

# **The Registration of Civil Partnerships Same Sex Marriage**

## **A Consultation**



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Same Sex Marriage  
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## **Ministerial foreword**

This consultation paper seeks views on the possibility of allowing religious ceremonies for civil partnerships and the possible introduction of same sex marriage.

This Government believes in religious tolerance and the freedom to worship. We also believe in equality and diversity.

There are a variety of views on religious ceremonies for civil partnerships and on same sex marriage. We hope that everyone will use this consultation to express their views and opinions. However, as the debate unfolds, we also hope that everyone will treat those with different or opposing views with courtesy and respect, in accordance with the very highest standards of democratic discourse.

The Scottish Government is choosing to make its initial views clear at the outset of this consultation. We tend towards the view that religious ceremonies for civil partnerships should no longer be prohibited and that same sex marriage should be introduced so that same sex couples have the option of getting married if that is how they wish to demonstrate their commitment to each other. We also believe that no religious body or its celebrants should be required to carry out same sex marriages or civil partnership ceremonies.

The Scottish Government is committed to detailed and thorough consultation in this area, and to further careful consideration of the implications of equality and human rights law for any proposals. We recognise the variety of views. We want to hear from all sections of Scottish society. As well as this written consultation, we will also meet face to face with religious bodies and other key organisations during the consultation period.

And although we have expressed our initial view, we give an assurance that all views will be listened to. No final views have been reached and no decisions have been taken.

The detail, in addition to the general principles, is also very important in this area. Therefore, if, after this consultation, the Scottish Government should decide to introduce a Bill into Parliament, we will consult on the detail of the draft Bill before it is introduced.

I urge everybody with an interest to respond to this consultation.

A handwritten signature in black ink, appearing to read 'Nicola Sturgeon', written in a cursive style.

Nicola Sturgeon MSP  
Deputy First Minister and Cabinet Secretary for Health, Wellbeing and Cities Strategy



## **Chapter 1: Introduction and the structure of this consultation paper.**

1.01 This consultation seeks views on the possible introduction of religious ceremonies for civil partnerships and the possible introduction of same sex marriage.

1.02 The structure is as follows:

Ministerial Foreword

Chapter 1: Introduction and the structure of this consultation paper

Chapter 2: Civil partnerships

Chapter 3: Marriage

Chapter 4: Other matters and conclusion

Annex A: Responding to this consultation document

Annex B: Differences between civil partnerships and marriage

Annex C: The Scottish Government consultation process

Annex D: The Scottish Government's understanding of which jurisdictions have established civil unions (or partnerships) between same sex couples and which jurisdictions have established same sex marriage

Annex E: Respondent Information Form

Annex F: List of organisations who have been sent this paper

1.03 Details of how to respond to this consultation document are contained in Annex A. Please use the Respondent Information Form at Annex E and, if required, separate sheets of paper clearly marked with the question to which your comments relate. Please note that you do not have to answer every question. In some cases, we have asked for the reasons for your answer. However, if you feel that you do not wish or need to add anything to your answer, then there is no need to do so.

1.04 The closing date for responses to this consultation is 9 December 2011.

1.05 Any inquiries about this consultation should be sent to Sandra Jack: 0131 244 2025 or [sandra.jack@scotland.gsi.gov.uk](mailto:sandra.jack@scotland.gsi.gov.uk)

## **Chapter 2: Civil partnerships**

### Origins

2.01 Civil partnership was established across the United Kingdom by the Civil Partnership Act 2004, passed by the Westminster Parliament. The Act allows same sex couples to obtain legal recognition of their relationship.

2.02 The registration of civil partnerships is a devolved matter. However, the Scottish Parliament agreed at the time, through a Sewel Motion<sup>1</sup>, that the Westminster Parliament could legislate for Scotland to create the civil partnership system, given that many of the responsibilities and rights held by civil partners relate to reserved matters, such as benefits and immigration<sup>2</sup>.

### Numbers

2.03 The first civil partnerships took place in 2005. The table below shows the number of civil partnerships which have taken place in Scotland:

Year	Number
2005	84
2006	1,047
2007	688
2008	525
2009	498
2010	465

Source: National Records of Scotland (formerly the General Register Office for Scotland).<sup>3</sup>

### Responsibilities and rights

2.04 The responsibilities and rights of civil partners are very similar to the responsibilities and rights of married couples. Key differences are:

- civil partnerships may not take place in religious premises and can only be registered by civil registrars (more details of this are contained in paragraphs 2.06 to 2.11 below); and
- there may be a perception that civil partners do not have the same status and standing as married couples.

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<sup>1</sup> Now known as a legislative consent motion

<sup>2</sup> More information on the background to the introduction of civil partnerships can be found on the Scottish Government website at <http://www.scotland.gov.uk/Topics/Justice/law/17867/18313>

<sup>3</sup> Statistics on life events, including the registration of civil partnerships, can be found at <http://www.gro-scotland.gov.uk/statistics/theme/vital-events/general/ref-tables/2010/marriages-and-civil-partnerships.html>

2.05 There are other differences in the rights and responsibilities of civil partners and married couples. Details are contained in Annex B.

#### How civil partnerships are currently registered

2.06 Any two persons, regardless of where they live, may register a civil partnership in Scotland provided that:

- both persons are at least 16 years of age on the day they wish to register their civil partnership;
- they are not related to each other in a way which would prevent them registering their civil partnership;
- each is unmarried or not already registered as a civil partner;
- they are capable of understanding the nature of a civil partnership and of validly consenting to its formation; and
- they are of the same sex.

2.07 A civil partnership may be registered only by a district registrar or an assistant registrar who has been authorised by the Registrar General for that purpose.<sup>4</sup> In other words, a civil partnership can only be registered through a civil ceremony.

2.08 In addition, the Civil Partnership Act 2004 currently provides, for Scotland, that:

“the place [where civil partnerships are registered] must not be in religious premises, that is to say premises which –

(a) are used solely or mainly for religious purposes, or

(b) have been so used and have not subsequently been used solely or mainly for other purposes.”

2.09 The provisions for Scotland barring religious ceremonies and the use of religious premises for civil partnerships contrast with marriage. In Scotland, you can be married in either in a religious ceremony or in a civil ceremony. A religious ceremony includes other belief systems, such as humanism.

2.10 The civil partnership arrangements were set up to be civil and secular in nature: in essence, to mirror civil marriage. However, there is nothing to stop a same sex couple receiving a religious blessing for their union. This has no legal effect but can provide a blessing to suit a couple’s religious beliefs. Clearly, it is up to religious bodies and their celebrants to decide whether they wish to offer blessings of this nature.

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<sup>4</sup> More information on registering a civil partnership in Scotland can be found at <http://www.gro-scotland.gov.uk/regscot/registering-a-civil-partnership-in-scotland.html>.

