



In Focus

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

The [Marriage and Civil Partnership \(Minimum Age\) Bill \[HL\]](#) is a private member's bill introduced by Baroness Tonge (Independent Liberal Democrat). The Bill received its first reading in the House of Lords on 25 May 2016, and is scheduled to receive its second reading on 21 October 2016. Clauses 1 and 2 of the Bill would raise the minimum age of consent to marriage or civil partnership from 16 to 18. Clause 3 seeks to amend the Anti-social Behaviour, Crime and Policing Act 2014 to create an offence of “causing” a person under the age of 18 to enter into a marriage or civil partnership. Baroness Tonge has described the purpose of the Bill as follows:

Laws that set a minimum age of marriage are an important way to safeguard girls and boys from being married before they are ready. In line with international human rights standards, children under the age of 18 years should be recognised as children under national law so that they are accorded the full protection of the law. Governments need to have clear and consistent legislation that establishes 18 as the minimum age of marriage, with no exceptions for customary law, parental consent or judicial consent.

Such laws are an important tool that helps those working to dissuade families and communities from marrying off their daughters as children. Setting the minimum age of marriage at 18 provides an objective rather than subjective standard of maturity, which safeguards a child from being married when they are not physically, mentally or emotionally ready. It is an important step towards ensuring a minimum level of maturity and free and full consent about whether, whom and when to marry.¹

Government Statements and Recent Action

The Anti-social Behaviour, Crime and Policing Act 2014 made it an offence to force someone into a marriage, but did not specify the same for civil partnerships. Since the Act came into force, one person has been found guilty of the new crime of forced marriage.² The volume of forced marriage referrals from the police to the Crown Prosecution Service rose to 82 in 2014–15 from 67 in 2013–14.³ In 2015, the Forced Marriage Unit (FMU) “gave advice or support relating to a possible forced marriage in 1,220 cases” and “of the cases that FMU provided support to, 329 (27 percent) involved victims below 18 years of age and 427 (35 percent) involved victims aged 18–25”.⁴

In 2013, in response to a written question in the House of Lords on whether the Government could consider raising the legal age of marriage in England and Wales from 16 to 18, “in line with the United Nations Convention on the Rights of the Child, which defines those under the age of 18 as children”,

Lord McNally, then Minister of State at the Ministry of Justice, stated that the Government “does not consider that it is necessary to amend the age at which people can enter into marriage” and that “existing provisions that require parental consent for people under the age of 18 to marry provide adequate protection for people entering into marriage”.⁵

Statistics on Age of Marriage

According to the Office for National Statistics (ONS) [Statistical Bulletin: Marriages in England and Wales: 2013](#), “over the last decade, men and women aged under 20 have recorded the largest percentage decrease in marriage rates (62 percent for men and 67 percent for women)”. The ONS observe that “the average (mean) age for men marrying in 2013 was 36.7 years, while for women it was 34.3 years”. It also stated that, of “those entering their first marriage in 2013, the average age was 32.5 years for men and 30.6 years for women, representing increases of almost 8 years since 1973”.

In relation to same-sex relationships, between 29 March 2014 to 30 June 2015, 403 males and 649 females were under the age of 25 at the formation of their same-sex marriage.⁶ In 2015, there were 62 males and 31 females that entered into a civil partnership below the age of 25.⁷

History of the Age of Marriage

According to Lawrence Stone in *The Family, Sex and Marriage in England: 1500–1800*, the Marriage Act 1753 brought “coherence and logic” to the laws governing marriage.⁸ He states that before this Act there was “no simple answer to the problem of defining what was, and what was not, a marriage. There were many ways of entering into the married state”.⁹ In particular, the 1753 Act brought in the requirement of parental consent for those under 21. However, the minimum age of marriage—with its roots in the Roman Code and Canon Law¹⁰—remained at 14 for males and 12 for females, as Halsbury’s Laws of England notes:

Provision as to the minimum age for marriage was first contained in the Age of Marriage Act 1929 (repealed) which applied to marriages solemnised or contracted on or after 10 May 1929, the Act not being retrospective in its operation. Before that date the age at which a person could give consent and marry was 14 in the case of males and 12 in the case of females, and a marriage under the age of consent was not absolutely void, but only voidable by either party on the person underage reaching the age of consent.¹¹

It was following a campaign by the National Union of Societies for Equal Citizenship, that Parliament raised the age limit to 16 for both sexes in the Ages of Marriage Act 1929.¹² Following the repeal of the 1929 Act, section two of the Marriage Act 1949 provides for the minimum marriage age and states that “a marriage solemnized between persons either of whom is under the age of sixteen shall be void”.

