

Research Briefing

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Commons Library analysis of Marriage and Civil Partnership (Minimum Age) Bill 2021-22

Summary

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Summary

The Bill

The [Marriage and Civil Partnership \(Minimum Age\) Bill](#) (PDF) (the Bill) is a Private Member's Bill sponsored by Pauline Latham (Conservative). [Explanatory Notes](#) (PDF) have been prepared by the Ministry of Justice and Home Office.

The Bill would raise to 18 the minimum age for marriage and civil partnership in England and Wales. The [Explanatory Notes](#) (PDF) state how this would affect marriages and civil partnerships which take place outside of England and Wales:

The anticipated effect of this change on the common law will also mean that any marriages which take place overseas, or in Scotland or Northern Ireland, involving under 18s where one of the parties is domiciled in England and Wales, will not be legally recognised in England and Wales. This change to recognition will also apply to civil partnerships.

The Bill would also expand the existing criminal law on forced marriage to make it illegal for a person to arrange the marriage of a person under the age of 18 in England and Wales. The offence would apply to any religious or civil ceremony of marriage, whether or not it is legally binding. The existing law only applies if a form of coercion is used or if the victim lacks capacity under the Mental Capacity Act 2005.

Second reading of the Bill in the House of Commons took place on 19 November 2021 when it received Government and Opposition support.

A Public Bill Committee considered the Bill in one sitting on 12 January 2022. No amendments were tabled and there was a single debate covering whether all nine clauses and the schedule should stand part of the Bill, none of which were opposed. The Bill was reported without amendment.

House of Commons report stage is due to take place on **25 February 2022**.

Background

Minimum age for marriage and civil partnership

In England and Wales, the minimum age for marriage or civil partnership without parental or other third-party consent (as defined), or judicial consent, is 18. A person who is 16 or 17 may marry or form a civil partnership

only with such consent (unless the 16- or 17-year-old is a widow or widower or surviving civil partner). A marriage or civil partnership is void if either of the parties is under the age of sixteen.

In 2018, the most recent year for which data is available, 147 16-17-year-olds entered into a legally binding marriage with a member of the opposite sex. This figure represents 0.06% of all marriages that took place in England and Wales in 2018. Marriages of same-sex couples are not reported with a detailed age breakdown, and neither are civil partnerships.

UNICEF considers that child marriage is a violation of human rights. United Nations [Sustainable Development Goal 5.3](#), agreed to by world leaders, is, “Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation”. The [Explanatory Notes](#) (PDF) to the Bill note that “the UN Committee on the Rights of the Child recommends that there should be no legal way for anyone to marry before they turn 18, even if there is parental consent”. In 2016, the Committee recommended to the UK that it raise the minimum age to 18.

Several previous Private Members’ Bills have attempted to raise the minimum age of consent for marriage or civil partnership to 18, and, in some cases, to criminalise child marriage or civil partnership, but none were successful.

Forced marriage

[Government guidance](#) on recognising a forced marriage states:

A forced marriage is where one or both people do not (or in cases of people with learning disabilities or reduced capacity, cannot) consent to the marriage as they are pressurised, or abuse is used, to force them to do so. It is recognised in the UK as a form of domestic or child abuse and a serious abuse of human rights.

The criminal law on forced marriage (as it applies in England and Wales) is set out in [section 121 of the Anti-social Behaviour, Crime and Policing Act 2014](#). Section 121 makes it an offence for a person to use violence, threats, or any other form of coercion for the purpose of causing another person to enter into a marriage, and they believe (or ought reasonably to believe) that their conduct may cause the other person to enter into the marriage without free and full consent.

It is also an offence to pursue conduct for the purpose of causing a victim who lacks capacity (by reference to the Mental Capacity Act 2005) to consent to marriage, whether or not that conduct amounts to violence, threats or any other form of coercion.

For these purposes ‘marriage’ is defined as any religious or civil ceremony of marriage (whether or not legally binding).

In its [Tackling violence against women and girls strategy](#) the Government set out its commitment to “the goal of ending child marriage in this country”. It

also acknowledged “the need to signal to other countries that child marriage is something which needs to be tackled”.

1 Background

1.1 Marriage and civil partnership: minimum age

Current law

In England and Wales, the minimum age for marriage or civil partnership without parental or other third-party consent (as defined), or judicial consent, is 18. A person who is 16 or 17 may marry or form a civil partnership only with parental, third-party or judicial consent (unless the 16- or 17-year-old is a widow or widower or surviving civil partner).¹

A marriage or civil partnership is void if either of the parties is under the age of sixteen.²

The position differs in Scotland where the minimum age for marriage or civil partnership is also 16,³ but there is no requirement for parental or other consent for the marriage of 16- and 17-year-olds.⁴ A marriage or civil partnership is void if either of the parties is under the age of sixteen.⁵

How many 16- and 17-year-olds get married?

The number of 16- and 17-year-olds entering into a legally binding marriage in England and Wales is not high. The Office for National Statistics (ONS) publishes data on the number of 16-17-year-olds entering opposite-sex marriages.⁶ Marriages of same-sex couples are not reported with a detailed age breakdown, and neither are civil partnerships.