2.11 Therefore, an opposite sex couple can have a single ceremony which both registers the marriage in law and recognises their religious faith. A same sex couple would need a civil ceremony to register their civil partnership and a further ceremony recognising their religious faith.

### Government's initial views

2.12 The Government's initial view, outlined in more detail below, is that civil partnership legislation should be changed. However, this consultation also discusses the introduction of same sex marriage. As discussed at paragraph 3.41 below, if same sex marriage should be introduced it could be argued that there is no need for civil partnership or that whilst civil partnerships could continue, there would be no need to allow civil partnerships to be registered through a religious ceremony.

2.13 If civil partnership legislation should be changed, it would still be open to civil partners, if they wished, to have an entirely civil and secular ceremony with no religious aspect. However, the Government recognises that a number of couples would wish to have a religious ceremony to register their civil partnership and to acknowledge their faith. The Government considers that this is in line with religious freedom and freedom of expression, so long as the religious body and celebrant are happy to carry out the service. The Government is clear that no religious body or celebrant should be required to register a civil partnership against their will.

#### Question 1

Do you agree that legislation should be changed so that civil partnerships could be registered through religious ceremonies?

### The proposals in England and Wales and whether they offer a model for Scotland

2.14 The absolute bar on civil partnerships being registered in religious premises was removed for England and Wales from the Civil Partnership Act 2004 last year. The UK Government has since consulted on detailed proposals so that civil partnerships can start being registered on religious premises in England and Wales.

2.15 The UK Government emphasised that the measure is “entirely voluntary. It will be for each faith group to decide whether they wish to host civil partnership registrations; none can be forced to do so against their will.”<sup>5</sup>

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<sup>5</sup> The UK Government consultation can be found at <http://www.parliament.uk/deposits/depositedpapers/2011/DEP2011-0584.pdf>

2.16 The UK Government has made it clear that under their proposals, civil partnership registration in England and Wales will continue to be civil in nature. Paragraph 3.24 of the UK Government consultation says that the changes made to the Civil Partnership Act 2004 south of the border do not remove the prohibition:

“ on the use of religious service while a civil partnership is being registered. The ban on the use of religious service during civil partnership registration means the registration cannot be led by a minister of religion or other religious leader, must not include extracts from an authorised religious marriage service or readings from sacred religious texts, hymns or other religious chants, or involve any religious ritual or any form of worship.”

2.17 Paragraph 3.34 of the UK Government consultation notes that it would be possible in England and Wales for a faith group to have their own registrars conduct civil partnership registration but this would be a matter for individual local authorities as civil partnership registrars are designated by the local authority.

2.18 Arrangements for the registration of civil partnerships in England and Wales are for the UK Government. The Scottish Government has considered whether the proposals for England and Wales could be followed in Scotland. The proposals are in line with the original intention of the Civil Partnership Act 2004 – that civil partnerships should be civil and secular in nature.

2.19 However, there are three main reasons why it may be considered that what is proposed for England and Wales would not be appropriate for Scotland:

- the proposals for England and Wales reflect the different tradition of that jurisdiction, which focuses on the concept of “approved premises”. Although this type of concept is used in the current law in Scotland on civil partnerships and civil marriage, the focus here is on who should be approved to act as an approved celebrant or as an authorised registrar;
- the proposal for registrars to carry out official duties on religious premises would be contrary to the law, practice and tradition in Scotland, where a distinction has always been made between civil and religious ceremonies; and
- the proposals do not allow same sex couples to have a religious service even if a religious body and celebrant are content to carry out the service.

#### Question 2

Do you think that the proposals in England and Wales on registration of civil partnerships in religious premises would be appropriate for Scotland?

2.20 The alternative view is that civil partners who wish should be able to have a religious ceremony to register their partnership, so long as the religious body and the celebrant are content to carry out the service. This would be in line with the concept of religious freedom.

2.21 In these circumstances, the religious ceremony could take place in religious premises, so long as the religious body was content for them to be used. Alternatively, a religious ceremony could take place at a location to be agreed between the celebrant and the couple. This would be similar to the current arrangements for the solemnisation of religious marriage.

2.22 To achieve these objectives, amendments could be made to the law which applies in Scotland through an Act of the Scottish Parliament. Such amendments could:

- allow a religious celebrant to register a civil partnership, so long as the religious body and the celebrant were content to do so;
- remove the absolute bar on the registration of civil partnerships in religious premises. Any registration of civil partnerships on religious premises would be carried out by a religious celebrant who was content to carry out the service. Civil registrars would not undertake registration on religious premises; and
- allow the religious registration of civil partnerships to take place in another location agreed between the celebrant and the couple.

2.23 These proposals would change the nature of civil partnership. It would, of course, remain possible to have an entirely civil and secular registration service, conducted by a civil registrar in a registration office or at an approved place, and with no religious ceremony. However, the proposals would also mean that, if the partners wished, a civil partnership could be registered through a religious ceremony, so long as the religious body and the celebrant were content to carry it out.

2.24 The proposals would maintain the clear distinction between a religious ceremony and a civil ceremony.

Question 3

Do you agree with allowing religious celebrants to register civil partnerships in religious premises?

Question 4

Do you agree with allowing religious celebrants to register civil partnerships in other places agreed between the celebrant and the couple?

## Religious bodies

2.25 The Government does not consider that a religious body should be obliged to register civil partnerships against its will. The Government recognises that many religious bodies consider marriage to be a unique bond between a man and a woman. Although civil partnership is not identical to marriage, the proposed religious registration service outlined here would be very similar to a religious service for the solemnisation of marriage. The Government recognises, therefore, that some religious bodies would have a strong objection to taking part in civil partnership ceremonies.

### Question 5

Do you agree that religious bodies should not be required to register civil partnerships?

## Religious celebrants

2.26 In some cases, the religious body may decide centrally that its celebrants will not take part in civil partnerships. There is an argument that a decision of this nature taken by the hierarchy of a religious body should be binding on the celebrants belonging to that body and they should not be able to register civil partnerships. It could be argued that allowing individual celebrants to register civil partnerships against the wishes of their religious body would undermine the decision-making process of the body.

2.27. On the other hand, it could be argued that individual celebrants should be allowed to decide whether or not to register civil partnerships, in line with individual religious freedom. Some religious bodies may wish to allow individual celebrants to reach their own view about whether or not to register civil partnerships.

### Question 6

Do you consider that religious celebrants should not be allowed to register civil partnerships if their religious body has decided against registering civil partnerships?

2.28 The Government also recognises that individual religious celebrants may object to taking part in civil partnerships, even if their religious body is content to do so. Individual religious celebrants may consider marriage to be a unique bond between a man and a woman, even if the hierarchy of their religious body takes a different view.

2.29 Although civil partnership is not identical to marriage, the proposed religious registration service outlined here would be very similar to a religious service for the solemnisation of marriage. Therefore, the Government considers that individual celebrants should be entitled not to register a civil partnership, even if the celebrant's religious body is content to do so.

