

Scottish Civil Records, Censuses and Marriages Chris Paton 14 SEP 2012

Part 1: Civil Records

The National Records of Scotland (NRS) was formed by a merger of the General Register Office of Scotland (GROS) and the National Archives of Scotland (NAS) in April 2011. The GROS half of the operation maintains the following public registers:

- Births, marriages and deaths (and RCEs) – available through **www.ScotlandsPeople.gov.uk**
- Adoption (from 1930)
- Divorce (from 1984)
- Civil partnerships and dissolution (from 2005)
- Minor records (integrated with ScotlandsPeople's records)
- Book of Scottish Connections

Scotland was late in joining the party when it came to establishing civil registration:

- England and Wales – from July 1837
- Ireland – non-Roman Catholic weddings from April 1845 (1864 for all events)
- Scotland – from January 1855

The Registration (Scotland) Act 1854 gave the new Scottish based Registrar General responsibility for the following:

1. Collection of the established Kirk's OPRs
2. Decennial census
3. Compulsory BMD registration

Looking at each in turn...

1) OPR material

- All pre-1820 baptismal, marriage or burial registers were to be transmitted immediately to the Registrar General in Edinburgh
- All 1821-1854 material was to be transmitted to local registrars – to be retained locally for 30 years, and then transmitted to the GROS
- From 1855 parishes formed the basis of new civil registration districts

Register of Neglected Entries

- This was established in 1860
- Contains records of late registered BMDs previously not recorded in OPRs and proved to have happened between 31 DEC 1800 and 1 JAN 1855 (with sheriff's warrant)
- A cost of 5 shillings to register such an entry

Pray for 1855 events – the 'Golden Year' !

- Records considerably more detailed for 1855 only

- But too much work for registrars!
- An **Amending Act** was passed to reduce amount of information recorded from 1856 – but records still contain much more detail than equivalent UK records

Birth Records from 1856 onwards contain:

- Name of child (and whether illegitimate)
- Where born (street, number and parish), date and time (time recorded in rest of UK usually only when multiple births)
- The sex of the child
- The father's name and occupation
- The mother's name, including maiden surname & previous married surnames
- The date and location of the parents' marriage
- The informant's details
- The date and place of registration, and the registrar's name

Additional material for 1855 Birth Records only:

- The father's age and birthplace
- The mother's age and birthplace
- The number of children produced by the parents, and how many still alive

Adoption:

An Adoption Register has been kept in Scotland from 1930. For all enquiries on adoption contact the **NRS Adoption Unit**, Room 3, General Register House, 2 Princes Street, Edinburgh, EH1 3YY Tel: 0131 535 1355, 1383 or 1376
E-mail: **Adoption@gro-scotland.gsi.gov.uk** or **adoption@nas.gov.uk**

The adoption unit handles the following:

- Registering current Scottish Adoptions, Scottish Parental Orders and certain Foreign Adoptions.
- Producing Scottish adoption certificates for newly adopted children.
- Linkage of adopted people with their original birth details by post and in person.
- Accessing Scottish Adoption court process papers.

You can also contact the charity **Birthlink** at **www.birthlink.org.uk** for assistance

Marriage Records from 1856 onwards contain:

- Date and location of marriage
- Whether a civil or religious ceremony
- Groom's name, signature, occupation, status (bachelor or widower), age and residence
- Status of groom's parents (whether deceased); mother's maiden name and additional married names if remarried; father's occupation
- Bride's name, signature, occupation (spinster or widow), age and residence
- Officiating minister or whether by authority of a warrant
- Witnesses names (and for later entries addresses)
- Date and place of registration

Additional material for Marriage Records from 1855 only:

- Birthplace of each partner
- Number of previous marriages for each partner
- The number of children produced from those marriages

Nature of marriages recorded 1855-1939:

- Religious: after the regular calling of banns (or publication of notice from 1879) and according to the forms of the Church of ... etc
- Irregular marriage recognised by warrant of a Sheriff or Sheriff Substitute

Scottish registrars did not carry out civil weddings until 1940 after the *Marriage (Scotland) Act 1939* outlawed all but one form of irregular marriage – cohabitation and repute – which finally went with *Family Law (Scotland) Act 2006*

Civil partnerships recorded from 2005 (not available online) contain:

- Date and place of registration.
- Names and occupation of both parties.
- Marital or civil partnership status.
- Date and country of birth.
- Usual residence.
- Fathers full name and occupation.
- Mothers full name, maiden name and occupation.
- Name of the person registering the partnership.
- Names and addresses of witnesses.
- Date of entry in the register.

