Scottish legislation into line with that in England and Wales and many other countries.

We are happy to support the proposals for the creation of a new registration district of all Scottish "internal waters and territorial sea".

However, we have many reservations about the proposals for Marriage in Scottish Waters.

Firstly, we believe that the logistics would cause many problems with Registrars being absent from their office for a considerable period of time to officiate on ships which could be travelling some distance. Up to 3 days absence was used in one estimate, which could mean staffing shortages at the base and cover would have to be addressed. This in turn would mean staff being away from home for additional time, and could involve pay and grading issues, childcare costs, additional expenses, etc. We also wish to seek assurances that attendance on such trips would not be compulsory, as individual members of staff may not wish to undertake such duties for a variety of reasons.
Our members would need to be assured that they would not be in any danger in such circumstances and the seaworthiness of any ships to be used had been ascertained, as well as risk assessments undertaken on other aspects of the duty. A system of registration of vessels would have to be introduced. In addition, weather conditions would need to be taken into consideration. Our members believe that these issues could render the proposal unworkable and most consider that the Registrar General allowing the Registrar to register these marriages is the preferred option.

3.8 E-Registration

Our members raised several objections to this proposal, some of which mirrored the disadvantages highlighted in the consultation paper:

- Reduced need for local offices
- Increase in the provision of false information
- Loss of accuracy
- Additional need for registrars to chase up all the queries/ mistakes/ omissions
- Loss of face-to-face contact with the informants
- Possibility of non Registrars staffing the 24 hour helpline

We also remain concerned about the technological issues. At present a doctor or GP issues a proof of death notice and as yet, this cannot be done electronically. In addition, issues being raised by the Shipman enquiry will delay any implementation of such a system in the NHS.
For Further Information Please Contact:

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The main priorities of family historians as far as registration services are concerned are

1. Accessibility
   In order to access birth, marriage, and death certificates and associated index’s not displayed through the Scotland People’s “pay for view” web site family historians at present either have to visit New Register House in Edinburgh in person or to order such certificates by post.

   It is therefore welcome that the Register General recognizes that this situation should be altered as described in Sections 17 & 18 of the Consultation Document

   One concern of family historians would be the cost of reproduction of certificates would be greater than that charged at New Register House which is currently 50 pence for those records which can be printed that is births up 1905, marriages 1930 and deaths 1955 (the pay per – view web site currently costs 1.20 for the same option). There would also be concern what local authorities would charge to use this service as the charges to access Cemetery records held by local authorities varies between authorities it is a fear that a similar situation would arise with regards to access to registration services. As the type of information and services will be the same it would seem appropriate that a standard charge should apply throughout the country except with regards to the new Family History Centre in Edinburgh which is offering a different type of service.

2. Accuracy
   As family history research is conditional on access to records it also dependant on the accuracy of such records and would be concerned that any future possibilities of self certification might increase the possibility of inaccuracy. There is also a concern over the possibility of allowing people who were not born in Scotland but whose Grandparents were to register events. There, should therefore be a strict policy with regards to authenticity of documents required for such events to be recorded.
Submission from the Association of Registrars of Scotland (AROS)

Local Electoral Administration & Registration Services (Scotland) Bill

Comments of Carolyn MacPherson on behalf of the Association of Registrars of Scotland (AROS) to the Local Government & Transport Committee

The under noted are the areas of particular concern to Members of AROS

3.2 Abbreviated extract from death register
There is a great deal of concern amongst the Members regarding the reduction of income that will unquestionably occur as a result of the introduction of a free abbreviated death certificate. Members generally do not object to this being made available but do not agree to this being given free of charge. The projected loss of income is considerable and has the potential of having a very damaging effect on the service.

3.3 Notification of vital events to the public sector
This will cause a considerable drop in local registration office income through the loss of sales of birth certificates for passport application etc. Much of our income is gained not only from the birth extracts sold at the time of registration but much later in a person’s life and normally in response to a requirement for an official purpose. If GROS are to supply this information for a fee then surely that fee should in some way be split with the local authorities that fund the collection of the data being accessed.

Notification of vital events to the private sector
Charging for the notification of vital events to the private sector will not make up the shortfall caused by giving free abbreviated death certificates, however, this service will be useful to the customer.

3.7 Marriage in Scottish Waters
The Members feel this was put together with little thought on how it would be achieved locally. It is nonsensical to allow couples to elect which registration office they will give notice to, regardless of where the marriage is taking place or from where the vessel is leaving. There is also concern regarding the practicalities of approving a vessel for a civil marriage that is not related to the local authority area that will supply a registrar to conduct the marriage.
3.8 **E-registration**
Registrars, in the main, willingly embrace progress, much of which has been made in the last few years especially. E-registration is part of that progress and we will deal with it. There is however, huge concern that it will be introduced before it is fully tested to ensure there is no opportunity for fraudulent use and that the system is robust in the true sense of the word. We have already experienced the introduction of a system that caused no end of problems before being withdrawn, fixed and reintroduced months later. E-registration must be as robust and secure as the system we have used since 1855.

3.5 **Change of Name**
AROS Members agree with the proposal to remove the requirement to use a name for two years before it can be changed officially. We feel however, that local registrars could, for the majority of applications, deal with the change of name process. Face to face interaction leads to more accurate application forms being submitted. Many registrars are already assisting applicants in the process. As we are already empowered to witness signatures for declarations of parentage, amongst other important processes we feel we are more than capable of dealing with Change of Name from start to finish.

Carolyn MacPherson
1 February 2006