

Marriage and Civil Partnership (Scotland) Bill

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For more information, please contact:

Colin Macfarlane, Director, Stonewall Scotland

 $\underline{Colin. Mac farlane@stonewallscotland.org.uk}$

0131 474 8019

07870650662

Stonewall Scotland was delighted that MSPs overwhelmingly supported the principles of the Bill at Stage One.

Since then the Bill has received comprehensive scrutiny at Stage Two.

It should also be noted that since the Scottish Government announced its intention to legislate for equal marriage in July 2012, the proposals have been through a series of rigorous consultations.

We urge all MSPs to support this modest final legislative measure for equality for lesbian, gay, bisexual and transgender people in Scotland.

Scottish Government amendments.

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

We ask MSPs to vote for all the Scottish Government amendments.

Adoption and fostering services.

This amendment is identical to amendment 43, which the Equal Opportunities Committee disagreed to at Stage Two.

Existing law already states, rightly, that all decisions on adoption or fostering must be based on the best interests of the child. Stonewall Scotland agrees that prospective foster carers or adoptive parents should not be rejected solely because of their views on same-sex marriage. We do believe, however, that potential adoptive parents or foster carers should be assessed on whether they have a range of skills to support looked after children, including those who may grow up to be lesbian, gay, bisexual or transgender or may be experiencing homophobic or transphobic bullying.

We believe this amendment is unnecessary and we ask MSPs to please vote against it.

'Protection' of charitable services.

This amendment is identical to amendment 44 which the Equal Opportunities Committee disagreed to at Stage Two.

The Equality Act 2010 states that it would be a clear discrimination on the grounds of religion and belief for a public body to refuse financial or other support to charity because that charity disagrees with same-sex marriage.

Stonewall Scotland believes amendment 2 is unnecessary and asks MSPs to please vote against it.

Public functions.

Amendment 3 is identical to amendment 42, which the Equal Opportunities Committee disagreed to at Stage Two.

Stonewall Scotland believes this amendment is unnecessary because the Equality Act 2010 states that it would be clear discrimination on the grounds of religion and belief to deny a person or organisation access to public services simply because they opposed same-sex marriage.

Stonewall Scotland asks MSPs to please vote against this amendment.

Religious Freedom and Protections.

Amendment 25 is identical to Stage Two amendment 38, which the Equal Opportunities Committee disagreed to.

The amendment provides that no religious or belief body may be compelled by any means to apply to the Registrar General to be prescribed to solemnise same-sex marriages, or to nominate to the Registrar General any of its celebrants to be empowered to solemnise same-sex marriages.

It also provides that no individual may be compelled by any means to apply to the Registrar General for temporary authorisation to solemnise same-sex marriages.

The amendment would override any private contractual arrangements, including future contracts.

Stonewall Scotland believes that not only is this amendment unnecessary but that it would also lead to an unwarranted interference in the internal affairs of religious or belief bodies.

The amendments to the Equality Act 2010, agreed between the Scottish and UK Governments, which will be made before the bill comes into effect, will ensure that equality legislation imposes no such duty on religious or belief bodies or celebrants.

Furthermore, such an interference in the contractual powers of religion and belief organisations may well constitute a breach of article 9 of the European Convention on Human Rights (freedom of thought, conscience and religion.) During Stage One evidence on 19th September 2013, the Equal Opportunities Committee were presented with this view by Aidan O'Neill QC and Karon Monaghan QC (Official Report columns 1496 & 1497).

Stonewall Scotland asks MSPs to please vote against amendment 25.

Freedom of Expression.

Amendment 26 is identical to Stage Two amendment 39 which the Equal Opportunities Committee disagreed to.

Stonewall Scotland is clear that the freedom to hold and express the belief that a marriage can only be between one man and one woman is already, rightly, robustly protected by law. This amendment, however, seeks to elevate one belief above others and would enshrine in law that same-sex relationships are uniquely worthy of criticism.

Stonewall Scotland asks MSPs to please vote against Amendment 26.

Review of effect of same-sex marriage.

Amendment 27 is almost identical to Stage Two amendment 48, which the Equal Opportunities Committee disagreed to.

While Stonewall Scotland is supportive of steps to review the effectiveness of all legislation, this amendment solely seeks a review of *one part of this bill* (same-sex marriage.) The focus of any post-legislative scrutiny should be on whether a bill is delivering on *all* its key purposes. We believe such an amendment to be unnecessary and ill-considered.

Stonewall Scotland asks MSPs to please vote against Amendment 27.

Civil Partnerships for Opposite-Sex Couples.

On 27th June 2013, the Scottish Government announced a review of the operation and future of the Civil Partnership Act 2004. Stonewall Scotland does not take a position on the merits of introducing civil partnerships for opposite-sex couples.

While we welcome the review, our main concern is that this Bill delivers on its primary focus which is enabling same-sex couples to marry. Stonewall Scotland would like to see resource and energy focused on this aim being achieved swiftly.

Further amendments to Equality Act 2010.

Stonewall Scotland strongly believes that amendment 30 is unnecessary and has the potential to wreck the Bill. The amendment would have the effect of preventing the commencement of the provisions of the Bill which relate to same-sex marriage until the specified amendments to the Equality Act 2010 (as stated in amendment 30) had been made by the UK Government and Parliament. The specified amendments to equality law have already been rejected by the UK Government and Parliament when the Marriage (Same Sex Couples) Act 2013 was considered at Westminster.

Stonewall Scotland asks MSPs to please vote against amendment 30.

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