Death Records from 1856 – 1860 contain

- The name of the deceased
- Date of death, time, and location (plus usual residence)
- Marital status
- Name of deceased's father, occupation, and whether alive or deceased
- Name of deceased's mother, with maiden surname, and whether alive or deceased
- The cause of death, and person certifying the death
- Informant, and relationship to the deceased
- Place of burial and name of undertaker responsible

Additional information in Death Records in 1855 only:

- Spouse's name
- The names of any children born to the deceased, their ages, and if they were deceased before 1855, their date of death

Death Records from 1861 also contain:

- The name of the spouse restored
- The burial and undertaker information sadly removed

Death records from 1967 further include:

- Birth year and country

Registers of Corrected Entries

Corrections to records could be made subsequently by an entry in the Register of Corrected Entries. Reasons for amended entries include:

- Paternity judgments
- Suspicious or unusual deaths investigations
- Errors in recording
- Other changes

Minor records (integrated within the main ScotlandsPeople databases)

- Consular Returns: Births and Deaths 1914-present, Marriages 1917-present
- High Commissioner's returns (Commonwealth) 1964-present
- Marine registers of births and deaths from 1855; Air Register from 1948
- Registered events in foreign countries: 1860-1965
- Service records: 1881-1959
- War registers: 1899-present
- Foreign marriages without the presence of a British Consular Officer: 1947-present
- Marriages solemnised by army chaplains: 1892-present

Book of Scottish Connections

Information on the Book of Scottish Connections is available at www.gro-scotland.gov.uk/regscot/book-of-scottish-connections.html. The book can be used to register overseas births, marriages, deaths or civil partnerships in Edinburgh – but only if previously registered in a country overseas.

- **Births** – candidate must have parent or grandparent born in Scotland
- **Other events** – if person born in Scotland, or parent/grandparent
- Commemorative copy of record issues / £40
- Names will eventually be included on ScotlandsPeople

Civil registration sources from England for Scottish research:

Records from the National Archives at Kew RG32-36 collections, which include various overseas and ship based BMD registers. The indexes have been digitised and are accessible at BMD Registers www.bmdregisters.co.uk and The Genealogist www.thegenealogist.co.uk.

GRO England and Wales also holds various British overseas records collections (army chaplaincy, consular returns, etc), with indexes available from two sources:

- Family Relatives www.familyrelatives.com (free, but must be browsed)
- FindmyPast www.findmypast.co.uk (searchable in main BMD databases)

Part 2: The Decennial Census

Chronology of establishment of the Scottish decennial census:

- 1800: **Census Act** – agriculture and military considerations
- **1801-1831 censuses** were responsibility of John Rickman at House of Commons. Scottish enumerators were parish schoolmasters.
- **1841 and 1851 censuses** administered by Home Office, London. (Enumeration books not returned to Scotland until 1910 after creation of Old Age Pensions Act in 1908)
- **1861 census** onwards – GRO Scotland became responsible, and remains so today

The compiled census returns from 1801-1831 were statistical in nature. Household information was recorded by parish schoolmasters, and some has survived in kirk session registers (the schoolmaster often being the session clerk also), although very little exists. To locate surviving pre-1841 census fragments consult:

- **Local Census Listings 1522-1930** (3rd ed.) by Jeremy Gibson and Mervyn Medlycott
- **Census Finder** website at www.censusfinder.com
- Kirsty Wilkinson's excellent guide, *Scottish Population Listings Pre-1841*, at http://myainfolk.com/Resources_files/Scottish_Population_Listings_Pre1841.pdf

From 1841 the census was recorded on the following evenings:

- June 6th 1841
- March 30th 1851
- April 7th 1861
- April 2nd 1871
- April 3rd 1881
- April 5th 1891
- March 31st 1901
- April 2nd 1911

1841 census

- Names of householder & occupants
- Ages over 15 rounded down to nearest multiple of 5
- No parish of origin – county or country (E, I or F)
- No relationships stated
- Occupation – often abbreviated (FS, HLW, PLW etc)

Missing RDs:

Returns for fourteen districts in Fife, as well as others in Morayshire, Banffshire, Perthshire, Argyllshire, Buteshire, Ayrshire, Selkirkshire, Roxburghshire and Kirkcudbrightshire are missing.