In 2018, the most recent year for which data is available, 147 16-17-year-olds got married to a member of the opposite sex.⁷ This figure represents 0.06% of

147 people aged 16 or 17 married someone of the opposite sex in 2018

¹ [Marriage Act 1949 section 3](#), as amended, [Civil Partnership Act 2004 section 4](#)

² [Marriage Act 1949 section 2](#), [Civil Partnership Act 2004 sections 3 and 49](#)

³ [Marriage \(Scotland\) Act 1977 section 1](#), [Civil Partnership Act 2004 section 86](#)

⁴ National Records of Scotland, [What Was and Is The Minimum Age For Marriage in Scotland?](#) [accessed 22 February 2022]

⁵ [Marriage \(Scotland\) Act 1977 section 1](#), [Civil Partnership Act 2004 sections 86 and 123](#)

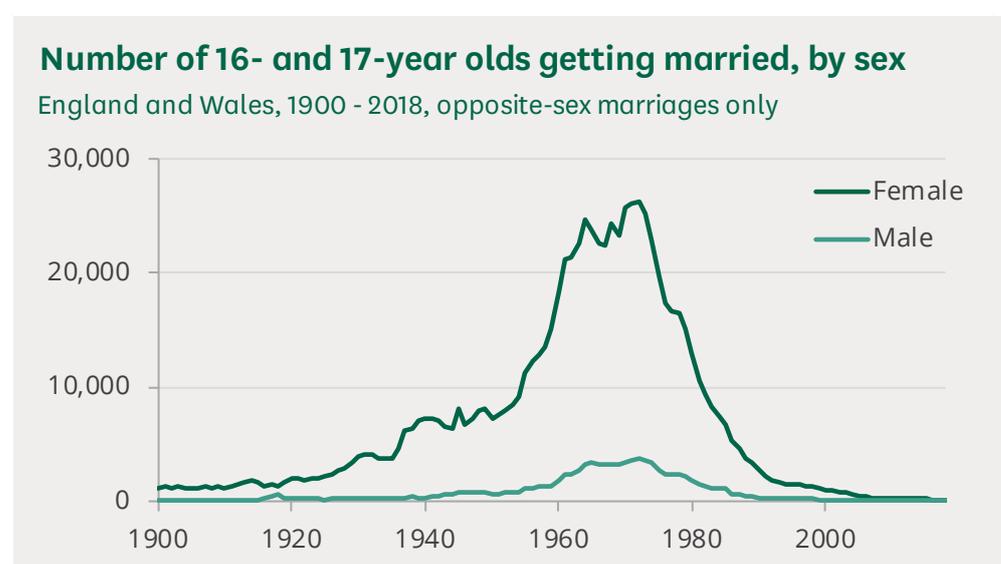
⁶ The data does not cover couples who have an unregistered marriage ceremony (including an unregistered religious marriage ceremony)

⁷ This figure relates to the number of individual people aged 16 or 17 who got married. The Explanatory Notes for the Bill puts the number of marriages where one or both parties were aged 16-17 at 134 in 2018. The number is different because it counts marriages rather than people; in some cases, two 16-17-year-olds will marry each other. See [Explanatory Notes to the Marriage and Civil Partnership \(Minimum Age\) Bill: Explanatory notes](#), paragraph 4

all marriages that took place in England and Wales in 2018. It was the lowest number of marriages recorded in this age group to date.

The majority of 16-17-year-olds who marry are female. In 2018, 119 of the 16-17-year-olds getting married were female while 28 were male. Over the last five years, an average of 79% of all 16-17-year-olds getting married have been female.

The chart below shows trends in the number of 16-17-year-olds getting married since 1900. Marriages of 16-17-year-olds began to increase in the 1920s, rising sharply in the late 1950s and peaking in 1972, when 29,935 such marriages took place. 16-17-year-olds getting married made up 7% of all marriages in 1972. Throughout this period, the majority of people marrying at 16-17 were female.



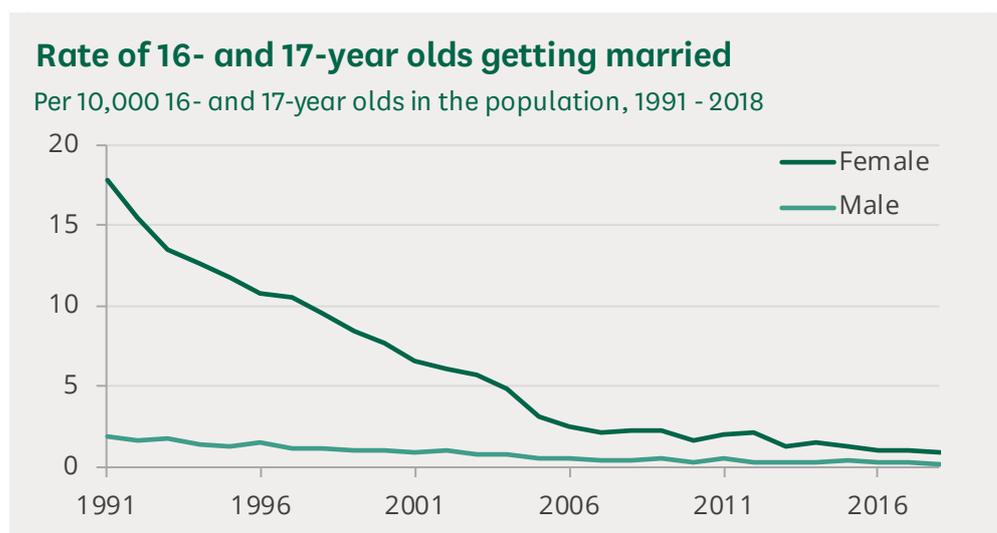
Source: ONS, [Marriages in England and Wales](#), 2018 dataset, Tables 3 and 4

Notes: In a very small proportion of cases, age is not recorded for people marrying. The proportion was around 3% in 1900 and had fallen to 0.02% by 2018.

The total number of marriages taking place at all ages also peaked in 1972 and has fallen by 44.9% since then. The number of marriages of 16-17 year olds has decreased by more than average – the number marrying in 2018 is 99.5% lower than in 1972.

