

# Marriage and Civil Partnership (Scotland) Bill

Optional gender-neutral wording for mixed-sex marriage ceremonies

Equality Network, 30 Bernard St, Edinburgh, EH6 6PR

[www.equality-network.org](http://www.equality-network.org)

This version dated 8<sup>th</sup> August 2013

Quite rightly, the Marriage and Civil Partnership (Scotland) Bill allows religious and belief organisations to freely choose whether or not to conduct same-sex marriages. Religious bodies and their celebrants will be entirely free to choose only to conduct mixed-sex marriages if they wish. The bill upholds freedom of religion by allowing religious bodies to choose.

When a religious or belief body nominates its celebrants to the Registrar General, to be approved to conduct marriages, the body must give the Registrar General details of the form of its marriage ceremonies.

The current law requires that marriage ceremonies must include these two declarations:

1. a declaration by the couple that they accept each other as husband and wife;
2. followed by a declaration by the celebrant that they are then husband and wife.

The new bill keeps the same rule for ceremonies for mixed-sex marriages. When celebrants are nominated to conduct same-sex marriages, the same-sex marriage ceremonies must instead include:

1. a declaration by the couple that they accept each other in marriage;
2. followed by a declaration by the celebrant that they are then married.

We think that the form of ceremony for same-sex marriages is fine – there is nothing to stop the celebrant adding extra words such as “wife and wife”, by agreement with the couple.

But we think that the required form for mixed-sex marriages is too restrictive, because the law requires the use of the gender-specific terms “husband and wife”, which will be very problematic for some couples. We believe that there should be a small amendment to the bill, to allow religious and belief bodies that want to, to use the gender-neutral form of marriage ceremony for mixed-sex couples who would prefer that.

Clearly, some religious organisations will want to use the gender-specific terms “husband and wife” for all their marriages, and they should be free to do so. And those terms should continue to be available for couples who want to use them. But it is wrong to impose those terms where the couple would prefer to use the gender-neutral language and the organisation conducting the marriage agrees to do that.

This is particularly important for mixed-sex couples where one or both is transgender or intersex. A person’s overseas gender recognition is not automatically recognised in the UK. For example, an American trans woman who has fully transitioned and received gender recognition as female in her home state, would still be regarded as legally male under UK law. When she and her lesbian partner get married in Scotland, they would regard their marriage as a lesbian same-sex marriage (and it would visibly be that), but legally it would be a mixed-sex marriage. It would be highly offensive and inappropriate to call the trans woman a “husband” during her marriage ceremony, when she lives permanently as a woman. In a similar way, where someone is born with an intersex physical variation in their biological sex, or is a trans person who lives in an androgynous manner rather than simply as either a man or a woman, they should not be forced to be called a husband or a wife against their wishes.

We are therefore calling for a small amendment to the bill to allow those religious or belief bodies that choose to, to use the gender-neutral (“you are now married”) form of marriage ceremony wording for mixed-sex marriages, as an alternative to the gender-specific (“you are now husband and wife”) form. That would be entirely consistent with the religious freedom principle of the bill, by allowing religious and belief organisations to choose which form of ceremony to use.