

SCHEDULE 5

CONSEQUENTIAL MODIFICATIONS TO PRIMARY LEGISLATION

Equality Act 2010

19.—(1) The Equality Act 2010⁽¹⁾ is amended as follows.

(2) In section 67⁽²⁾ (sex equality rule), for subsection (7) substitute—

“(7) If the effect of a relevant matter on a person (A) differs according to the effect it has on a person of the same sex as A, according to whether A is married, in a civil partnership, or for some other reason due to A’s family status, a comparison for the purposes of this section of the effect of that matter on persons of the opposite sex must be with a person of the opposite sex to A who is in the same position as A and in particular—

- (a) where A is married to someone of the opposite sex, A is to be compared to a person of the opposite sex to A (“B”) where B is married to someone of the opposite sex to B;
- (b) where A is married to someone of the same sex as A or is in a civil partnership, A is to be compared to B where B is married to someone of the same sex as B or is in a civil partnership.”.

(3) Section 80(7)⁽³⁾ (interpretation and exceptions: meaning of “civil partnership status”) is repealed.

(4) In section 110⁽⁴⁾ (liability of employees and agents), after subsection (5B) insert—

“(5C) A does not contravene this section by refusing to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex.

(5D) A does not contravene this section by refusing to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex.

(5E) Subsections (5C) and (5D) apply only if A is an approved celebrant.

(5F) Expressions used in subsections (5C) to (5E) have the same meaning as in paragraph 25B of Schedule 3.

(5G) A chaplain does not contravene this section by refusing to solemnise a relevant Scottish forces marriage for the reason that the marriage is the marriage of two persons of the same sex.

(5H) Expressions used in subsection (5G) have the same meaning as in paragraph 25C of Schedule 3.”.

(5) In Schedule 3⁽⁵⁾ (services and public functions: exceptions)—

- (a) before paragraph 25 insert—
“PART 6ZA

MARRIAGE AND CIVIL PARTNERSHIP: SCOTLAND”,

(b) in paragraph 25, after sub-paragraph (2) insert—

“(3) An approved celebrant (A) does not contravene section 29, so far as relating to gender reassignment discrimination, only by refusing to register the civil partnership of a

(1) [2010 c.15](#).

(2) Section 67(7) was substituted by [S.I. 2014/560](#).

(3) Section 80(7) was amended by [S.I. 2014/560](#).

(4) Section 110 was amended by the 2013 Act, section 2(5).

(5) Schedule 3 was amended by the 2013 Act, section 2(6).

person (B) if A reasonably believes that B's gender has become the acquired gender under the Gender Recognition Act 2004.

(4) In sub-paragraph (3) "approved celebrant" has the meaning given in section 94A(4)(a) of the Civil Partnership Act 2004⁽⁶⁾," and

(c) after paragraph 25A insert—

“PART 6B

MARRIAGE OF SAME SEX COUPLES AND CIVIL PARTNERSHIP: SCOTLAND

25B Marriage of same sex couples and civil partnership: Scotland

(1) An approved celebrant does not contravene section 29 only by refusing to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex.

(2) An approved celebrant does not contravene section 29 only by refusing to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex.

(3) A person does not contravene section 29 only by refusing to participate in a religious or belief ceremony forming part of, or connected with, the solemnising of a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex.

(4) A person does not contravene section 29 only by refusing to participate in a religious or belief ceremony forming part of, or connected with, the registration of a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex.

(5) For the purposes of this paragraph, a person is an approved celebrant for the purposes of both marriage and civil partnership whether the person is an approved celebrant within the meaning of section 8(2)(a) of the Marriage (Scotland) Act 1977⁽⁷⁾ or section 94A(4)(a) of the Civil Partnership Act 2004.

(6) In this paragraph—

“relevant Scottish civil partnership” means a religious or belief civil partnership within the meaning of section 94A(4)(b) of the Civil Partnership Act 2004;

“relevant Scottish marriage” means a religious or belief marriage of two persons of the same sex within the meaning of section 8(2)(a) of the Marriage (Scotland) Act 1977.

25C Marriage of same sex couples: Scottish forces marriages

(1) A chaplain does not contravene section 29 only by refusing to solemnise a relevant Scottish forces marriage according to religious rites or usages for the reason that the marriage is the marriage of two persons of the same sex.

(2) In this paragraph—

⁽⁶⁾ Section 94A of the Civil Partnership Act was inserted by section 24(13) of the 2014 Act.

⁽⁷⁾ Section 8(2)(a) of the 1977 Act was amended by section 12(2)(c) of the 2014 Act.

“chaplain” has the meaning given by paragraph (a) of the definition of “authorised person” in paragraph 12(2) of Schedule 6 to the Marriage (Same Sex Couples) Act 2013;

“forces marriage” has the meaning given by paragraph 12(2) of Schedule 6 to the Marriage (Same Sex Couples) Act 2013;

“relevant Scottish forces marriage” means a forces marriage of two persons of the same sex where Scotland is the relevant part of the United Kingdom within the meaning of paragraph 12 of Schedule 6 to the Marriage (Same Sex Couples) Act 2013.”.

(6) In Schedule 23 (general exceptions), in paragraph 2, after sub-paragraph (9) insert—

“(9A) An organisation does not contravene Part 3, 4 or 7 only by refusing to allow premises owned or controlled by the organisation to be used—

- (a) to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex;
- (b) to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex.

(9B) A person (or a group of persons) does not contravene Part 3, 4 or 7 only by refusing to allow premises owned or controlled by the person (or the group) on behalf of an organisation to be used—

- (a) to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex;
- (b) to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex.

(9C) An organisation does not contravene section 29 only by allowing an approved celebrant of the organisation to act as set out in sub-paragraph (1) or (2) of paragraph 25B of Schedule 3.

(9D) In sub-paragraphs (9A) to (9C), “approved celebrant”, “relevant Scottish marriage” and “relevant Scottish civil partnership” have the same meaning as in paragraph 25B of Schedule 3.”.