It is also possible to look at the rate of 16-17-year-olds getting married relative to the population of people in that age group. The chart below shows the trend in the rate since 1991.

In 2018, around 0.9 female 16-17-year-olds got married for every 10,000 16-17-year-olds in the population. This is down from a rate of around 17.8 per 10,000 in 1991. In 2018, the rate for male 16-17-year-olds was around 0.2, down from around 1.9 in 1991.



Source: ONS, [Marriages in England and Wales](#), 2018 dataset, Tables 3 and 4; ONS, Mid-year population estimates via www.nomisweb.co.uk

1.2

Child marriage in an international context

UNICEF

UNICEF uses the term ‘child marriage’ to refer to both formal marriages and informal unions in which a girl or boy lives with a partner as if married before the age of 18.⁸ It considers that child marriage is a violation of human rights, regardless of sex:

Child marriage often compromises a girl’s development by resulting in early pregnancy and social isolation, interrupting her schooling, limiting her opportunities for career and vocational advancement and placing her at increased risk of domestic violence. Although the impact on child grooms has not been extensively studied, marriage may similarly place boys in an adult role for which they are unprepared, and may place economic pressures on them and curtail their opportunities for further education or career advancement.⁹

[UNICEF notes](#) that the issue of child marriage is addressed in a number of international conventions and agreements:

The Convention on the Elimination of All Forms of Discrimination against Women, for example, covers the right to protection from child marriage in article 16, which states: “The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage....” The right to ‘free and full’ consent to marriage is recognized in the Universal Declaration of Human Rights, which says that consent cannot be ‘free and full’ when one of the parties involved is

⁸ UNICEF, [Child marriage. Notes on the data](#), October 2021 [accessed 22 February 2022]

⁹ UNICEF, [Child marriage](#), October 2021 [accessed 22 February 2022]

not sufficiently mature to make an informed decision about a life partner. Although marriage is not mentioned directly in the Convention on the Rights of the Child, child marriage is linked to other rights – such as the right to freedom of expression, the right to protection from all forms of abuse, and the right to be protected from harmful traditional practices – and is frequently addressed by the Committee on the Rights of the Child. Other international agreements related to child marriage are the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, the African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa.¹⁰

United Nations

In 2015, world leaders agreed to seventeen Global Goals (also known as the Sustainable Development Goals or SDGs).¹¹

United Nations [Target 5.3](#) is:

Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation.¹²

The [Explanatory Notes](#) to the Marriage and Civil Partnership (Minimum Age) Bill note that the UN Committee on the Rights of the Child “recommends that there should be no legal way for anyone to marry before they turn 18, even if there is parental consent”.¹³ In 2016, the Committee recommended to the UK that it raise the minimum age to 18.¹⁴

1.3

Government position

In July 2021, the Ministry of Justice answered a written parliamentary question from Jim Shannon (Democratic Unionist Party) asking if the Secretary of State for Justice would hold discussions with Cabinet colleagues on increasing the legal age of marriage to 18. The response indicated the Government’s support, in principle, for changing the law:

The Government in principle supports raising the legal age of marriage to 18 years of age by removing the ability to marry at age 16 or 17 with parental consent. We will do so when a suitable legislative opportunity arises. In that context, the Marriage and Civil Partnership (Minimum Age) Bill was introduced by the hon. member for Bromsgrove on 16 June as a Private Members’ Bill. The hon. member for Mid Derbyshire is now sponsoring that Bill and Ministers will

¹⁰ Ibid

¹¹ [The Global Goals](#) [accessed 22 February 2022]

¹² The Global Goals, [Goal 5: Gender Equality Achieve gender equality and empower all women and girls](#) [accessed 22 February 2022]

¹³ [Explanatory Notes to the Marriage and Civil Partnership \(Minimum Age\) Bill, para 7](#)

¹⁴ Ibid

meet with her shortly to discuss its provisions. The Government will make its further intentions clear in due course.¹⁵

1.4

Forced marriage

Current law

[Government guidance](#) on recognising a forced marriage states:

A forced marriage is where one or both people do not (or in cases of people with learning disabilities or reduced capacity, cannot) consent to the marriage as they are pressurised, or abuse is used, to force them to do so. It is recognised in the UK as a form of domestic or child abuse and a serious abuse of human rights.¹⁶

The criminal law on forced marriage (as it applies in England and Wales) is set out in [section 121 of the Anti-social Behaviour, Crime and Policing Act 2014](#).¹⁷

Under s121(1), a person commits an offence if:

- they use violence, threats or any form of coercion for the purpose of causing another person to enter into a marriage, and
- they believe (or ought reasonably to believe) that the conduct may cause the other person to enter into the marriage without free and full consent.

If the victim lacks capacity to consent to marriage, then s121(2) provides that the offence under s121(1) is capable of being committed by any conduct carried out for the purpose of causing the victim to enter into a marriage (whether or not the conduct amounts to violence, threats or any other form of coercion). For these purposes the question of whether someone lacks capacity is determined by reference to the [Mental Capacity Act 2005](#).¹⁸ The Delegated Powers Memorandum notes that the 2005 Act “does not apply to children solely by virtue of their being children”.¹⁹

Under s121(3) a person commits an offence if:

- they practise any form of deception with the intention of causing another person to leave the UK, and
- they intend the other person to be subjected to conduct outside the UK that is an offence under subsection 121(1) or would be such an offence if the victim were in England or Wales.

¹⁵ [PQ 24179 \[on Marriage: Age\], 7 July 2021](#)

¹⁶ GOV.UK, [Guidance – Forced Marriage](#), last updated May 2021

¹⁷ Section 121 only applies to England and Wales. Section 122 sets out an equivalent offence for Scotland. The Bill only relates to section 121.