2.30 If an individual celebrant should decide not to register a civil partnership, this would not undermine a decision by a religious body to register civil partnerships. The religious body would have to ask another celebrant from that body to carry out the service.

Question 7

Do you agree that individual religious celebrants should not be required to register civil partnerships?

Options for ensuring religious bodies and celebrants do not have to carry out civil partnerships against their will

2.31 The Government considers that there are two main options to ensure that religious bodies and celebrants do not have to carry out civil partnerships against their will.

2.32 Option 1 would be to extend the existing authorisations of celebrants under the Marriage (Scotland) Act 1977 for opposite sex marriage so that the same celebrants would automatically have the ability to register civil partnerships. It would be made clear that religious bodies and celebrants who did not wish to register civil partnerships would not be required to do so.

2.33 Option 2 would be to set up a new procedure, separate to that for the solemnisation of opposite sex marriage, under which all religious bodies who wished to register civil partnerships could advise the Registrar General which celebrants they would like to be authorised to register civil partnerships. It would be made clear that it would not be discriminatory to decide against seeking approval to register civil partnerships.

2.34 When considering options in this area, the Scottish Government will take account of the devolution settlement and existing provisions in UK equality legislation. Under section L2 of Part II of Schedule 5 to the Scotland Act 1998, equal opportunities are reserved but the imposition on certain Scottish public authorities of some functions in relation to equal opportunities is devolved. Schedule 23 to the Equality Act 2010 contains a number of exemptions from equality legislation for religious organisations and ministers of religion.

2.35 Ensuring religious bodies and religious celebrants do not have to carry out civil partnerships against their will may require an amendment of the Equality Act 2010, which is generally reserved, to ensure that religious bodies and religious celebrants are not at risk of contravening the 2010 Act. In addition, the Scottish Government will have regard to the European Convention on Human Rights.

#### Question 8

Which of the options do you favour to ensure that religious bodies and celebrants do not have to register civil partnerships against their will?

#### Religious premises

2.36 A religious body opposed to taking part in civil partnerships may not wish its religious premises to be used by a body content to take part in civil partnerships. The Government recognises the strong attachment religious bodies may feel towards their premises and understands that religious bodies may not wish ceremonies they were opposed to taking place on their premises.

2.37 The Government expects that decisions on use of premises would generally be for the hierarchy of the body rather than for the individual celebrant who generally uses the premises. However, the Government recognises that in some faiths decisions may be for the celebrant or may have been delegated to the celebrant.

2.38 Where the religious body owns the premises outright, it seems straightforward enough for the body to decide the premises should not be used, when it wishes to do so.

2.39 Where the religious body is a tenant, or shares the use of the premises with other faiths, matters may be more complicated, as there may be different views on the registration of civil partnerships. The Government's initial view is that it may be best not to make provision in legislation on the use of religious premises for the registration of civil partnerships when there is a disagreement about the use of the premises.

2.40 The Government considers it preferable to allow disagreements of this nature to be resolved at a local level, rather than make legislation. This allows the matters to be discussed between the parties involved and amicable solutions reached. As a general rule, the Government considers that the views of a religious body opposed to the use of its religious premises for civil partnerships should be respected. The issues relating to the use of religious premises are something the Government will discuss further with religious bodies during the consultation period

#### Question 9

Religious bodies may not wish their premises to be used to register civil partnerships. Do you agree that no legislative provision is required to ensure religious premises cannot be used against the wishes of the relevant religious body?

## **Chapter 3: Marriage**

### Current law

3.01 Information on marriage law in Scotland is available on the National Records of Scotland's website<sup>6</sup>. In general terms, under the Marriage (Scotland) Act 1977 any two persons may marry in Scotland, so long as:

- both persons are at least 16 years of age on the day of their marriage;
- they are not related to each other in a way which would prevent them marrying;
- they are unmarried and not in a civil partnership;
- the marriage would be regarded as valid in any foreign country to which either party belongs;
- they are capable of understanding the nature of a marriage ceremony and of consenting to marrying; and
- they are not of the same sex.

3.02 Article 12 of the European Convention of Human Rights provides that: "Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right."

### Numbers

3.03 The table below shows the number of marriages in Scotland from 2005 to 2010:

Year	Number
2005	30,881
2006	29,898
2007	29,866
2008	28,903
2009	27,524
2010	28,480

Source: National Records of Scotland<sup>7</sup>.

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<sup>6</sup> See <http://www.gro-scotland.gov.uk/regscot/getting-married-in-scotland/i-want-to-get-married-in-scotland-how-do-i-go-about-it.html> for information on marriage law in Scotland.

<sup>7</sup> More statistics on marriage can be found at <http://www.gro-scotland.gov.uk/statistics/theme/vital-events/general/ref-tables/2010/marriages-and-civil-partnerships.html>

## Authorisations to solemnise marriage

3.04 Section 8 of the Marriage (Scotland) Act 1977 prescribes who may solemnise marriage. Civil marriages must be solemnised by a district or assistant registrar appointed by the Registrar General (under section 17). Civil marriages must take place in a registration office or at an approved place.

3.05 Religious marriages may be solemnised by a minister of the Church of Scotland, or by celebrants appointed under sections 8(1)(a)(ii), 9 or 12 of the Act. Religious marriages may take place anywhere.

3.06 Section 8(1)(a)(ii) gives the Scottish Ministers a power to make regulations to prescribe religious bodies whose celebrants are authorised to solemnise marriage. (As indicated above, Church of Scotland ministers are already so authorised). The religious bodies currently prescribed by regulations are:

- Baptist Union of Scotland
- Congregational Union of Scotland
- Episcopal Church in Scotland and other Anglican Communion Churches
- Free Church of Scotland
- Free Presbyterian Church of Scotland
- Hebrew Congregation
- Methodist Church in Scotland
- Religious Society of Friends
- Roman Catholic Church
- Salvation Army
- Scottish Unitarian Association
- United Free Church of Scotland

3.07 Under section 9, a religious body, other than the Church of Scotland or those prescribed under section 8(1)(a)(ii), may nominate celebrants to the Registrar General. The key issues he would consider before authorising a marriage celebrant are:-

- the nominating body must be a religious body;
- the marriage ceremony to be used must be in an appropriate form;
- the nominee must be a fit and proper person to solemnise marriage; and
- the number of authorised celebrants must be in line with the needs of the body.

3.08 Examples of those authorised to solemnise marriage under section 9 of the Act include celebrants from the United Reformed Church, Jehovah's Witnesses, Christian Brethren, Muslims, Hindus and Buddhists.

3.09 Section 12 allows the Registrar General to grant to any person a temporary written authorisation to solemnise marriages, in accordance with any terms or conditions as may be specified in the authorisation.

3.10 This provision covers authorisation for specific marriages or for marriages conducted during a specified period and is used, for example, to authorise deacons of the Church of Scotland and Humanists.

