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
The reasons for change outlined in the consultation document and the available research evidence on the social meaning and function of marriage in Scotland fit with explicitly extending marriage to same sex couples and civil partnership to heterosexual couples. We support all proposals that achieve steps towards this without creating differences suggesting same-sex partnership are a second class form of marriage.

Marriage retains significance for many (not all), heterosexual couples opting for a civil rather than a religious marriage ceremony. For most, ‘marriage’ symbolises and celebrates an intention of a life-long partnership mutually supporting and prioritising each other and making a home together. From this perspective, ‘civil partnership’ highlights legal protection without the cultural weight given to marriage.

A marriage event is of social significance for individuals and society with or without religious content. Bringing together friends and family affirms social ties and heightens the couple’s sense of recognition and support for their relationship. A civil partnership ceremony serves this purpose by being as-if marriage but this requires participants to treat it as-if ‘marriage’. For same-sex couples or their friends and relatives with religious beliefs, the absence of any religious content will always make it second best. For them, the asymmetry in marriage for heterosexuals and civil partnership for same-sex couples is public reaffirmation that the latter are less than the former.

There is a case for extending civil partnership to heterosexual couples, not all of whom want marriage. Many long-term cohabitees claim commitment without marriage. Many are not avoiding legal ties but are not prepared for the expense and fuss of marriage and a few see negative traditional associations in its cultural baggage. Some such couples would enter a civil partnership which extends their legal protection, without seeking the ‘big day’ typical of marriage and civil partnership acting as marriage.
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
The inconsistencies of Scottish practice and the English solution identified in the consultation document seem persuasive.

Question 3  (Paragraphs 2.20 to 2.24)

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

Yes
No  ✓
No
Don’t know

Please give reasons for your answer

Comments
This follows from our answer to question 1 as moderating but not removing the risk of being seen as second best to marriage by those with religious beliefs. We recognise that this is a matter that has to be resolved by the relevant religious authorities.
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
This also follows from our answer to question 1 and would be the next position ameliorating civil partnership being of less status than marriage if the relevant religious authorities could not agree to marriage of same sex partners or to allowing religious celebrants to register civil partnerships in religious premises.

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
We have no particular expertise on this issue but agree with the logic laid out in the consultation document against forcing the issue to this degree.

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
The rights of individuals to enter into partnerships should be equally respected regardless of categorisation by religious faith.

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
Forcing people to perform a ceremony which they oppose would be a poor quality experience for all.

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
We have no evidence to draw on here

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?

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<tr>
<th>Option</th>
<th>Yes</th>
<th>No</th>
<th>Don't know</th>
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<tr>
<td>Yes</td>
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Please give reasons for your answer

**Comments**

The case stated is persuasive
## 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?

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Please give reasons for your answer

**Comments**

The Scottish Government is already committed to ending discrimination on the grounds of sexual orientation. Our answer to the Question 1 makes it clear why this move is consistent with attitudes to marriage in Scotland.

### Question 11  (Paragraph 3.13)

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

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Please give reasons for your answer

**Comments**

As noted above we are persuaded that coercion is counter productive

### Question 12  (Paragraphs 3.14 to 3.18)

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

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<td>No</td>
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Please give reasons for your answer
Comments
We agree and disagree. While this would be a step towards symmetry and create a solution for the secular majority, it would also perpetuate difference. The ideal change should not perpetuate difference but create a more even handed treatment of heterosexual and same sex relationships.

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
This follows from the previous answers.

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
This also follows from previous answers
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

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

As noted in Q1, there is a case for extending civil partnership to heterosexual couples, not all of whom want marriage. Many long-term cohabitees claim commitment without marriage. Many are not avoiding legal ties but are not prepared for the expense and fuss of marriage and a few see negative traditional associations in its cultural baggage. Some such couples would enter a civil partnership which extends their legal protection, without seeking the ‘big day’ typical of marriage and civil partnership acting as marriage. This might require some rethinking of civil partnership to make it less ceremonial and marriage like. Consideration should also be given to further extending the legal protection of civil partnership to acknowledge any long-term personal and domestic caring arrangement involving sharing property and responsibility, including, for example, friends or siblings making a home and life together.

Question 20 (Paragraph 4.19)

Do you have any other comments?
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<th>Yes</th>
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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
We are appreciative and supportive of the arguments made in the consultation document and of the consultation process.

Note that we have referred to research evidence without citing any specific references but we would be happy to supply a bibliography if it is required.