¹⁸ s121(5)

¹⁹ [Marriage and Civil Partnership \(Minimum Age\) Bill Delegated Powers Memorandum](#) (PDF), para 3

For the purposes of section 121 ‘marriage’ is defined as any religious or civil ceremony of marriage (whether or not legally binding).

An offence will only be committed under section 121 if, at the time of the conduct or deception:

- the defendant or the victim or both of them are in England and Wales;
- neither the defendant nor the victim is in England or Wales but at least one of them is habitually resident there; or
- neither the defendant nor the victim is in the UK but at least one of them is a UK national.

The offence can be tried in either the magistrates’ court or the Crown Court. The maximum sentence in the magistrates’ court is six months imprisonment and/or a fine, and seven years imprisonment in the Crown Court.

Statistics

[Statistics](#) on forced marriage are published by the Forced Marriage Unit (FMU).²⁰ The FMU is a joint Home Office and Foreign, Commonwealth and Development Office unit established in 2005 to lead on the Government’s forced marriage policy, outreach and casework.

In 2020, the FMU gave advice or support in 759 cases related to a possible forced marriage and/or possible female genital mutilation (FGM). Of these cases, 750 solely related to forced marriage, three to both forced marriage and FGM, and six solely to FGM.

The FMU notes that the overall case number represents a 44% decrease on the average number of cases (1,359) received annually between 2011 and 2019. It says this is thought to be “largely attributable to reasons derived from the coronavirus pandemic, such as restrictions on weddings and overseas travel”.²¹

The FMU set out the following additional information on the cases it dealt with in 2020:

Of the cases that the FMU provided advice or support to in 2020:

- 199 cases (26%) involved victims below 18 years of age
- 278 cases (37%) involved victims aged 18-25
- 66 cases (9%) involved victims with mental capacity concerns
- 603 cases (79%) involved female victims, and 156 cases (21%) involved male victims

²⁰ GOV.UK, [Official Statistics: Forced Marriage Unit statistics 2020](#), July 2021

²¹ Ibid

These proportions are broadly in line with case numbers from recent years.²²

The FMU states that of the cases it dealt with in 2020, 15% involved victims aged 15 and under, 11% were 16-17 years old, and 22% were between the ages of 18 and 21. It notes:

Cases concerning young children often involve the ‘promise’ of a future marriage (betrothal), or the younger sibling of someone at a direct risk, rather than an imminent marriage. The case numbers also include FGM, which often involves child victims.²³

Government policy

In July 2021 the Government published its [Tackling violence against women and girls strategy](#), which sets out a range of actions aimed at tackling acts of violence or abuse that disproportionately affect women and girls.²⁴

The strategy identifies forced marriage as one such issue, and states that the Government “remains committed to the goal of ending child marriage in this country”. It also acknowledges “the need to signal to other countries that child marriage is something which needs to be tackled”. The strategy goes on:

Child marriage and having children too early in life can deprive children of important life chances, which is why the Government will support raising the age of marriage and civil partnership in England and Wales from 16 to 18, when an appropriate legislative vehicle becomes available, to help stamp out marriage of minors. The age of 18 is widely recognised as the age at which one becomes an adult, and at which full citizenship rights should be gained.²⁵

1.5

Previous Private Members’ Bills

Several previous Private Members’ Bills have attempted to raise the minimum age of consent for marriage or civil partnership to 18, and, in some cases, to criminalise child marriage or civil partnership, but none were successful.

Marriage and Civil Partnership (Minimum Age) Bill [HL] 2016-17

On 25 May 2016, Baroness Tonge (then-Independent Liberal Democrat) introduced the [Marriage and Civil Partnership \(Minimum Age\) Bill \[HL\] 2016-17](#).²⁶ The long title of the Bill was “to raise the minimum age of consent to marriage or civil partnership to eighteen; create an offence of causing a

²² Ibid

²³ Ibid

²⁴ Home Office, [Tackling Violence Against Women and Girls](#), 21 July 2021, updated 18 November 2021

²⁵ [Ibid](#)

²⁶ [HL Bill 17 of 2016-17](#)

person under the age of eighteen to enter into a marriage or civil partnership; and for connected purposes”. A [Lords Library briefing paper](#) on this Bill includes background information.²⁷

The second reading debate took place on 21 October 2016.²⁸ The Bill completed its passage through the House of Lords but made no further progress.

Marriage and Civil Partnership (Minimum Age) Bill 2017-19

On 5 September 2018, Pauline Latham (Conservative) introduced the [Marriage and Civil Partnership \(Minimum Age\) Bill 2017-19](#) under the Ten Minute Rule.²⁹ The purpose of the Bill was to raise the minimum age of consent to marriage or civil partnership to eighteen.³⁰

This Bill did not make any further progress through Parliament before the end of the session.

Marriage and Civil Partnership (Minimum Age) Bill [HL] 2019-21

On 27 January 2020, Baroness Hussein-Ece (Liberal Democrat) introduced the [Marriage and Civil Partnership \(Minimum Age\) Bill \[HL\] 2019-21](#).³¹ The long title of this Bill was to “revoke parental or judicial consent which permits the marriage or civil partnership of a child and to criminalise child marriage or civil partnership under the age of 18; and for connected purposes”.

This Bill made no further progress.