St Kilda (Hiort) was enumerated later in 1841

1851 census

- Boundary location – parish, quoad sacra parish, type of burgh etc
- Address
- Relation to head of family
- Condition as to marriage
- Age
- Rank, profession or occupation
- Where born
- Whether blind, deaf or dumb

Missing RDs:

- Angus: Careston, Cortachy and Clova, Coupar Angus, Craig and Dun
- Ayrshire: Kilmarnock
- Kincardineshire: Strachan

Also: The 1851 Religious and Education Censuses

There was a separate census of **Accommodation and Attendance at Worship** aka the **Religious Census**, and a corresponding census on educational institutions (including Sunday School attendance)

Unlike parts of England, original schedules do not appear to have survived, only extracted information, available at the **Histpop** website at **www.histpop.org**

1861 census

Additions:

- Number of children attending school between the ages of 5 and 15
- Number of rooms with one or more windows

1871 census

Additions:

- Whether deaf and dumb, blind, an imbecile or idiot, or a lunatic

1881 census

Additions:

- Number of children at school question removed
- The records for books 13-27 for the Dumfriesshire district of Dumfries, and the district of Dunscore, are missing.

1891 census

Additions:

- Whether an employer, worker, or working on own account
- Whether able to speak Scottish Gaelic (Gàidhlig), or Gaelic and English

1901 census

Additions:

- Whether a worker was working at home.

- Medical question no longer asked if someone was an ‘idiot’ – instead it asked if they were ‘feeble-minded’

The 1911 census

Unlike England, Wales & Ireland, original household schedules have not survived for this census, only the enumerators’ returns. The census was boycotted by the Suffragettes, and was also the first to be tabulated mechanically.

The 1911 census is also often called the “**Fertility census**” as it asked the following questions of married women only (not widows):

- Duration of marriage
- Children Born Alive
- Children Still Living

Watch out for...

- Women’s surnames: when widowed, women often reverted to maiden surnames in the Scottish census. Occasionally married women listed under maiden name also
- Age and occupational inflation/deflation!
- 1841 – adult ages rounded down to multiples of 5 over 15
- A person can be recorded twice on one census at 2 locations
- Forename and surname variants e.g. Jessie/Janet, Smyth/Smith
- Placename/address changes – may still be same place
- Lies, damned lies!!!!

1841-1911 census street indexes

Street indexes to the censuses are freely available at www.scotlandspeople.gov.uk. They can help to locate which registration district a street might be within if you are at all unsure.

Where to access the censuses online:

- ScotlandsPeople (images 1841-1911) *PPV*
www.scotlandspeople.gov.uk
- Ancestry (transcriptions 1841-1901) *PPV/Sub*
www.ancestry.co.uk
- FindmyPast (transcriptions 1841-1901) *PPV/Sub*
www.findmypast.co.uk
- FreeCEN (transcriptions 1841 & 1851) *FREE*
www.freecen.org.uk
- Maxwell Ancestry (transcriptions for Borders 1841-1861) *FREE*
www.maxwellancestry.com

Also:

Microfilm access for 1841-1901 at LDS family history centres and other archives/libraries

The 1921 and 1931 censuses:

Protected by 100 years closure rule

- **1921 census** will be released 2021
- **1931 census** will be released 2031

NB: Unlike England and Wales, the 1931 Scottish census has survived (no matter what you may have read elsewhere!)

No 1941 census was recorded due to the Second World War

The 1939 National Identity Register (emergency wartime census):

- Recorded on September 29th 1939 across UK
- Not covered by census closure legislation
- Scottish entries available at **£15 per person** from the National Records of Scotland – see <http://gro-scotland.gov.uk> and look under **NHS Central Register**
- Details – name, address, sex, date of birth, marital status and occupation available for individuals, not households

Census substitutes 1801-1939:

- Valuation rolls from 1855-1915 Coming to ScotlandsPeople (1915-16 already online) www.scotlandspeople.gov.uk *PPV/Sub*
- 700 Post Office Directories from 1738-1911 are freely accessible on the National Library of Scotland website at www.nls.uk – however, **844** on the Internet Archive's National Library of Scotland page at <http://archive.org/details/nationallibraryofscotland>, with many beyond 1911.
- **Electoral registers** from 1832-1932 are coming soon on FindmyPast (Feb 2013) www.findmypast.co.uk *PPV/Sub*

Part 3: Scottish Marriage**Marriage through the Church**

- From medieval times to 1939, the only truly legal form of marriage was that carried out by the established church
- Banns – introduced in 1216 by 4th Lateran Council – had to be called three times prior to the marriage on consecutive Sundays
- From 1879 publication of a marriage notice allowing 7 days period for objections to be made became an alternative, as long as parties had previously been 15 days resident in Scotland
- Ceremony had to be performed by the parish minister
- Originally wedding ceremonies had to be performed in a church on a Sunday
- If these conditions not adhered to, the marriage was deemed irregular and was technically illegal – though under Scots Law could still be valid

Who could marry?