#### Initial approach by the Scottish Government

3.11 The Government's initial view is that marriage should be open to both same sex couples and opposite sex couples. This view is grounded in our commitment to equality, and our support for stable and committed relationships. Same sex couples, like opposite sex couples, can and do establish loving relationships which they wish to formalise in a manner recognised by the state, and in some cases by the religious body to which they belong.

3.12 While civil partnerships are available for same sex couples, and provide similar responsibilities, rights and status to marriage, the two are not identical. It is clear that some same sex couples would prefer marriage to a civil partnership, as the appropriate way to declare and formalise their commitment to each other.

#### Question 10

Do you agree that the law in Scotland should be changed to allow same sex marriage?

3.13 The Government also considers that no religious body or individual celebrant should be required to solemnise same sex marriage. The Government recognises and understands that some religious bodies and celebrants hold that marriage is a unique bond between a man and a woman. The Government does not consider it would be appropriate to require religious bodies and celebrants who hold this belief to solemnise same sex marriage.

#### Question 11

Do you agree that religious bodies and celebrants should not be required to solemnise same sex marriage?

#### England and Wales: equal civil marriage and partnerships: potential option for Scotland

3.14 One potential option for Scotland would be the introduction of same-sex civil marriage only.

3.15 Section 4 of the UK Government's Action Plan for Lesbian, Gay, Bisexual and Transgender Equality says that the UK Government, in relation to England and Wales, will "work with all those who have an interest in equal civil marriage and partnerships on how legislation can develop".<sup>8</sup> The UK Government has not yet consulted on this matter.

3.16 If a proposal along these lines were followed in Scotland:

- civil same sex marriage could be solemnised by a district or assistant registrar appointed by the Registrar General in the same way as for an opposite sex civil marriage;
- civil same sex marriage could take place in a registration office or at an approved place, in the same way as an opposite sex civil marriage; and
- there would be no same-sex marriage through a religious ceremony.

3.17 Under this option there could be no question of religious bodies being required to carry out same-sex marriage against their will.

3.18 However, people of faith seeking to enter into a same sex marriage would not be able to have their marriage solemnised through a religious ceremony, even if their religious body and minister of religion were prepared to undertake the ceremony. Religious bodies and ministers of religion would be denied the opportunity of solemnising same sex marriage. It would though be possible to have a religious blessing after a same sex civil marriage ceremony, in the same way as it is possible at the moment to have a religious blessing after a civil partnership registration.

Question 12

Do you agree with the introduction of same-sex **civil** marriage only?

3.19 The alternative view is that same sex couples of faith may wish to have a religious ceremony and the state should not stop religious bodies and religious celebrants who are content to solemnise same sex marriage from doing so. Clearly, some couples may not wish to have a religious ceremony and would choose to have a civil ceremony.

Question 13

Do you agree with the introduction of same-sex marriage, **both** religious and civil?

<sup>8</sup> The UK Government Action Plan can be found at <http://www.homeoffice.gov.uk/publications/equalities/lgbt-equality-publications/lgbt-action-plan?view=Binary>

3.20 The detail of the proposals for Scotland could be along the following lines:

- civil same sex marriage could be solemnised by a district or assistant registrar appointed by the Registrar General in the same way as an opposite sex civil marriage;
- civil same sex marriage could take place in a registration office or at an approved place, in the same way as an opposite sex civil marriage;
- religious marriage between two people of the same sex could take place so long as the religious body and the religious celebrant were content to solemnise same sex marriage;
- religious marriage between two people of the same sex could take place in religious premises so long as the religious body responsible for the premises is content;
- religious marriage between two people of the same sex could take place at any place agreed between the celebrant and the couple, in line with the arrangements for religious marriage between two people of the opposite sex.

3.21 The registration of marriage and the law on who can get married are devolved matters for the Scottish Parliament.

3.22 However, many of the responsibilities and rights that flow from marriage are reserved (eg social security benefits, taxation and immigration are reserved matters). In addition, equal opportunities and the subject matter of the Equality Act 2010 are generally reserved. Therefore, if Scotland were to move to allow same sex marriage, the Scottish Government would discuss the practical implications with the UK Government.

#### Religious bodies and religious celebrants

3.23 The Government does not consider that religious bodies should be obliged to solemnise same sex marriage against their will. The points and discussion here are very similar to the issues in relation to the registration of civil partnerships. They are repeated here for clarity and also because some consultees may have different views on issues in relation to marriage when compared with civil partnerships.

3.24 The Government recognises that many religious bodies consider marriage to be a unique bond between a man and a woman. The Government recognises, therefore, that some religious bodies would have strong objections to solemnising same sex marriage. As a result, we consider that religious bodies should not be required to solemnise same sex marriage.

Question 14

Do you agree that religious bodies should not be required to solemnise same sex marriage?

3.25 In some cases, the religious body may decide centrally that its celebrants will not take part in same sex marriage. There is an argument that a decision of this nature taken by the hierarchy of a religious body should be binding on the celebrants belonging to that body and they should not be able to solemnise same sex marriage. It could be argued that allowing individual celebrants to solemnise same sex marriage against the wishes of their religious body would undermine the decision-making process of the body.

3.26 On the other hand, it could be argued that individual celebrants should be allowed to decide whether or not to solemnise same sex marriage, in line with individual religious freedom. Some religious bodies may wish to allow individual celebrants to reach their own view about whether or not to register civil partnerships.

Question 15

Do you consider that religious celebrants should not be allowed to solemnise same sex marriages if their religious body has decided against solemnising same sex marriage?

3.27 The Government also recognises that individual religious celebrants may object to solemnising same sex marriage, even if their religious body is content to do so. Individual religious celebrants may consider marriage to be a unique bond between a man and a woman, even if the hierarchy of their religious body takes a different view. Therefore, the Government considers that individual celebrants should be entitled not to solemnise same sex marriage, even if the celebrant's religious body is content to do so.

3.28 If an individual celebrant should decide not to solemnise same sex marriage, this would not undermine a decision by a religious body. The religious body would have to ask another celebrant of that body to carry out the service.

Question 16

Do you agree that individual religious celebrants should not be required to solemnise same sex marriage?

3.29 The Government considers that there are two main options to ensure that religious bodies and celebrants do not have to solemnise same sex marriage against their will.

3.30 Option 1 would be to extend the existing authorisations of celebrants under the Marriage (Scotland) Act 1977 so that the same celebrants would have the ability to solemnise same sex marriage. It would be made clear that religious bodies and celebrants who did not wish to solemnise same sex marriage would not be required to do so.

3.31 Option 2 would be to set up a new procedure, separate to that for the solemnisation of opposite sex marriage, under which all religious bodies who wished to solemnise same sex marriage could advise the Registrar General which celebrants they would like to be authorised. It would be made clear that it would not be discriminatory to decide against seeking approval to solemnise same sex marriage.