Marriage and Civil Partnership (Minimum Age) (No.2) Bill 2019-21

On 6 October 2020, Pauline Latham introduced another Private Member’s Bill under the Ten Minute Rule,³² the [Marriage and Civil Partnership \(Minimum Age\) \(No.2\) Bill 2019-21](#).³³ The long title of the Bill was to “revoke parental or judicial consent which permits the marriage or civil partnership of a child and to criminalise child marriage or civil partnership under the age of 18; and for connected purposes”.

This Bill did not make any further progress.

²⁷ [LIF 2016/0056, 18 October 2016](#)

²⁸ [HL Deb 21 October 2016 cc2563-2572](#)

²⁹ [HC Deb 5 September 2018 cc196-200, Bill 261 of 2017-19](#)

³⁰ [HC Deb 5 September 2018 c196](#)

³¹ [HL Bill 61 of 2019-21](#)

³² [HC Deb 6 October 2020 cc768-770](#)

³³ [Bill 192 of 2019-21](#)

2

The Marriage and Civil Partnership (Minimum Age) Bill 2021-22

2.1

The Bill and associated documents

The [Marriage and Civil Partnership \(Minimum Age\) Bill](#) (PDF) (the Bill) is a Private Member's Bill, introduced on 16 June 2021 as Bill 18 of 2021-22 by Sajid Javid, who came fifth in the ballot for Commons Private Members' Bills for the 2021-22 session. Sajid Javid was subsequently appointed Secretary of State for Health and Social Care, and the Bill is now sponsored by Pauline Latham. Information about the Bill is available on the [Bill page](#) on the Parliament website.

Associated documents have also been published:

- [Explanatory Notes](#) (PDF) (updated on 15 December 2021)³⁴ prepared by the Ministry of Justice and Home Office;
- [Delegated Powers Memorandum](#) (PDF) prepared by the Ministry of Justice with the agreement of Pauline Latham;³⁵
- [Impact Assessment](#) (PDF) from the Ministry of Justice and Home Office.³⁶

The Bill would amend other legislation including the Marriage Act 1949, the Anti-social Behaviour, Crime and Policing Act 2014, and the Civil Partnership Act 2004.

³⁴ The [updated version of the Explanatory Notes](#) (PDF) contains [new paragraph 69](#) reflecting the need for a money resolution: "A money resolution is required for the Bill. A money resolution is required where a Bill authorizes new charges on the public revenue – broadly speaking, new or increased public expenditure. Changing the minimum age for marriage and civil partnership from sixteen to eighteen will generate administrative costs for the General Register Office and there will be other costs associated with publicising the changes made by the Bill. The House of Commons will be asked to agree that this expenditure may be met by money paid out of Parliament".

³⁵ Ministry of Justice, [Marriage and Civil Partnership \(Minimum Age\) Bill Delegated Powers Memorandum](#) (PDF), 11 November 2021

³⁶ [IA: MoJ017/2021](#) (PDF), 15 November 2021

2.2

Bill provisions

Increase in minimum age for marriage and civil partnership

Clause 1 and **Clause 3** would raise to eighteen the minimum age for marriage and civil partnership in England and Wales (by amending provisions in the Marriage Act 1949 and the Civil Partnership Act 2004).³⁷ It would no longer be possible for anyone to consent to the marriage or civil partnership of a 16- or 17-year-old. A marriage (whether civil or religious in a registered religious building)³⁸ would be void if entered into by anyone under the age of eighteen. The validity of any marriages or civil partnerships entered before the Bill comes into force would not be affected (**Clause 8**).³⁹

The Explanatory Notes set out the consequences this change might have:

The anticipated effect of this change on the common law will also mean that any marriages which take place overseas, or in Scotland or Northern Ireland, involving under 18s where one of the parties is domiciled in England and Wales, will not be legally recognised in England and Wales. This change to recognition will also apply to civil partnerships...

(...)

...The Bill would act as a further obstacle to those seeking to take children abroad to marry. It will also offer clarity to professionals such as teachers and social workers who are uncertain whether they should report children travelling abroad to marry.

The changes in the law would mean there will be one less obstacle to children completing their education. Children will also have more time to grow and mature before entering marriage or civil partnership; which is a potentially life-long commitment with significant legal and financial consequences.⁴⁰

Offence of conduct relating to marriage of persons under 18

Clause 2 of the Bill would extend the existing provisions of section 121 of the Anti-social Behaviour, Crime and Policing Act 2014 to cover conduct relating to the marriage of children aged under 18. Paragraphs 23 to 29 of the [Explanatory Notes](#) (PDF) set out full details.

The key changes set out in clause 2 are as follows:

³⁷ [Marriage Act 1949](#) section 2 would be amended, and section 3 would be omitted. [Civil Partnership Act 2004](#) section 3 would be amended and section 4 would be omitted.

³⁸ [PBC Deb 12 January 2022 c5](#)

³⁹ [Explanatory Notes to the Marriage and Civil Partnership \(Minimum Age\) Bill \(PDF\), para 2](#)

⁴⁰ [Explanatory Notes to the Marriage and Civil Partnership \(Minimum Age\) Bill \(PDF\), paras 2, 8 and 9](#)

- Subsection (2) would make it an offence for a person to carry 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 or any other form of coercion).
- Subsection (3) would extend the existing section 121(3) offence on deception to cover deception relating to the proposed new offence in subsection (2). In Public Bill Committee, Pauline Latham said:

It would therefore be an offence to deceive a child into leaving the UK for the purpose of causing them to marry, even when no actual coercion was involved upon the child's arrival in the foreign country.⁴¹

- Subsection (7) would provide that no offence is committed where the person's conduct is for the purpose of causing a child aged 16 or 17 to enter into a marriage in Northern Ireland or Scotland.