- Until 1929, boys as young as 14, and girls as young as 12
- 1929 – age changed to 16 for both sexes

- From 1856, intending parties to a marriage had to be resident in Scotland three weeks before ceremony – condition abolished in 1977

Who could marry?

There were various prohibitions on who could marry, based on the laws of consanguinity described in the Bible (Leviticus, Chapter 18). From 1567 marriages with the following relatives were forbidden:

- Ancestor, descendant or sibling
- Aunts/uncles or nephews/nieces
- Adoptive parent or child
- Wife's sister – until law changed 1907
- Brother's widow – until law changed 1921
- Marriage (Prohibited Degrees) Relationship Act 1931

Bizarrely though, it was perfectly lawful to marry a first cousin!

Marriage through the Church

Prior to 1879 a legal marriage required banns to be called on three Sundays prior to a marriage in order for any objections to be noted. An example of such is found in the Trinity Gask register from 1771 (Source: OPR 396/1 Trinity Gask)

Sabbath March 24 Received for proclamation money from Peter McCouan in the parish of Madertie and Janet Litch in thy parish two shillings sterling. Peter McCouan and Janet Litch proclaimed pro 1mo.

Sabbath March 31 Peter McCouan and Janet Litch proclaimed pro 2do.

Sabbath Aprile 7 Peter McCouan and Janet Litch proclaimed pro 3tio.

Bear this in mind when viewing parish register entries, for not all may be exactly as it first seems. Take the following example from the Inverurie and Oyne parish registers in 1829:

30th May George Clerihew in parish of Oyne and Sophia Chalmers in this parish were contracted and after proclamations on two Sabbaths were married by Minister on 13th current
(Source: OPR 204/00 40 317 Inverurie)

June 13 1829 George Clerihew in this parish & Sophie Chalmers in the Parish of Inverury were married
(Source: OPR 230/00 20 0140 Oyne)

If you consult the kirk session records, a different story emerges (Source: NRS CH2/196/4/315 Inverurie):

31st May Penalty of George Clerihew and Sophia Chalmers for thrice proclamation on two Sabbaths 1s 4d

28th June 1829 Geo. Clerihew and Sophia Chalmers after suitable exhortations were absolved for antenuptial fornication Penalty 5s

Marriage law before 1712

- Various acts between 1560 and 1712 to discriminate against non-establishment ministers and priests who carried out marriages illegally
- 1641 and 1649 acts created to stop Episcopalian and Catholic ministers – massive fines and imprisonment
- 1661 Episcopalian ministers used same laws to stop Presbyterian ministers!
- 1698 act required names of those who performed irregular ceremonies to be declared, as well as witnesses

Marriage law 1712 - 1939

- **1712 Toleration Act** allowed Scottish Episcopal Church ministers to perform weddings – if they also said prayers for Royal Family!
- **1753 Lord Hardwicke's Marriage Act** banning clandestine marriages did NOT apply to Scotland – England and Wales only.
- **1793 Catholic Relief Act** in Scotland – but right to celebrate marriage ritual not granted
- **1834 Marriage (Scotland) Act** allowed dissenting ministers to perform ceremonies if banns previously called in established parish church

Irregular marriage

- Entirely **valid** under Scots Law – but **not legal**
- Several forms of irregular marriage
- Punishable by fines and rebuke
- Could also be punished by a Justice of the Peace – often deliberately, to have the marriage legally recorded (juridical proof)
- Could be registered with a sheriff's warrant in civil marriage register from 1855-1939

There were several forms of irregular marriage:

1) Declaration – de presenti

*The maxim itself might content ye, the marriage is made by consent
Provided its done de presenti, and marriage is really what's meant.
Suppose that young Jocky or Jenny, say "We two are husband and wife."
The witnesses needn't be many, they're instantly buckled for life.*