3.32 When considering options in this area, the Scottish Government will take account of the devolution settlement and existing provisions in UK equality legislation. Under section L2 of Part II of Schedule 5 to the Scotland Act 1998, equal opportunities and the subject matter of the Equality Act 2010 are generally reserved but the imposition on certain Scottish public authorities of some functions in relation to equal opportunities is devolved. Schedule 23 to the Equality Act 2010 contains a number of exemptions from equality legislation for religious organisations and ministers of religion to ensure it is clear that the Act is not contravened in those circumstances.

3.33 Ensuring religious bodies and religious celebrants do not have to solemnise same sex marriage against their will may require amendment of the Equality Act 2010, which is generally reserved, to ensure that religious bodies are not at risk of contravening the 2010 Act. In addition, the Scottish Government will have regard to the European Convention on Human Rights.

#### Question 17

Which of the options do you favour to ensure that religious bodies and celebrants do not have to solemnise same sex marriage against their will?

#### Use of religious premises

3.34 A religious body opposed to taking part in same sex marriage will not wish its religious premises to be used by a body content to take part in same sex marriage. The Government recognises the strong attachment religious bodies may feel towards their premises and understands that religious bodies would not wish ceremonies they were opposed to taking place on their premises.

3.35 The Government expects that decisions on use of premises would generally be for the hierarchy of the body rather than for the individual celebrant who generally uses the premises. However, the Government recognises that in some faiths decisions may be for the celebrant or may have been delegated to the celebrant.

3.36 Where the religious body owns the premises outright, it seems straightforward enough for the body to decide the premises should not be used, when it wishes to do so.

3.37 Where the religious body is a tenant, or shares the use of the premises with other faiths, matters may be more complicated, as there may be different views on the solemnisation of same sex marriage.

3.38 The Government's initial view is that it may be best not to make provision in legislation on the use of religious premises for the solemnisation of same sex marriage when there is a disagreement about the use of the premises. The Government considers that it may be preferable to allow disagreements of this nature to be resolved at a local level, rather than make legislation. This allows the matters to be discussed between the parties involved and amicable solutions reached.

3.39 As a general rule, the Government considers that the views of a religious body opposed to the use of its religious premises for same sex marriage should be respected. The issues relating to the use of religious premises is something the Government will discuss further with religious bodies during the consultation period.

#### Question 18

Religious bodies may not wish their premises to be used to solemnise same sex marriage. Do you agree that no legislative provision is required to ensure religious premises cannot be used against the wishes of the relevant religious body?

#### Civil registrars

3.40 The registration of civil partnerships by civil registrars has worked well in Scotland. The Government expects that the solemnisation of same sex marriage by civil registrars would also work well.

#### The future of civil partnership if same sex marriage should be introduced

3.41 Keeping civil partnership if same sex marriage is introduced might add to complexity. It can be suggested that there is no need for civil partnership if marriage were open to both same sex couples and opposite sex couples. If marriage were open to all couples, then there would be the option for all of getting married. However, some people may be happy to enter into a civil partnership to gain responsibilities and rights<sup>9</sup> but may not wish to enter into marriage. Alternatively, it could be argued that if it should become possible to solemnise same sex marriage through a religious service, then civil partnerships could continue but there might be no need to allow the registration of civil partnerships through a religious service.

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<sup>9</sup> As, for example, the responsibilities and rights of cohabitants are limited. The Family Law (Scotland) Act 2006 provides some limited rights for cohabitants which extend to same sex couples as well as opposite sex couples. More information on rights for cohabitants can be found at <http://www.scotland.gov.uk/Publications/2006/04/27135238/1>

## Question 19

If Scotland, should introduce same sex marriage, do you consider that civil partnerships should remain available?

### Transgender people

3.42 If Scotland should move to introduce same sex marriage, then, in future, there would be no need in law for transgender people to divorce before obtaining the full gender recognition certificate. The marriage could just continue. Transgender people and their spouses would still be able to divorce, if they wished to do so, and the issue of an interim certificate under the Gender Recognition Act would still be a ground for divorce.

### Transitional arrangements

3.43 If Scotland should introduce same sex marriage, some existing civil partners may wish to convert their partnership into a marriage.

3.44 Transitional arrangements require further analysis by the Scottish Government in the light of this consultation. The detail, therefore, will be included in the consultation on any draft Bill.

### Recognition elsewhere in the United Kingdom of Scottish same sex marriage

3.45 Marriages registered in Scotland are recognised in other parts of the United Kingdom, in the same way as marriages registered in other parts of the UK are recognised here<sup>10</sup>.

3.46 Scottish marriages are also recognised in Scotland by the UK Government in respect of matters that are reserved. Clearly, though, all of these marriages are currently of opposite sex couples. The Scottish Government will discuss with the UK Government the mutual recognition of same sex marriages in the law of the different parts of the UK. The UK Government has indicated that it intends to work with all those who have an interest in equal civil marriage and partnerships on how legislation can develop.

### Recognition outwith the UK of Scottish same sex marriage

3.47 Sections 212 to 218 and schedule 20 to the Civil Partnership Act 2004, and regulations made under the Act, make provision for the recognition of foreign same sex relationships, including foreign same sex marriages, in the UK. Such relationships are recognised currently as civil partnerships.

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<sup>10</sup> In broad terms, section 38(1) of the Family Law (Scotland) Act 2006 provides that the question of whether a marriage is valid is determined by the law of the place where the marriage was celebrated.

3.48 Recognition abroad of Scottish marriages and civil partnerships is, of course, a matter for the other countries rather than for Scotland. Scotland could not require other countries to recognise same sex marriages. However, if Scotland should introduce same sex marriage, the Scottish Ministers would work with other countries so the marriages could be recognised overseas and would ask the UK Government to carry out similar work.

3.49 A list of countries which have established civil unions for same sex partners and same sex marriage is at Annex D of this consultation paper. Some countries may not have introduced same sex marriage in their own jurisdictions but may recognise same sex marriage carried out in other jurisdictions<sup>11</sup>.

#### Recognition of foreign same sex marriages in Scotland

3.50 If Scotland should introduce same sex marriage, the Scottish Government would intend to recognise overseas same sex marriages as marriages in Scots law, in the same way as we recognise overseas opposite sex marriages as marriages.

#### Forced marriage

3.51 The Scottish Parliament has recently passed the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011. This Act makes provision to protect people from being forced to enter into marriage without their free and full consent and to protect those who have been forced to enter into marriage without such consent.

3.52 The Scottish Government has no evidence to suggest that there are forced civil partnerships. As a result, the Act does not extend to forced civil partnerships but contains a provision allowing Ministers to extend the Act to civil partnerships if needed. The Scottish Government has no evidence to suggest that the introduction of same sex marriage would lead to an increase in the number of forced marriages. If any consultees do have any evidence, please let us know.