In Public Bill Committee, Pauline Latham explained:

Aside from the Scotland and Northern Ireland exemption I have just set out, clause 2 would inherit the existing provisions of the forced marriage offence in terms of definition of marriage, territorial scope and sentencing. The offence therefore applies to any religious or civil ceremony of marriage, whether or not it is legally binding, and carries a maximum sentence of seven years.⁴²

Civil partnerships etc registered outside England and Wales

Clause 4 would amend [section 54](#) of the Civil Partnership Act 2004 to provide that where two people register as civil partners in Scotland or Northern Ireland, the partnership would be void if, at time of registration:

- one of the two people was domiciled in England and Wales and
- one of the two people was under 18.

In Northern Ireland, the conversion of a marriage into a civil partnership would be void if, when the marriage was solemnised, one of the parties was domiciled in England and Wales and one was under 18.

It is not entirely clear how these provisions would affect civil partnerships and conversions if **both** parties were domiciled in England and Wales and under the age of 18.

Clause 4(3) would amend [section 217](#) of the Civil Partnership Act 2004 (person domiciled in a part of the United Kingdom), which provides for an overseas relationship (as defined in that Act) being registered by a person domiciled in England and Wales. It would increase the age under which two people are not to be treated as having formed a civil partnership from 16

⁴¹ [PBC Deb 12 January 2022 c5](#)

⁴² [PBC Deb 12 January 2022 c6](#)

to 18. The Explanatory Notes state: “This is the only provision that extends to Scotland and Northern Ireland and therefore forms part of the law of Scotland and Northern Ireland”.⁴³ The treatment as a civil partnership of an overseas relationship registered under the relevant law before the Bill comes into force would not be affected (**Clause 8**).

Consequential amendments

Clause 5 would enable the Secretary of State to make regulations by statutory instrument which make consequential provision, including transitional or saving provision. The regulations might amend, repeal or revoke provisions of, or made under, primary legislation.

A statutory instrument containing regulations that amend, repeal or revoke primary legislation would be subject to the affirmative resolution procedure, requiring the approval of both Houses of Parliament. Other statutory instruments would be subject to the negative resolution procedure.

The **Schedule** contains minor and consequential amendments.

2.3

Territorial extent and application

The Bill would extend to England and Wales only apart from sections 4(3) and 5 to 9 which would also extend to Scotland and Northern Ireland. An amendment or repeal made by the Schedule would have the same extent as the provision amended or repealed. [Paragraph 17 of the Explanatory Notes](#) provides further information; [Annex A](#) sets out a summary of the position regarding territorial extent and application in the United Kingdom.

In Public Bill Committee, Pauline Latham confirmed:

The substantive changes made by clauses 1 to 4 relate to the legal age of marriage and civil partnership in England and Wales only. However, as I have mentioned, one amendment that extends to Scotland and Northern Ireland is required. It relates to the recognition of an overseas relationship where one of the parties was domiciled in England and Wales when the overseas relationship was registered.⁴⁴

⁴³ [Explanatory Notes to the Marriage and Civil Partnership \(Minimum Age\) Bill, para 36](#)

⁴⁴ [PBC Deb 12 January 2022 c7](#)

2.4

Progress of the Bill

House of Commons second reading

Second reading of the Bill in the House of Commons took place on 19 November 2021.⁴⁵

Pauline Lathan spoke of children being “coerced into marriage, as they are too young to make the decision themselves”. She said, “The whole point of the Bill is to stop them having their parents make the decision on their behalf”.⁴⁶

Pauline Latham said society had changed since 1929 when marriages between under-16s were banned, and 1949 when the Marriage Act 1949 permitted children over the age of 16 to marry with parental consent, adding:

The provision for marriage at 16 is therefore entirely outdated and prevents children from completing their compulsory educational training before entering into a commitment as huge as marriage.⁴⁷

She said the Bill would apply to registered and unregistered ceremonies of marriage:

Clearly, we need to stop marriages at 16, but there is a further element to the problem. The laws apply only to registered ceremonies of marriage. Unregistered religious ceremonies in this country are not registered by age at all. In fact, the only requirement on religious marriages is that they are not forced marriages. ... To prove a forced marriage, the courts must find that there is coercion or undue pressure on the child to enter the marriage. In practice, this means that the child needs either to give evidence that will condemn their parents or state that they consented to the child marriage.

(...)

Karma Nirvana has supported children who do not recognise their child marriage as a forced marriage. They have been conditioned to normalise marriage under the age of 16 and as such, the evidence of coercion or duress is absent. It is frankly unbelievable that, in this country, our legal system allows children, sometimes as young as 7, to consent to unregistered religious child marriages. As long as they are not forced to a standard beyond all reasonable doubt, it is not against the law. My Bill aims to change that. No child should be able to consent to a marriage, whether or not they are under pressure from their parents.⁴⁸

Pauline Latham said, although only 125 legal marriages involving a person under the age of 18 were registered in 2019 under the parental consent exception, “the number of religious child marriages is undocumented in

⁴⁵ [HC Deb 19 November 2021 cc805-827](#)

⁴⁶ [HC Deb 19 November 2021 c806](#)

⁴⁷ [HC Deb 19 November 2021 c807](#)

⁴⁸ [HC Deb 19 November 2021 cc807-8](#)

official statistics, ... so it is likely to be higher by a huge factor".⁴⁹ She said the Bill would change how the law on forced marriage operates:

Forced marriage requires evidence of coercion or undue pressure, and in most cases that inevitably means children giving evidence against their parents and families. This hinders prosecutions for forced marriages. My Bill will offer an alternative solution: making arrangements for any marriage, religious or civil, involving a person under the age of 18 will automatically be categorised as a forced marriage, irrespective of any alleged consent, and therefore those who encourage or facilitate child marriage will commit an offence and can face criminal charges.⁵⁰

Pauline Latham referred to the intended penalties and consequences of the Bill:

First, changing the law in this way is intended to be a preventive measure in itself. We are sending a very clear message that across England and Wales, irrespective of the type of marriage undertaken, it is against the law for a marriage to include a child. As I have set out, this is powerful in itself and will help to reduce the number of child marriages in families that are not lawbreakers.

