

# Marriage and Civil Partnership (Scotland) Bill

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## Groupings of Amendments for Stage 3

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated during Stage 3 proceedings, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

### Groupings of amendments

**Note:** The time limits indicated are those set out in the timetabling motion to be considered by the Parliament before the Stage 3 proceedings begin. If that motion is agreed to, debate on the groups above each line must be concluded by the time indicated, although the amendments in those groups may still be moved formally and disposed of later in the proceedings.

#### **Group 1: No power to compel religious or belief bodies to carry out same sex marriages**

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#### **Group 2: Protection of freedom of expression etc.**

26, 3, 1, 2, 30

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**Debate to end no later than 50 minutes after proceedings begin**

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#### **Group 3: Review of same sex marriage**

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#### **Group 4: Review of civil partnership**

28, 29

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**Debate to end no later than 1 hour 15 minutes after proceedings begin**

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#### **Group 5: Processes for, and consequences of, applications to sheriff for issue of full gender recognition certificate**

4, 5, 6, 7, 9, 10, 11, 13, 15, 17, 19, 20, 22

**Group 6: Issue of full gender recognition certificate following death of civil partner or spouse**

8, 31, 14, 16, 18, 21, 23, 24

**Debate to end no later than 1 hour 30 minutes after proceedings begin**

## THIS IS NOT THE MARSHALLED LIST

### Amendments in debating order

#### **Group 1: No power to compel religious or belief bodies to carry out same sex marriages**

**John Mason**

25 In section 10, page 10, line 19, at end insert—

<( ) For the avoidance of doubt—

- (a) no religious or belief body may be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement) to—
  - (i) make a request referred to in subsection (1C)(a);
  - (ii) nominate under section 9 any of its members to be registered as empowered to solemnise marriages between persons of the same sex;
- (b) no person may be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement) to apply for temporary authorisation under section 12 to solemnise marriages between persons of the same sex.>

#### **Group 2: Protection of freedom of expression etc.**

**John Mason**

26 After section 14, insert—

##### **<Protecting expression of belief in marriage between persons of different sex**

For the avoidance of doubt, a belief in marriage as a voluntary union between one man and one woman to the exclusion of all others for life is a belief worthy of respect in a democratic society.>

**Siobhan McMahon**

3 After section 14, insert—

##### **<Protection of freedom of expression: public authority functions**

- (1) For the avoidance of doubt, a public authority must not—
  - (a) withhold a service or the use of a facility from a person,
  - (b) terminate the provision of a service to, or the use of a facility by, a person,
  - (c) alter the terms on which a service is provided, or a facility is used, to the detriment of the person,

where the reason for taking the action mentioned in paragraph (a), (b) or (c) is that the person holds the belief mentioned in subsection (2).

- (2) The belief is that marriage may only be between one man and one woman.
- (3) For the purposes of subsection (1), a public authority is a body listed in schedule 1 to the Freedom of Information (Scotland) Act 2002.>

## THIS IS NOT THE MARSHALLED LIST

### Richard Lyle

1 After section 14, insert—

#### <Protection of freedom of expression: adoption and fostering

- (1) For the avoidance of doubt, the views of a relevant person on whether marriage may be between persons of the same sex may not be considered—
  - (a) by an adoption agency when considering whether to approve a person as an adopter under or by virtue of the Adoption and Children (Scotland) Act 2007,
  - (b) by a court in coming to a decision relating to the adoption of a child under or by virtue of the Adoption and Children (Scotland) Act 2007,
  - (c) by a local authority when considering whether to approve a person as a foster carer under the Looked After Children (Scotland) Regulations 2009.
- (2) For the purposes of subsection (1) a “relevant person”—
  - (a) under paragraph (a) and (b) is a prospective adopter,
  - (b) under paragraph (c) is a prospective foster carer.>

### Richard Lyle

2 After section 14, insert—

#### <Same sex marriage: protection of charitable status

In section 8 of the Charities and Trustee Investment (Scotland) Act 2005 (public benefit), after subsection (2) insert—

- “(2A) For the avoidance of doubt, a disbenefit is not incurred or likely to be incurred by the public in consequence of a body holding a belief as mentioned in subsection (2B).
- (2B) The belief is that marriage may only be between one man and one woman.”>

