

POLICY NOTE

THE SAME SEX MARRIAGE (PRESCRIBED BODIES) (SCOTLAND) REGULATIONS 2014

SSI 2014/305

The above instrument was made by the Scottish Ministers in exercise of the powers conferred by section 8(1B)(a)(i) of the Marriage (Scotland) Act 1977 (“the 1977 Act”) and all other powers enabling them to do so. The instrument is subject to the negative procedure.

Policy Objectives

The 1977 Act was amended by the Marriage and Civil Partnership (Scotland) Act 2014 (“the 2014 Act”). In particular, the 2014 Act puts belief bodies on the same footing as religious bodies in relation to the solemnisation of marriage and allows same sex couples to get married. The 2014 Act also introduces the religious and belief registration of civil partnerships.

Under the 1977 Act, as amended by the 2014 Act, there are three ways for celebrants to be authorised to solemnise marriages between persons of the same sex. These ways are:

- a religious or belief body may be prescribed by Scottish Statutory Instrument so that all of its celebrants may solemnise marriage;
- a religious or belief body may nominate persons to the Registrar General of Births, Deaths and Marriages for Scotland (“the Registrar General”) to be registered as celebrants; and
- the Registrar General may grant temporary authorisation to a member of a religious or belief body. Such temporary authorisation may be for a specific marriage or marriages or may be for a specified period of time. Temporary authorisation for a period of time for same sex marriage may only be granted if the religious or belief body is prescribed for same sex marriage or has nominated members to be registered by the Registrar General to solemnise same sex marriages.

Under section 8(1B)(a)(i) of the 1977 Act, a “minister, clergyman, pastor, or priest or other celebrant” of a prescribed body is authorised to solemnise marriages as is a person “who, not being one of the foregoing, is recognised by a religious or belief body so prescribed as entitled to solemnise marriage between persons of the same sex on its behalf”. This latter category is intended to cover, for example, persons who act as “registering officers” of the Religious Society of Friends (Quakers), who do not have ministers who are set apart from their membership.

Consultation

The Scottish Government contacted bodies believed to be in favour of taking part in same sex marriage and who were prescribed under the 1977 Regulations. The Religious Society of Friends (Quakers) and the Scottish Unitarian Association confirmed that they wished to be prescribed so their celebrants could solemnise same sex marriages.

National Records of Scotland have contacted other bodies believed to be in favour of taking part in same sex marriage so that these bodies can, if they wish, put forward members to be authorised by the Registrar General so they can solemnise same sex marriages.

Impact Assessments

No impact assessments were prepared for these regulations. However, the Scottish Government prepared a Business and Regulatory Impact Assessment (BRIA) <http://www.scotland.gov.uk/Topics/Justice/law/17867/samesex/BRIA> and an Equality Impact Assessment <http://www.scotland.gov.uk/Topics/Justice/law/17867/samesex/EQIA> for the introduction of the Marriage and Civil Partnership (Scotland) Bill to Parliament on 26 June 2013. Accompanying documents were also produced for the Bill in line with the Parliament's Standing Orders: <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/64983.aspx>

Financial Effects

There are no significant financial effects arising from these Regulations. Prescribing religious and belief bodies to solemnise marriage produces some very modest savings in administration costs. As indicated above, a BRIA was prepared for the introduction of the Marriage and Civil Partnership (Scotland) Bill to Parliament on 26 June 2013.

**Scottish Government
Justice Directorate
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