- Declaration of marriage in presence of (usually) two witnesses – no minister required
- An irregular marriage carried out by a non-Church of Scotland minister was treated by the state as a marriage by declaration in the presence of a witness
- Gretna marriages – again, simply by declaration – the blacksmith was a witness, and the anvil just showbiz. Very popular from 1753-1856
- Abolished in 1939

The following instance found in the Gladsmuir records from 1780 shows an irregular marriage subsequently made 'regular' by the Kirk:

Gladsmuir April 23rd 1780

William Stocks and Elizabeth Corser compeared before the session for their irregular marriage and produced a certificate thereof dated at Edinr March 14th 1780 and subscribed by one Charles Johnston. The Minr rebuked them sharply for their irregularities exhorted them to repent and flee to Jesus Christ as the Saviour of Mankind for pardon – declares them married persons and exhorted them to live as such.

(Source: OPR M 708/00 0020 Fr. 442 Gladsmuir 14 MAR 1780)

The following is an example of the complicated nature of Scottish marriage, as cited by the Caledonian Mercury newspaper on 5 MAR 1838:

MARRIAGE FRAUD – A rather singular case was brought before Mr. Sheriff Barclay on Wednesday by the Procurator Fiscal, against Peter Thomson, farmer, Tilliepourie. The pannel was convicted of fraud and wilful imprisonment, having deceived the Rev. Thomas Buchanan, Logierait, and induced him to marry the pannel to a woman, with whom there had been no proclamation of banns. Proclamation of banns between Thompson and Mary Scott at Grandtully had been made, but on calling at Mr. Buchanan's manse with the certificates of that proclamation to have the ceremony of marriage performed, the bride, instead of being Mary Scott, was another woman of the name of Catherine Robertson, who resides at Derculich, and whom he represented to be the lady, Mary Scott, whose name was on the certificate. The Sheriff fined the pannel five pounds. Notwithstanding the deception practised on the clergyman, the marriage, it is considered, is valid by the law of Scotland.

2) **Betrothal followed by intercourse – ‘promise subsequente copula’**

- Known also to the church as ‘**matrimonia praesumpta**’
- Kirk not happy – no sex before marriage!
- Validity as a form of marriage in own right not resolved until 1917, when it was judged not to be a pre-contract awaiting solemnisation
- Abolished 1939

3) **Marriage in church without banns**

- Session clerks sometimes issued a banns certificate without proclamations having been made. After 1825 the Kirk's General Assembly came down hard on clerks caught doing so.
- Licenses issued in case of special circumstances – also during 17th Century periods of Episcopal rule

The following is an unusual instance cited by *Scottish Notes and Queries* (Vol 2 3rd ser, p.171 1924), where the celebrant is clearly having a laugh:

On a Sunday in August 1834 while the congregation were assembling in Oldmacher Parish Church, Aberdeen, a young weaver... with a fair damsel at

his side, in the middle of the passage, and proclaimed aloud his own name and that of his companion, signifying at the same time his desire that they should be united in wedlock. He repeated the proclamation three times with due solemnity, asked if anyone objected, then took his partner by the hand, declared that they were husband and wife, and forthwith departed.

4) Marriage by cohabitation and repute

- Simply living together as man and wife for more than 20 days
- Accepted as valid from 1503 – it was up to someone to prove that a couple was not so married if challenged
- Common amongst travellers
- Abolished Family Law (Scotland) Act 2006

Divorce

- Before 1560 couple could be divorced due to adultery, but could not remarry
- Annulment possible due to nonage, insanity, impotency or bigamy
- 1567 – consanguinity could also lead to annulment
- 1573 – divorce granted for desertion (four years or more)
- 1564 – 1830 divorce granted by Commissary Courts
- From 1830 onwards by Court of Session
- From 1984 by Sheriff Court (GRO Register of Divorces)

Relevant records

- ScotlandsPeople records website www.scotlandspeople.gov.uk – Church of Scotland and Roman Catholic marriage registers, & civil records
- ScotlandsPeople Centre in Edinburgh www.scotlandspeoplehub.gov.uk – additional records available in print and microform e.g. blotter registers, some published nonconformist records
- National Records of Scotland www.nrscotland.gov.uk – many nonconformist collections, kirk session records and digitised Roman Catholic registers (free access)
- Many irregular marriage lists held at ScotlandsPeople Centre
- GRO Scotland (part of the NRS) has a list of what is available www.gro-scotland.gov.uk/files2/family-records/irregular-border-and-scottish-runaway-marriages.pdf
- Ancestry has many Gretna registers online

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