### John Mason

30 In section 32, page 33, line 15, at end insert—

- <(2A) The day appointed for the provisions for the marriage of persons of the same sex to come into force must be a day after the day when amendments to the Equality Act 2010 to give effect to the amendments mentioned in subsection (2B) have been or are being brought into force.
- (2B) The amendments are—
  - (a) in section 10 (religion or belief), after subsection (3), insert—
    - “(3A) For the avoidance of doubt, the protected characteristic of religion or belief may include a belief that marriage may only be between a man and a woman.”,
  - (b) in section 149 (public sector equality duty), after subsection (9), insert—
    - “(9A) Compliance with the duties in this section requires ensuring that a belief that marriage may only be between a man and a woman is respected and that no person may suffer any detriment as a result of holding or expressing such a belief.”>

## THIS IS NOT THE MARSHALLED LIST

### **Group 3: Review of same sex marriage**

**John Mason**

27 After section 21, insert—

#### <CHAPTER

#### REVIEW OF SAME SEX MARRIAGE

##### **Review of effect of same sex marriage**

- (1) The Scottish Ministers must, before the end of the 5 year period, review—
  - (a) the effects of the introduction of marriage of persons of the same sex (“same sex marriage”),
  - (b) the operation of the provisions on same sex marriage in this Act,and lay before the Scottish Parliament a report of the review.
- (2) The review must, in particular, consider—
  - (a) the operation and effect of section 8(1D) of the 1977 Act (inserted by section 10(2)(b) of this Act),
  - (b) the operation and effect of section 14 of this Act,
  - (c) any court proceedings relating to the effect of the introduction of same sex marriage.
- (3) In carrying out a review under this section, the Scottish Ministers must consult such persons as they consider appropriate.
- (4) The Scottish Ministers must, as soon as practicable after the report has been laid before the Parliament, publish the report in such manner as they consider appropriate.
- (5) In this section—

“court proceedings” includes proceedings of—

  - (a) an employment tribunal within the meaning of section 1 of the Employment Tribunal Act 1996,
  - (b) an Employment Appeal Tribunal within the meaning of section 20 of the Employment Tribunal Act 1996,
  - (c) the European Court of Human Rights,
  - (d) the European Court of Justice,

“the 5 year period” means the period of 5 years beginning with the day on which any provision relating to same sex marriage comes into force.>

### **Group 4: Review of civil partnership**

**Patrick Harvie**

28 After section 25, insert—

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### <Review of civil partnership

- (1) The Scottish Ministers must, no later than 9 months after the day of Royal Assent, lay before the Parliament a report setting out the options under consideration for the future of civil partnerships in Scotland.
- (2) The options set out in the report under subsection (1) must include the option of enabling two people of different sexes to enter into civil partnership with each other.
- (3) The Scottish Ministers must, in preparing the report under subsection (1), consult such persons as they consider appropriate.>

### Patrick Harvie

- 29 In section 32, page 33, line 13, at beginning insert <Section (*Review of civil partnership*),>

### Group 5: Processes for, and consequences of, applications to sheriff for issue of full gender recognition certificate

#### Alex Neil

- 4 In section 28A, page 32, line 12, leave out <The> and insert <Section 1 of the>

#### Alex Neil

- 5 In section 28A, page 32, line 12, after <1976> insert <(grounds of divorce)>

#### Alex Neil

- 6 In section 28A, page 32, line 18, at end insert <, but  
( ) continues to apply despite a full gender recognition certificate being issued to that person by the sheriff under section 4E of that Act.”.>

#### Alex Neil

- 7 In schedule 2, page 39, line 13, after <4C,> insert <4E,>

#### Alex Neil

- 9 In schedule 2, page 43, line 16, at end insert <, and  
( ) the person is not in possession of a statutory declaration by the person’s spouse that the spouse consents to the marriage continuing after the issue of a full gender recognition certificate.>

#### Alex Neil

- 10 In schedule 2, page 43, line 28, at end insert—  
<( ) Where the sheriff issues a full gender recognition certificate, the sheriff must send a copy to the Gender Recognition Panel.>