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<sup>11</sup> For example, the Israeli Supreme Court has held that the Israeli population registry must register same sex marriages celebrated outwith Israel, unless such registration is manifestly incorrect. The judgement is at [http://elyon1.court.gov.il/files\\_eng/05/450/030/a09/05030450.a09.pdf](http://elyon1.court.gov.il/files_eng/05/450/030/a09/05030450.a09.pdf)

### Sham marriage

3.53 Sham marriages are entered into with the aim of deceiving society. They are often entered into to avoid immigration controls. National Records of Scotland work closely with the Home Office, and others, to combat sham marriage. The Scottish Government has no evidence to suggest that the introduction of same-sex marriage would lead to an increase in the number of sham marriages. Again, if any consultees do have any evidence, please let us know.

## **Chapter 4: Other matters and conclusion**

### Costs

4.01 If, following this consultation, the Government should decide to move towards legislation, the Government will consult on a draft Bill. We will include a Business and Regulatory Impact Assessment (BRIA) in the consultation on the draft Bill, for consultees to comment on. In line with usual practice, the Scottish Government will meet with affected businesses when preparing this BRIA.

4.02 On costs, there would be registration fees for applicants, but these would be similar to existing registration fees.

4.03 There might be some one-off start up costs for the state. The consultation by the UK Government on civil partnerships in religious premises in England and Wales estimated that the changes proposed there would create a total one-off transitional cost to all registrars of £65,699.

4.04 The UK Government consultation also estimated that the owners of religious premises would need to hold 3 civil partnerships a year before theoretically making a profit.

4.05 There were significant costs when civil partnerships were introduced. As the UK Government's Regulatory Impact Assessment said at the time "Overall the costs identified in this RIA are justified by the social policy reasons for introducing a civil partnership scheme for same-sex couples."<sup>12</sup>

4.06 These costs will not be repeated, given that civil partnerships were new. As outlined in Annex B, there are some differences in relation to survivors' benefits in pension schemes. The Scottish Government will discuss this with the UK Government and pension providers when preparing the BRIA.

4.07 Some people may have chosen not to enter into a civil partnership and to wait instead for same sex marriage to be introduced. If there were significant numbers, this could increase the costs of the proposals in this consultation paper (as more people would move from being single to being married). However, the Scottish Government's understanding is that the numbers involved are low and costs will not be significant.

4.08 Around 20% of marriages in Scotland at the moment are between people who do not live here. The proposals contained in this paper might encourage more people to visit Scotland to register a civil partnership or get married.

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<sup>12</sup> The final Regulatory Impact Assessment for the Civil Partnership Act 2004 carried out by the then Department for Trade and Industry is at <http://webarchive.nationalarchives.gov.uk/+http://www.berr.gov.uk/files/file23829.pdf>

## Equality

4.09 If, following this consultation, the Government should decide to move towards legislation, the Government will consult on a draft Bill. We will include an Equality Impact Assessment (EQIA) in the consultation on the draft Bill, for consultees to comment on. The Scottish Government will meet with key parties when preparing this EQIA.

4.10 The proposals in this paper would further equalities for lesbian, gay, bisexual and transgender people. In particular:

- the proposals would allow couples to have a religious ceremony to register their civil partnership, so long as the religious body and celebrant were content to do so;
- the proposals would allow same sex couples to enter into marriage, solemnised by a civil registrar;
- the proposals would allow same sex couples to enter into a marriage solemnised by a religious celebrant, so long as the religious body and celebrant were content to do so; and
- the proposals would mean that transgender people would not be required to divorce before acquiring the final gender recognition certificate.

4.11 The Government considers that the proposals in this paper would increase religious freedom, as religious bodies and religious celebrants who wished to do so would be able to register civil partnerships and solemnise same sex marriages.

4.12 However, the Government also recognises the deeply held views of those religious bodies, religious celebrants and others who are opposed, on faith grounds, to registering or solemnising same sex relationships.

4.13 As indicated, the Government intends to ensure that religious bodies and religious celebrants are not required to participate in same sex ceremonies.

4.14 In addition, the Government intends to hold meetings with key parties, including religious bodies who oppose proposals contained in this consultation paper, to ensure their views are heard and reflected fully.

### Environmental considerations

4.15 The Scottish Government does not consider there to be major environmental implications from the proposals contained in this consultation paper. If, after this consultation, the Government should decide to move towards legislation, we will carry out a pre-screening exemption from Strategic Environmental Assessment (SEA) requirements. This involves formally advising the statutory SEA consultation authorities<sup>13</sup> that the Government does not intend to carry out an SEA, and seeking any views they may have.

### Consequential legislative changes

4.16 The introduction of civil partnerships was a major legislative undertaking. As well as the Civil Partnership Act itself, other legislation had to be changed and brought in to ensure equality of treatment: for example, the Family Law (Scotland) Act 2006 made a number of changes to reflect the introduction of civil partnerships.

4.17 The changes proposed by this consultation would require primary legislation. There would also be consequential changes to other legislation. The exact nature of what is required will depend on whether or not a Bill is introduced and what the Bill contains. As indicated, there will be a full public consultation on any draft Bill.

4.18 In general terms, where legislation is required for other parts of the UK or about reserved matters in Scotland, it may be possible in consequence of an Act of the Scottish Parliament to make the legislation by means of an Order under the Scotland Act 1998. Any such Order would be taken through the UK Parliament by UK Ministers.

### Other points consultees may wish to raise

4.19 Consultees are welcome to make any other points.

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<sup>13</sup> The Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Scotland.

Question 20

Do you have any other comments?

We are particularly interested in your views on:

- potential implications of the proposals for transgender people (paragraph 3.42)
- possible transitional arrangements (paragraphs 3.43 and 3.44);
- recognition of Scottish same sex marriages elsewhere (paragraphs 3.45 to 3.49);
- any comments on forced marriage (paragraphs 3.51 and 3.52)
- any comments on sham marriage (paragraph 3.53)
- potential financial implications (paragraphs 4.01 to 4.08);
- potential equality implications (paragraphs 4.09 to 4.14).

**The Scottish Government**

**September 2011**

## ANNEX A: RESPONDING TO THIS CONSULTATION DOCUMENT

***Please send your response with the completed Respondent Information Form at Annex E to:***

[familylaw@scotland.gsi.gov.uk](mailto:familylaw@scotland.gsi.gov.uk) or

Sandra Jack  
Scottish Government  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

By 9 December 2011

If you have any queries contact Sandra Jack on 0131 244 2025

We would be grateful if you could clearly indicate in your response which questions or parts of the paper you are responding to.

### **Handling your response and next steps**

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** at Annex E. This will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

The Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public.

After the closing date, all responses will be analysed and considered along with any other available evidence.

### **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to Sandra Jack: [sandra.jack@scotland.gsi.gov.uk](mailto:sandra.jack@scotland.gsi.gov.uk) or on 0131 244 2025.

## **ANNEX B: DIFFERENCES BETWEEN CIVIL PARTNERSHIPS AND MARRIAGE**

### Introduction

1. This Annex lists differences the Scottish Government is aware of in relation to the rights and responsibilities of civil partners and married couples.

