

MARRIAGE AND CIVIL PARTNERSHIP (SCOTLAND) BILL
SUBMISSION FROM HUMANIST SOCIETY SCOTLAND

How would you characterise your views on the Bill in general?

In support

The Humanist Society Scotland (HSS) heartily endorse the thrust of the Bill and the intention behind it, to create a more equal Scotland. As the fundamental principle behind Humanism is that every human deserves equal rights, the HSS fully supports both allowing same sex couples to marry and equalising the status of Belief celebrants. As believers in a secular state where all are treated equally, the HSS regrets that within this Bill heterosexual couples will not have a right to form civil partnership but welcome the Scottish Government's public commitment on 27th June 2013 to conduct a review of civil partnership law and promptly enact legislation to open up civil partnership in Scotland to couples regardless of their gender. This will also make it possible for a person in a civil partnership to get gender recognition without the need to change their civil partnership to a marriage. Finally the HSS would like to see the criteria on which organisations are judged as suitable to conduct marriage being applied equally. In chapter 3, section 2 of the Bill this would require an amendment to the Bill which would remove the privileged status of The Church of Scotland currently enshrined in section 8 (1) (a) (i) of the Marriage (Scotland) Act 1977. For clarity and to reflect their equal status in law, where previously some titles of Christian Celebrants eg, minister, priest or pastor have been specifically included, these specifics in the Bill are replaced throughout by the phrase "Celebrant of a Religious or Belief body"

How would you characterise your views on the introduction of same sex marriage, so that same sex couples can marry each other?

In support

Humanist philosophy is about treating people equally and the HSS welcomes this move towards creating a more equal and accepting society by recognising the equal validity of love between partners of the same sex and affording the same rights and responsibility of marriage to same sex couples.

How would you characterise your views on putting belief celebrants on the same footing as religious celebrants?

In support

As would be expected, the HSS strongly welcomes the move toward equal treatment of all marriage celebrants.

How would you characterise your views on the arrangements for authorising celebrants to solemnise opposite sex and same sex marriage (including the opt-in procedures)?

In support

The HSS supports the right of celebrants of all beliefs and religions to opt out. We appreciate the care that has been taken to allow a conscience opt-out for individual celebrants where their organisation has opted in to conducting same sex marriages. We are therefore disappointed that the reciprocal freedom of conscience has not been granted to allow individual celebrants within opted-out organisations from individually choosing to conduct same sex marriages and civil partnerships. A small amendment is needed to section 11(2) of the bill, in order to give those religious and belief bodies that want to, the option of using the gender-free form of the marriage ceremony, in section 11(2)(g), for mixed-sex couples who would prefer that form. This is particularly important for mixed-sex couples where one or both is transgender or intersex. Religious or belief bodies that wish to, should be permitted to continue to use the “husband and wife” gendered form of the marriage ceremony, and same sex couples should be also be given the choice of wording within a civil marriage.

How would you characterise your views on civil partnerships changing to marriages?

In support

The HSS believes that both civil partnerships and marriages should be available to both same-sex and opposite sex couples. The HSS also believes that there should be no cost incurred if a couple in a civil partnership wish to change to a marriage. We consider it unjust that a group of individuals who have been discriminated against should have to pay to have that discrimination corrected. We do also think an amendment is needed to allow couples who registered a civil partnership abroad and then moved to Scotland to marry here.

How would you characterise your views on allowing civil marriage ceremonies to take place anywhere, other than religious premises, agreed between the couple and registrar?

In support

The HSS agrees that more freedom should be accorded to all individuals to have their marriage solemnised in a way, and in a place that suits them and so support this increased freedom for civil marriage ceremonies.

How would you characterise your views on allowing the religious and belief registration of civil partnerships?

In support

Once again the HSS support increasing freedom of choice and that all couples should be free to choose the type of legal recognition they want for their relationship, as well as who conducts the ceremony and where it takes place.

How would you characterise your views on allowing transgender persons to stay married when obtaining a full Gender Recognition Certificate, which provides legal recognition in the acquired gender?

In support

The HSS strongly supports the ability for a transgendered person to remain married when obtaining a full Gender recognition Certificate.

Would you like to comment on the wider issue of protections for those in society who may have concerns about same sex marriage?

The HSS does not perceive there is any legal risk to individuals who choose to speak against same-sex marriage and the provisions set out in chapter 4 reinforce that no presently existing freedom of expression will be curtailed. As regards calls for a conscience clause for registrars, it is unthinkable that a public official carrying out a public service be allowed to discriminate on the grounds of sexuality/ sexual orientation. It would also be contrary to statutory obligations under the Equality Act 2010. The HSS considers that in the public sphere everyone is either equal or we are not. If the Bill becomes law, public servants will, like anybody, be free to think and believe whatever they like about anyone else. Indeed it is a fundamental human right. However, personal beliefs must not intrude in the performance of a public duty, particularly not to the detriment of those seeking a service to which they are legally entitled. Like everybody else registrars will be subject to the laws of the land. The HSS considers the existing safeguards which prevent teachers and others in authority using their position to promote a particular view point sufficient.

Would you like to comment on the wider issue of freedom of speech?

When considering calls for conscience clauses or protection of freedom of speech on this issue, the HSS would ask for equal marriage to be treated in the same way as equality law on race, gender or disability and those with other protected characteristics. When these laws were framed lawmakers did not consider enshrining in law special rights for those opposed to treating women, minority ethnic people or disabled people equally. In deciding to allow same-sex marriage MSPs will have decreed that the state will no longer allow discrimination against gay and lesbian people in the public sphere. If individuals opposed to equality experience social disapproval for their opposition to same sex marriage, the HSS would welcome this, in the same way it welcomes social disapproval of sectarian behaviour or racism and sexism.

Would you like to comment on any other wider issues in relation to the Bill that are not mentioned above?

The HSS agrees with politicians and the Registrar General that conducting marriages should not be a business. As a charity, the ceremonies carried out by our celebrants are only part of our work but we are concerned that some charities have been set up which appear to be operating as marriage businesses. We therefore welcome the modification to Section 12 : Temporary Authorisation and, for clarification, that the criteria for suitable organisation should be defined as in section 10 (4) (a), and we request that if no other criteria for temporary authorisation should be permitted.

Are you responding as...

a celebrant faith/belief-based organisation

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