#### Alex Neil

- 11 In schedule 2, page 43, leave out lines 29 to 32

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**Alex Neil**

13 In schedule 2, page 43, line 32, at end insert—

*<Issue of full gender recognition certificate after interim certificate: grounds of divorce*

In section 5 (issue of full certificates where applicant has been married), after subsection (1), insert—

“(1A) Subsection (1) does not apply where a full gender recognition certificate has already been issued, to the party to whom the interim gender recognition certificate was issued, by the sheriff under section 4E.”.>

**Alex Neil**

15 In schedule 2, page 44, line 34, after <4C,> insert <4E,>

**Alex Neil**

17 In schedule 2, page 44, line 36, after <4C,> insert <4E,>

**Alex Neil**

19 In schedule 2, page 45, line 6, after <Panel> insert <or the sheriff>

**Alex Neil**

20 In schedule 2, page 45, line 10, after <4C,> insert <4E,>

**Alex Neil**

22 In schedule 2, page 45, leave out lines 20 to 23

**Group 6: Issue of full gender recognition certificate following death of civil partner or spouse**

**Alex Neil**

8 In schedule 2, page 39, line 13, after <4C,> insert <4F,>

**Alex Neil**

31 In schedule 2, page 43, line 32, at end insert—

**<4F Death of civil partner or spouse: issue of full certificate (Scotland)**

- (1) A Gender Recognition Panel must issue a full gender recognition certificate to a person in either of the following cases.
- (2) Case A is where, on an application by the person, the Panel is satisfied that—
  - (a) an interim gender recognition certificate has been issued to the person,
  - (b) the person was a party to a protected Scottish civil partnership at the time when the interim gender recognition certificate was issued,

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- (c) the protected civil partnership was a qualifying civil partnership (within the meaning of section 5(6) of the Marriage (Scotland) Act 1977) and the parties to the civil partnership submitted notice of intention to marry under section 3(1) of that Act within the period of six months beginning with the day on which that certificate was issued, and
  - (d) the person's civil partner died—
    - (i) before the submitting of notice had resulted in the civil partnership becoming a marriage, and
    - (ii) after the period of six months beginning with the day on which the interim gender recognition certificate was issued.
- (3) Case B is where, on an application by the person, the Panel is satisfied that—
- (a) an interim gender recognition certificate has been issued to the person,
  - (b) the person was a party to a protected Scottish civil partnership at the time when the interim gender recognition certificate was issued,
  - (c) the protected civil partnership was a qualifying civil partnership (within the meaning of section 5(6) of the Marriage (Scotland) Act 1977) and the parties to the civil partnership submitted notice of intention to marry under section 3(1) of that Act within the period of six months beginning with the day on which that certificate was issued,
  - (d) the submitting of notice resulted in the civil partnership becoming a marriage, and
  - (e) the person's spouse died—
    - (i) within the period of six months beginning with the day on which the civil partnership became a marriage, and
    - (ii) after the period of six months beginning with the day on which the interim gender recognition certificate was issued.
- (4) If, on an application under subsection (2) or (3), the Panel is not satisfied—
- (a) as mentioned in that subsection, or
  - (b) that the person is neither married nor a civil partner,
- the Panel must reject the application.
- (5) An application under subsection (2) or (3) must be made within the period of six months beginning with the day on which the death occurs.
- (6) An application under subsection (2) or (3) must include evidence of—
- (a) the death of the person's civil partner or, as the case may be, spouse and the date on which it occurred,
  - (b) the date on which the notice under section 3(1) of the 1977 Act was submitted.>

**Alex Neil**

**14** In schedule 2, page 44, line 33, after <4C,> insert <4F,>

**Alex Neil**

**16** In schedule 2, page 44, line 34, after <4C,> insert <4F,>

**THIS IS NOT THE MARSHALLED LIST**

**Alex Neil**

**18** In schedule 2, page 44, line 36, after <4C,> insert <4F,>

**Alex Neil**

**21** In schedule 2, page 45, line 10, after <4C,> insert <4F,>

**Alex Neil**

**23** In schedule 2, page 48, line 35, after <4C,> insert <4F,>

**Alex Neil**

**24** In schedule 2, page 48, line 36, after <4C,> insert <4F,>