### Religious ceremonies

2. As indicated in the main body of the consultation paper, civil partnerships may not be registered by religious celebrants and may not take place in religious premises.

### Perception

3. There may still be differences in society in relation to how civil partners and spouses are perceived. In particular:

- the term “civil partner” may be regarded by some as having less resonance than the terms “spouse” or “husband” and “wife”;
- the fact that civil partnership is a separate status may mean that some people view civil partnership as not equal to marriage;
- the lack of a religious service to register a civil partnership may reinforce distinctions between a civil partnership and a marriage;
- although civil partnerships were established in 2005 and have gained widespread acceptance in society, there may still be some lack of comprehension about what a civil partnership is. This may lead to practical difficulties when obtaining goods or services; and
- a civil partnership is not the same as a marriage.

### Pensions and survivors’ benefits

4. In pensions, civil partners were recognised in pension schemes from 5 December 2005. Eligibility for civil partner survivor benefits depends on the scheme concerned but civil partners of members of contracted out schemes (i.e. contracted out of the State Second Pension) are eligible for survivors’ benefits based on their partner’s service from 6 April 1988.<sup>14</sup>

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<sup>14</sup> This article on changes to the Church of England’s pension scheme provides more information: <http://www.pensionsadvisoryservice.org.uk/news/2010/february/church-of-england-extends-pension-rights-to-civil-partners>

## Other differences

5. Other differences between marriage and civil partnership include:
- In relation to marriage, irretrievable breakdown of the relationship (to obtain a divorce) may be established by proof that the defender committed adultery although this is now rarely used<sup>15</sup>. The definition of "adultery" relates to heterosexual conduct only.
  - There is a minor technical difference between notification of proposed civil partnerships and notification of marriages. Proposed civil partnerships are deemed to have been notified once the first form is received whereas proposed marriages are deemed to have been notified after the second form is received.
  - If there is any doubt about whether or not a person is married, the person can go to the Court of Session to obtain a declarator. It is not clear if a declarator of civil partnership can competently be granted by a court. If there is any doubt, the Scottish Government will consider if this could be clarified through any forthcoming legislation.
  - There is a difference as to when and how the civil partnership is formed. A civil partnership is formed when the second of the two parties sign the partnership papers. By contrast, a marriage happens when the parties exchange spoken words and also sign the register.
  - There is currently a requirement for third party evidence in simplified dissolution proceedings in civil partnerships although this is not insisted on in practice. The requirement is absent from simplified divorce proceedings. The Scottish Government will shortly consult on a draft Statutory Instrument which will ensure that the evidence required in simplified proceedings is the same for dissolutions and divorces.
  - A guardian under the Adults with Incapacity (Scotland) Act 2000 does not have statutory authority in the name of the adult with incapacity to pursue or defend a declarator of nullity of a civil partnership, dissolution or separation. There are powers in section 64(1) of the 2000 Act for guardians in relation to pursuing or defending a declarator of nullity of marriage, divorce or separation. The Scottish Government will take steps to deal with this issue.

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<sup>15</sup> 69 divorces out of 10,173 in 2009-10:  
<http://www.scotland.gov.uk/Publications/2010/12/17151409/5>

## **Annex C**

### **THE SCOTTISH GOVERNMENT CONSULTATION PROCESS**

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government web site enabling a wider audience to access the paper and submit their responses.

Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality or the response is potentially defamatory) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3 XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications ( e.g. analysis of response reports) can be accessed at: Scottish Government consultations ( <http://www.scotland.gov.uk/consultations>)

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may: indicate the need for policy development or review; inform the development of a particular policy; help decisions to be made between alternative policy proposals, or be used to finalise legislation before it is implemented.

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

## **ANNEX D**

### **The Scottish Government's understanding of which jurisdictions have established civil unions (or partnerships) between same sex couples and which jurisdictions have established same sex marriage**

#### List of jurisdictions which have established same sex unions

Andorra  
Argentina (some parts of the country only)  
Australia (precise laws vary from state to state)  
Austria  
Brazil  
Canada  
Colombia (cohabitation rights)  
Czech Republic  
Denmark  
Ecuador  
England and Wales  
Finland  
France  
Germany  
Hungary  
Iceland  
Liechtenstein  
Mexico (some parts of the country only)  
Netherlands  
New Zealand  
Northern Ireland  
Republic of Ireland  
Scotland  
Slovenia  
South Africa  
Switzerland  
United States (some states only)

#### List of jurisdictions which have established same sex marriage

Argentina  
Belgium  
Canada  
Iceland  
Mexico (Mexico City only but recognised throughout Mexico)  
Netherlands  
Norway  
Portugal  
South Africa  
Spain  
Sweden  
United States (some states only)

Some jurisdictions recognise civil unions or same sex marriage from other countries, even if they have not established their own arrangements for civil unions and same sex marriage.

## THE REGISTRATION OF CIVIL PARTNERSHIPS SAME SEX MARRIAGE

### Annex E: RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

#### 1. Name/Organisation

Organisation Name

Title Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

Surname

Forename

#### 2. Postal Address

Postcode	Phone	Email

#### 3. Permissions - I am responding as...

**Individual**

/

**Group/Organisation**

*Please tick as appropriate*

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?  
*Please tick as appropriate*  Yes  No
- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis  
*Please tick ONE of the following boxes*
- Yes, make my response, name and address all available
- or
- Yes, make my response available, but not my name and address
- or
- Yes, make my response and name available, but not my address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).
- Are you content for your **response** to be made available?  
*Please tick as appropriate*  Yes  No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?  
*Please tick as appropriate*  Yes  No

## CONSULTATION QUESTIONS

### The registration of civil partnerships

#### Question 1 (Paragraphs 2.12 and 2.13)

Do you agree that legislation should be changed so that civil partnerships could be registered through religious ceremonies?

Yes

No

Don't know

Please give reasons for your answer.

Comments

#### Question 2 (Paragraphs 2.14 to 2.19)

Do you think that the proposals in England and Wales on registration of civil partnerships in religious premises would be appropriate for Scotland?

Yes

No

Don't know

If you have answered no, please explain what elements of the proposals in England and Wales you consider inappropriate for Scotland.

Comments

Question 3 (Paragraphs 2.20 to 2.24)

Do you agree with allowing religious celebrants to register civil partnerships in religious premises?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 4 (Paragraphs 2.20 to 2.24)

Do you agree with allowing religious celebrants to register civil partnerships in other places agreed between the celebrant and the couple?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 5 (Paragraph 2.25)

Do you agree that religious bodies should not be required to register civil partnerships?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 6 (Paragraphs 2.26 and 2.27)

Do you consider that religious celebrants should not be allowed to register civil partnerships if their religious body has decided against registering civil partnerships?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 7 (Paragraphs 2.28 to 2.30)

Do you agree that individual religious celebrants should not be required to register civil partnerships?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 8 (Paragraphs 2.31 to 2.35)

Which of the options do you favour to ensure that religious bodies and celebrants do not have to register civil partnerships against their will?