In 1967, the House of Commons Report of the Committee on the Age of Majority recommended bringing the age of majority down from 21 to 18, but also recommended that the requirement for parental consent for marriage also be changed from under 21 to under 18 to bring it in line with the age of majority.¹³ Accordingly, section three of the Marriage Act 1949, as amended,¹⁴ now provides for the need of parental or court consent where a person who has attained the age of 16, but is not yet 18, wishes to marry or enter into a civil partnership and not being a widower or widow. The same requirements relating to minimum age are found in section three and four of the Civil Partnership Act 2004. These remain the present minimum age requirements for marriage and civil partnership.

In particular, the Committee also considered three proposals. These were raising the minimum age of marriage to 18 for both sexes, having a different minimum age for males and females or leaving it at 16. Upon hearing arguments in favour of increasing the minimum age to 18, the report stated:

One point which greatly interested us was the fact that a large number of young people themselves expressed the view that marriage should not be allowed under 18. While we think that, on the one hand, this view was coloured by lack of knowledge of some of the facts that have influenced our own decision, and that, on the other, it may reflect a lack of understanding among students of the problems of those who have been at work ever since they left school, we still think this is in itself impressive evidence of a serious and thoughtful outlook; they are not merely anxious to grab any privileges which they think may be going. It could be an indication that the majority of young people are not likely to rush into very young marriages.¹⁵

In relation to arguments in favour of leaving the minimum age at 16, the report stated:

We consider it essential that the minimum age for marriage and the age of consent to sexual intercourse should be the same. If both were raised to 18 it would create thousands of young criminals and would not be likely to stop sexual intercourse in the 16 to 18 age group. Since the law could not be enforced and it is difficult to see what penalties could be imposed (prison? fine? “tut-tut”?), the law would be brought into disrepute. If the age of consent remained at 16 while the marriage age was raised to 18, it would appear as an encouragement to illicit sexual intercourse, and in either case the present number of illegitimate children would be greatly increased.¹⁶

In conclusion, the Committee were “unanimously of the opinion that the age of consent to sexual intercourse, together with the minimum age for marriage, should remain at 16 for both sexes”.¹⁷

Further Information

- [Debate on Age of Majority \(Report\)](#), HC Hansard, 20 November 1967, col 956–1028
- House of Commons *Report of the Committee on the Age of Majority*, July 1967, Cmnd 3342
- Lawrence Stone, *The Family, Sex and Marriage, in England 1500–1800*, 1977
- Office for National Statistics, [Statistical Bulletin: Marriages in England and Wales: 2013](#), 27 April 2016; and [Statistical Bulletin: Divorces in England and Wales: 2013](#), 23 November 2015
- UK APPG on Population, Development and Reproductive Health, [A Childhood Lost](#), November 2012
- Home Office, [Forced Marriage Unit Statistics 2015](#), 8 March 2016

¹ This text was provided by Baroness Tonge on request from the Library.

² Ministry of Justice, ‘[Criminal Justice Statistics Quarterly: Outcomes by Offence Tables](#)’, 19 May 2016.

³ Crown Prosecution Service, *Violence Against Women and Girls Crime Report 2014–2015*, June 2015, p 71 (also see House of Commons, ‘[Written Question: Forced Marriage](#)’, 10 May 2016, 36352).

⁴ Home Office, [Forced Marriage Unit Statistics 2015](#), 8 March 2016, p 3.

⁵ [HL Hansard, 15 October 2013, col WA73](#).

⁶ Office for National Statistics, '[How Have Marriages of Same Sex Couples Affected the Number of Civil Partnership Formations, and How Many Couples Have Converted their Civil Partnership into a Marriage?](#)', 20 October 2015, Figure 4: Marriages of Same Sex Couples, Age at Formation for Males and Females, 29 March 2014 to 30 June 2015 (provisional figures).

⁷ Office for National Statistics, '[Statistical Bulletin: Civil Partnerships in England and Wales: 2015](#)', 8 September 2016, Figure 3 'Age of Men and Women Forming a Civil Partnership in 2015'.

⁸ *The Family, Sex and Marriage*, Lawrence Stone, 1977, p 35.

⁹ *ibid*, p 34.

¹⁰ House of Commons, *Report of the Committee on the Age of Majority*, July 1967, Cmnd 3342, para 166.

¹¹ *Halsbury's Laws of England*, 2015, 5th ed vol 72, 'Fundamentals of Marriage and Civil Partnership', para 43 'Minimum Age of Consent to Marriage or Civil Partnership', p 53.

¹² Parliament Website, '[Relationships: The Law of Marriage](#)', accessed 25 August 2016.

¹³ House of Commons, *Report of the Committee on the Age of Majority*, July 1967, Cmnd 3342, para 165.

¹⁴ Section 1 of the Family Law Reform Act 1969 brought in the new Age of Majority of 18 years using statutory construction of the word 'infant'. Schedule 2 para 9 of the Family Law Reform Act 1987 substituted the word 'infant' for 'child' in the Marriage Act 1949.

¹⁵ *ibid*, para 171.

¹⁶ *ibid*, para 177.

¹⁷ *ibid*.

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