A second stage, which already exists under forced marriage legislation, is that where there is a concern for a particular child, the courts can impose a forced marriage protection order. This is an extra safeguarding tool in the powers of the police and social services to prevent child marriages.

Finally, in cases where the deterrent or the preventive action has failed, the Bill will penalise those whose conduct caused a child to enter into a marriage, whether or not the marriage is legally binding and whether or not the marriage has yet taken place. This conduct is punishable by a prison sentence of up to seven years, a fine or both. As such, this scale of penalties is proportionate and aims to safeguard the child at all stages, culminating in criminal sanctions for anyone actually causing a child to enter such a marriage.⁵¹

She said the Bill's first objective is "to safeguard young people, and in particular to safeguard their futures":

We know that children who are subject to child marriages have significantly poorer opportunities and life chances. Those include a lack of education and job opportunities, the removal of independence, serious physical and mental health problems, developmental difficulties for children born to young mothers, and an increased risk of domestic abuse and divorce.⁵²

Pauline Latham spoke of why the Bill would cover unregistered religious ceremonies:

If we were only to regulate civil marriages, we would solve fewer than 5% of the child marriage cases with which the national honour-based abuse helpline deals each year. It is common sense to recognise that the responsibilities and life-changing elements of a marriage flow not from the legal procedure, but

⁴⁹ [HC Deb 19 November 2021 c808](#)

⁵⁰ [HC Deb 19 November 2021 c809](#)

⁵¹ [HC Deb 19 November 2021 cc809-10](#)

⁵² [HC Deb 19 November 2021 cc810-11](#)

rather from the traditional or ceremonial wedding. For so many cases dealt with by the charities I work with, and the forced marriage unit in the Home Office, the religious marriage is the important aspect, and the civil marriage is either non-existent or an afterthought. That is why the Bill will be able to achieve its primary aim of safeguarding young people.⁵³

She said supporting the Bill would help the UK “to set an example to the rest of the world on prioritising children’s futures”, giving a practical example of a consequence of the current law:

A practical example is the case [FR], who was taken to Bangladesh at 16, under the pretence of visiting a sick relative, in order that she should marry a second cousin. Ironically, and tragically, that marriage was allowed in Bangladesh only because of the UK’s rules. At the time, girls in Bangladesh had to be 18 to be married, but because [FR] was British and the rules were different, the marriage was allowed. Since then, in 2017 Bangladesh implemented a new legal provision allowing younger girls to marry in special circumstances. Human Rights Watch confirmed that Bangladeshi officials repeatedly cited the fact that child marriage is legal in the UK as a justification for that change.⁵⁴

Pauline Lathan considered the UK should lead by example:

The UK’s position in criticising child marriage around the world and championing children’s future is incompatible with our allowing child marriage at home. To uphold our international obligations under the sustainable development goals and persuade other countries of the importance of banning child marriage, we must first lead by example and ban it ourselves.

(...)

It is important that we show the world and the whole of this country that we will not tolerate child marriage, because ... it is child abuse.⁵⁵

She said she did not want to stop people getting married:

It is outdated to talk about people having children out of wedlock being a sin. If a girl becomes pregnant on her 16th birthday, she will not have the baby until she is almost 17—16 years and nine months—and she has to wait for only another year and three months until she can get married. In that time, she and the person that she has become pregnant by—whether that is by design or not—will, between them, be able to judge whether that is the right choice for them. Clearly, children being brought up in a loving household is obviously the best thing for everybody. Eighteen is the age at which marriage should happen, not before.⁵⁶

⁵³ [HC Deb 19 November 2021 c811](#)

⁵⁴ [HC Deb 19 November 2021 cc811-2](#)

⁵⁵ [HC Deb 19 November 2021 c812](#)

⁵⁶ Ibid

Andy Slaughter, the then-Shadow Minister (Justice) spoke in support of the Bill and said: “the Bill is an important and substantial step forward. It is a progressive Bill, and the Opposition wish it well in its remaining stages”.⁵⁷

Tom Pursglove, Parliamentary Under-Secretary of State for Justice, confirmed the Government’s support for the Bill and he looked forward to it making “speedy progress”.⁵⁸ He said: “I think it is refreshing that, this morning, the country sees a House of Commons coming together to deliver an important reform that we can all support.”⁵⁹ He called the reform “long-overdue” and said the Bill played “an important role in the Government’s ambitions to end crimes that disproportionately involve violence against women and girls—in this case girls”:

Indeed, in our tackling violence against women and girls strategy published in July, we committed to ending child marriage as soon as a legislative vehicle became available, which it now has.⁶⁰

Tom Pursglove set out information about territorial extent:

The Bill will not change the age of marriage in Scotland or Northern Ireland, as marriage is a devolved matter. Therefore, the age of marriage in Scotland will remain at 16 and in Northern Ireland it will be 16 with parental or judicial consent. Someone who arranges for a 16 or 17-year-old to get married in Scotland or Northern Ireland cannot be prosecuted for forced marriage under the law of England and Wales, unless they had used coercion to do so. That applies even if they, or the party to the marriage, lived in England and Wales. However, as explained above, if a couple travels to Scotland or Northern Ireland to marry, and either of them is 16 or 17 and has their permanent home in England or Wales, that marriage will not be legally recognised in England and Wales. It will also not be legally possible for that couple to marry in Scotland, due to existing Scottish law. This will add an extra layer of protection for children, and will provide clarity to teachers and social workers, enabling them to report all concerns about children being forced to marry—having a marriage arranged for them here or being taken abroad to marry—to the police.⁶¹