Do you favour:

Option 1

Option 2

Neither

If you have another option, please describe it.

Comments

Question 9 (Paragraphs 2.36 to 2.40)

Religious bodies may not wish their premises to be used to register civil partnerships. Do you agree that no legislative provision is required to ensure religious premises cannot be used against the wishes of the relevant religious body?

- Yes   
No   
Don't know

Please give reasons for your answer

Comments

Same sex marriage

Question 10 (Paragraphs 3.11 and 3.12)

Do you agree that the law in Scotland should be changed to allow same sex marriage?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 11 (Paragraph 3.13)

Do you agree that religious bodies and celebrants should not be required to solemnise same sex marriage?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 12 (Paragraphs 3.14 to 3.18)

Do you agree with the introduction of same-sex **civil** marriage only?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 13 (Paragraph 3.19)

Do you agree with the introduction of same-sex marriage, **both** religious and civil?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 14 (Paragraphs 3.23 and 3.24)

Do you agree that religious bodies should not be required to solemnise same sex marriage?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 15 (Paragraphs 3.25 and 3.26)

Do you consider that religious celebrants should not be allowed to solemnise same sex marriages if their religious body has decided against solemnising same sex marriage?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 16 (Paragraphs 3.27 and 3.28)

Do you agree that individual religious celebrants should not be required to solemnise same sex marriage?

Yes

No

Don't know

Please give reasons for your answer

Comments

Question 17 (Paragraphs 3.29 to 3.33)

Which of the options do you favour to ensure that religious bodies and celebrants do not have to solemnise same sex marriage against their will?

Do you favour:

Option 1

Option 2

Neither

Don't know

Please give reasons for your answer and if you have another option, please describe it.

Comments

Question 18 (Paragraphs 3.34 to 3.39)

Religious bodies may not wish their premises to be used to solemnise same sex marriage. Do you agree that no legislative provision is required to ensure religious premises cannot be used against the wishes of the relevant religious body?

- Yes   
No   
Don't know

Please give reasons for your answer

Comments

Question 19 (Paragraph 3.41)

If Scotland should introduce same-sex marriage, do you consider that civil partnerships should remain available?

- Yes   
No   
Don't know

Please give reasons for your answer

Comments

Question 20 (Paragraph 4.19)

Do you have any other comments?

Yes

No

We are particularly interested in your views on:

- potential implications of the proposals for transgender people (paragraph 3.42)
- possible transitional arrangements (paragraphs 3.43 and 3.44);
- recognition of Scottish same sex marriages elsewhere (paragraphs 3.45 to 3.49);
- any comments on forced marriage (paragraphs 3.51 and 3.52)
- any comments on sham marriage (paragraph 3.53)
- potential financial implications (paragraphs 4.01 to 4.08);
- potential equality implications (paragraphs 4.09 to 4.14).

Comments

## **ANNEX F**

### **LIST OF ORGANISATIONS WHO HAVE BEEN SENT THIS PAPER**

Action of Churches Together Scotland  
Affirmation Scotland  
Al-Jannah  
Ani Rinchen Khandro (Kagyü Samyé Dzong Edinburgh)  
Apostolic Church  
Assemblies of God  
Association of Pension Lawyers  
Association of Registrars of Scotland  
Baha'i Council for Scotland  
Baptist Union of Scotland  
Barnardo's  
BiScotland  
British Association for Adoption and Fostering  
Centre for Research on Families and Relationships  
Children 1<sup>st</sup>  
Children in Scotland  
Church of Christ  
Church of Jesus Christ of Latter-Day Saints (Mormon Church)  
Church of Scotland  
Church of the Nazarene  
Christian Brethren  
Christian Institute  
Confederation of British Industry Scotland  
Congregational Federation  
Convention of Scottish Local Authorities (and all local authority Chief Executives)  
Edinburgh Inter Faith Association  
Elim Pentecostal Church  
Episcopal Church in Scotland  
Equality and Human Rights Commission Scotland  
Equality Network  
Evangelical Alliance  
Faculty of Advocates  
Families need Fathers  
Family Law Association  
Federation of Small Businesses, Scotland  
Fife Buddhist Group  
Forum of Private Business  
Free Church of Scotland  
Free Presbyterian Church of Scotland  
Galva108  
Gay and Lesbian Humanist Association  
Glasgow Jewish Educational Forum  
Hindu Temple of Scotland  
Humanist Society Scotland  
Imaan

Institute of Directors Scotland  
Jehovah's Witnesses  
Jewish Gay and Lesbian Group  
Law Society of Scotland  
Lesbian and Gay Christian Movement  
LGBT National Youth Council  
LGBT Network  
LGBT Youth Scotland  
Liberal Jewish Community  
Margo MacDonald MSP  
Members of the European Parliament representing Scotland  
Methodist Church in Scotland  
Metropolitan Community Church  
Muslim Council of Scotland  
National Records of Scotland  
NUS Scotland  
OneKirk  
Pagan Federation of Scotland  
Pensions Advisory Service  
Pensions Regulator  
Plymouth Brethren No 4  
Quaker Lesbian and Gay Fellowship  
Reformed Judaism  
Relationships Scotland  
Religious Society of Friends (Quakers)  
Roman Catholic Church  
Salvation Army  
Scotland's Commissioner for Children and Young People  
Scottish Chambers of Commerce  
Scottish Churches Parliamentary Office  
Scottish Conservative and Unionist Party  
Scottish Council of Jewish Communities  
Scottish Council for Voluntary Organisations  
Scottish Court Service  
Scottish Episcopal Church  
Scottish Green Party  
Scottish Human Rights Commission  
Scottish Inter Faith Council  
Scottish Labour Party  
Scottish Law Commission  
Scottish Legal Aid Board  
Scottish Liberal Democrats  
Scottish Marriage Care  
Scottish National Party  
Scottish Rainbow Covenant  
Scottish Trade Union Congress  
Scottish Transgender Alliance  
Scottish Unitarian Association  
Scottish Women's Aid  
Scottish Youth Parliament

Seventh-Day Adventists  
Sheriffs' Association  
Sikh (Scottish Sikh Women's Association)  
Sikhs in Scotland  
Spiritualists' National Union  
Stonewall Scotland  
United Free Church of Scotland  
United Reformed Church  
The Venerable Rewatha (Scotland's Buddhist Vihara)  
Visit Scotland

Copies of the consultation will also be sent to the Scottish Parliament Information Centre and to the 6 Legal Deposit or "copyright" libraries (the British Library; the National Libraries of Scotland and Wales; and the University libraries of Oxford, Cambridge and Trinity College, Dublin)



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[www.scotland.gov.uk](http://www.scotland.gov.uk)

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