

Marriage and Civil Partnership (Scotland) Bill

Briefing for stage 3 debate, 4th February 2014

Equality Network and Scottish Transgender Alliance
30 Bernard St
Edinburgh
EH6 6PR

Email: tim@equality-network.org

Phone: 0131 467 6039

The Equality Network is a national Scottish charity working for equality and human rights for lesbian, gay, bisexual and transgender (LGBT) people. The Scottish Transgender Alliance is part of the Equality Network, and focusses on equality for transgender people.

The motion to pass the bill

We very much welcome that the Parliament approved the general principles of the bill at stage 1 on 20th November, by a vote of 98 to 15.

At stage 2, the Equal Opportunities Committee unanimously agreed a number of government and other amendments, which have improved the bill further.

In our view, the bill now does an excellent job of delivering equality in marriage law, while at the same time ensuring that those who oppose same-sex marriage continue to have full freedom of religion, belief and expression.

The related amendments to the Equality Act 2010, which the Scottish and UK Government have agreed, will further guarantee the freedom of those who oppose same-sex marriage. In addition, recent guidance from the Lord Advocate protects free speech around same-sex marriage, and

the Scottish Government will issue updated guidance on Relationship, Sexual Health and Parenthood education.

We therefore ask you **please to vote in favour of the motion to pass the bill**. This will see Scotland join ten of our twelve nearest neighbour countries in Europe, and 26 other countries and states on other continents, which allow couples to commit to each other in marriage, whatever their gender.

We and colleagues in many other organisations support this legislation because:

It will make Scotland fairer and more equal. Having a segregated system (civil partnership) for same-sex couples is not equality – civil partnership was created because governments of the time were not willing to take the step of allowing same-sex couples to marry. The segregated civil partnership system leads to real discrimination: 58% of couples in a civil partnership said they had not been afforded the same rights and respect as married couples would get, in the workplace, in accessing services, and in their local communities ¹. The current law also has a particularly negative effect on married transgender people, because they are forced to divorce before they can obtain legal recognition of their gender change.

Marriage equality matters to LGBT people. In all our consultation with LGBT people across Scotland, equality in marriage law has been identified as a top priority for change. An overwhelming majority of LGBT people consider this issue to be of key importance. It is the last significant change needed to deliver full legal equality for lesbian, gay and bisexual people, and will be a major step forward for transgender people.

The bill will strengthen freedom of religion and belief. The bill, and the amendments to the reserved Equality Act 2010 that have been agreed with the UK Government, provide a guarantee that all religious and belief bodies will be free to choose for themselves whether or not to solemnise same-sex marriages. Some bodies, including the large churches, will choose not to, as is their right. The bill maintains their freedom, while for the first time giving those religious and belief bodies

¹ Equality Network survey of 103 people in civil partnerships in Scotland: <http://www.equality-network.org/wp-content/uploads/2013/11/Equal-Marriage-Report-26.1.11.pdf>

that want to conduct same-sex marriages the freedom to do so. They include the Humanists (who conduct more marriages in Scotland than any other religious or belief body except the Church of Scotland), the Quakers, the Unitarians, Liberal Jews and others. Many same-sex couples have a religious faith and the bill gives them, for the first time, options for a faith-based solemnisation of their marriage.

The bill has clear public support. Recent opinion polls have consistently shown 60 to 65% support for same-sex marriage in Scotland. The independent Scottish Social Attitudes Survey found in 2010 that 61% of Scots agreed that same-sex couples should be allowed to marry, while 19% disagreed ². It also found majority support amongst both Roman Catholics and Presbyterians. Same-sex marriage is supported by more than 60% of people of all income levels, and in both rural and urban parts of Scotland. 75% of people under 55 support same-sex marriage, as do 74% of adults in households with children, and 70% of women in Scotland ³.

The bill is supported by a wide range of organisations. Religious and belief bodies that wish the freedom to choose to solemnise same-sex marriages strongly support the bill. The Scottish Youth Parliament, NUS Scotland and all the political party youth and student wings support it, as do a range of children's and young people's organisations, including Action for Children, Scottish Commissioner for Children and Young People, Barnardo's, Youthlink and Children in Scotland. Equality organisations including Amnesty, Liberty, the Scottish Human Rights Commission and the Equality and Human Rights Commission support the bill, as do the STUC and many unions including ASLEF, Community, EIS, FBU, GMB, NUJ, PCS, RMT, Unison and Unite.

Equal marriage is fast becoming an international norm. Nine countries surrounding us already have same-sex marriage: Iceland, Norway, Sweden, Denmark, the Netherlands, Belgium, France, Spain and Portugal, and marriage equality in England and Wales will come into effect in March.

More details of all these points may be found in our booklet "[Six reasons to support equal marriage](#)".

² Scottish Social Attitudes Survey Module on Discrimination 2010, para. 3.18: <http://www.scotland.gov.uk/Publications/2011/08/11112523/0>

³ Ipsos-MORI Scotland poll, June 2012

Proposed stage 3 amendments

A number of government and non-government amendments have been lodged for stage 3.

The large majority of the government amendments are small technical changes: consequential or tidying-up amendments, or corrections of minor errors.

Amendment 31 is the sole substantive government amendment. It makes a small change to the arrangements for applying for gender recognition, to deal appropriately with a case where the civil partner or spouse of the applicant dies part of the way through application process. The Equality Network had pointed out at stage 1 that there was a gap in the bill for such circumstances, and we welcome that the amendment addresses this gap.

We ask you please to vote in favour of all the government's amendments in the name of Alex Neil.

The amendments in the name of Patrick Harvie (28 and 29) relate to some of the details of the Scottish Government's review of the future of the Civil Partnership Act 2004, which the Cabinet Secretary announced on 27th June 2013. We suggest that you may wish to consider the Cabinet Secretary's response on these amendments before deciding how to vote.

The amendments in the names of John Mason (25, 26, 27 and 30), Siobhan McMahon (3), and Richard Lyle (1 and 2) are amendments which were also submitted at stage 2, and were disagreed to by the Equal Opportunities Committee.

In our view, these amendments are unnecessary, because strong protections are already provided for those who disagree with same-sex marriage. These include:

- Protections in the bill itself, including that no person or religious or belief body is under any duty to apply to be authorised to conduct same-sex marriages (or to conduct such marriages even if authorised to do so), and the wide freedom of thought, conscience, religion and expression provision in section 14;

- The amendments which will be made to the Equality Act 2010, which will ensure the freedom of religious and belief bodies, their celebrants, and anyone else taking part in religious or belief marriage ceremonies, to decline to solemnise or take part in same-sex marriages; and
- The Lord Advocate's recent guidance on free speech and same-sex marriage, and the Scottish Government's revised guidance on Relationships, Sexual Health and Parenthood education.

In addition to being unnecessary, the amendments would also be discriminatory in effect, because they provide special protection for beliefs opposed to same-sex marriage, without providing equivalent protection for other beliefs, such as beliefs in favour of same-sex marriage, or beliefs on other issues.

We ask you therefore please to vote against the amendments in the names of John Mason (25, 26, 27, 30), Siobhan McMahon (3) and Richard Lyle (1, 2).

More details on each of the substantive amendments are provided in the appendix accompanying this briefing.