He hoped Scotland and Northern Ireland would follow suit:

I invite our friends in Scotland and Northern Ireland to review the position in their respective countries. I believe that Northern Ireland has just issued a public consultation ... I really do hope that this Bill will be the catalyst for levelling up across the whole United Kingdom, so that we have a consistent position and are able to send out this important message internationally.⁶²

Tom Pursglove also spoke of enforcement of the new offence:

We should be under no illusions about the fact that forced marriage remains a challenging crime to prosecute, but we would like to see more prosecutions.

⁵⁷ [HC Deb 19 November 2021 c820](#)

⁵⁸ [HC Deb 19 November 2021 c827](#)

⁵⁹ [HC Deb 19 November 2021 c820](#)

⁶⁰ [HC Deb 19 November 2021 c822](#)

⁶¹ [HC Deb 19 November 2021 cc822-3](#)

⁶² [HC Deb 19 November 2021 c823](#)

The Government are working closely with the police to achieve this, but the situation will not change overnight. Forced marriage is often a hidden crime and children are understandably reluctant to criminalise their parents, but this change could make prosecution easier—not only for the behaviour that it specifically encompasses, but for cases already covered by forced marriage law. If there is no need to prove coercion, the burden on the prosecution is easier and there would be less of a role needed from the child victim.⁶³

He also set out further information about the Government’s work to tackle forced marriage.

In her closing remarks, Pauline Latham said: “This is a cross-party initiative, and I am delighted that people on the Opposition Benches have been so supportive of the Bill”.⁶⁴

Public Bill Committee

A Public Bill Committee considered the Bill in one sitting on 12 January 2022.⁶⁵ No amendments were tabled and there was a single debate covering whether all nine clauses and the schedule should stand part of the Bill, none of which were opposed.

Pauline Latham reiterated the background to and purpose of the Bill:

Setting the age of marriage at 16 was a decision made in 1929, when life was very, very different. Children often went to work at 14, as my mother did, and life expectancy was 20 years lower. Now, children in England must remain in education or training until they are 18, and couples are choosing to marry much later. We must celebrate the improvements we have made to quality of life and ensure that our laws align with that.

Increasing the minimum age of marriage to 18 is a necessary condition for ending child marriage in this country, but not a sufficient one. It will ensure that legal marriages cannot happen before the parties turn 18, but it can do nothing about those marriages enacted in traditional and some religious settings that are not recognised by the law of England and Wales, but are regarded just as much as a marriage by the parties, their families and their communities. Those marriages can have all the disadvantages for the children involved that legal ones do, and arguably more; not only can the parties be under the age of 16, but they fail to benefit from the legal protections inherent in marriage law.

In 2020, the Government’s Forced Marriage Unit provided advice and support in 113 cases involving the actual or potential marriage of a child aged 15 or under. The charities I work with have supported girls as young as seven who have been married in religious or cultural ceremonies in the UK. The Bill therefore extends the offence of forced marriage to cover all attempts to make a child under the age of 18 enter into a marriage, whether or not that marriage would be legally binding.

⁶³ [HC Deb 19 November 2021 c823](#)

⁶⁴ [HC Deb 19 November 2021 c827](#)

⁶⁵ [PBC Deb 12 January 2022 cc1-14](#)

The offence as it stands covers cases where a parent or other third party uses violence, threats or another form of coercion to cause a child to enter into a marriage. It does not cover situations where a parent or other third party causes a child to enter into a marriage if coercion is not used. The Bill closes that loophole by making it an offence to cause an under-18 to enter into a marriage in any circumstances.

The distinction between the marriage of a child that involves coercion and one that does not is often false. Children may not realise that they have a choice as to their marriage partner. They may not realise that they can resist, or they may be too afraid to do so. In such cases, the parent would have no need to use coercion. This is not just a theoretical gap; we have heard from the Forced Marriage Unit, the police and charities of cases where marriages have been arranged for children who are in this position. Ultimately, children can be put in the impossible position of either “consenting” to a child marriage, or testifying against their parents. That is why it is so crucial that we automatically categorise any marriage involving a child as a forced marriage—to close this loophole and ensure that all children are protected from all forms of marriage.⁶⁶

The Bill was reported without amendment.

House of Commons report stage

Report stage is due to take place on **25 February 2022**.

Pauline Latham has tabled five [amendments](#) (PDF). The Member’s explanatory statements set out that the amendments would, among other things:

- state expressly that for the new offence of carrying out conduct for the purpose of causing a child to enter into a marriage, the conduct might take place in England and Wales or elsewhere and might, but would not have to, involve deception;
- mean that a person might commit the new offence of carrying out conduct for the purpose of causing a child to enter into a marriage only if the conduct is for the purpose of causing a child to enter into a marriage in England or Wales, or the person or the child has a specified connection to England and Wales; and
- in respect of the new offence of carrying out conduct for the purpose of causing a child to enter into a marriage remove the exception for marriages of 16 and 17 year olds that take place in Scotland or Northern Ireland, so that conduct related to such marriages may amount to an offence.⁶⁷

⁶⁶ [PBC Deb 12 January 2022 cc4-5](#)

⁶⁷ [Marriage and Civil Partnership \(Minimum Age\) Bill Notices of Amendments as at 21 February 2022](#)

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