



# Marriage and Civil Partnership (Scotland) Act 2014

2014 asp 5

## PART 1

### MARRIAGE

#### CHAPTER 3

##### SOLEMNISATION OF MARRIAGE

#### 12 Persons who may solemnise marriage

- (1) The 1977 Act is amended as follows.
- (2) In section 8 (persons who may solemnise marriage)—
  - (a) in subsection (1)—
    - (i) after “marriage” in the first place where it appears insert “between persons of different sexes”,
    - (ii) in paragraph (a)(ii)—
      - (A) for “or priest of a religious body” substitute “priest or other celebrant of a religious or belief body”,
      - (B) for “religious body” in the second place it appears substitute “religious or belief body”, and
      - (C) for “marriages” substitute “marriage between persons of different sexes”,
    - (iii) in paragraph (a)(iii), after “Act” insert “to solemnise marriage between persons of different sexes”, and
    - (iv) in paragraph (a)(iv), after “Act” insert “to solemnise marriage between persons of different sexes”,
  - (b) after subsection (1) insert—

“(1A) The Scottish Ministers may prescribe a religious or belief body under subsection (1)(a)(ii) only if—

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- (a) the body requests them to do so; and
  - (b) the Scottish Ministers are satisfied that the body meets the qualifying requirements.
- (1B) Subject to section 23A, a marriage between persons of the same sex may be solemnised by and only by—
- (a) a person who is—
    - (i) a minister, clergyman, pastor, priest or other celebrant of a religious or belief body prescribed by regulations made by the Scottish Ministers, or 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;
    - (ii) registered under section 9 to solemnise marriage between persons of the same sex; or
    - (iii) temporarily authorised under section 12 to solemnise marriage between persons of the same sex; or
  - (b) a person who is a district registrar or assistant registrar appointed under section 17.
- (1C) The Scottish Ministers may prescribe a religious or belief body under subsection (1B)(a)(i) only if—
- (a) the body requests them to do so; and
  - (b) the Scottish Ministers are satisfied that the body meets the qualifying requirements.
- (1D) For the avoidance of doubt, nothing in subsection (1B)(a) or (1C)(a) —
- (a) imposes a duty on any religious or belief body to make a request referred to in subsection (1C)(a);
  - (b) imposes a duty on any such body to nominate under section 9 any of its members to be registered as empowered to solemnise marriages between persons of the same sex;
  - (c) imposes a duty on any person to apply for temporary authorisation under section 12 to solemnise marriages between persons of the same sex;
  - (d) imposes a duty on any person who is an approved celebrant in relation to marriages between persons of the same sex to solemnise such marriages.
- (1E) In subsections (1A)(b) and (1C)(b), the “qualifying requirements” are such requirements as may be set out in regulations made by the Scottish Ministers.
- (1F) Regulations under subsection (1E)—
- (a) may make different provision for different cases or circumstances;
  - (b) may include transitional and saving provision.
- (1G) Regulations under subsection (1)(a)(ii), (1B)(a)(i) or (1E) are subject to the negative procedure.”, and

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- (c) in subsection (2)—
  - (i) in paragraph (a)—
    - (A) after “(1)(a)” insert “or (1B)(a)”, and
    - (B) for ““religious marriage”” substitute ““religious or belief marriage””, and
  - (ii) in paragraph (b), after “(1)(b)” insert “or (1B)(b)”.
- (3) In section 14 (form of ceremony to be used by approved celebrant)—
  - (a) in paragraph (a), after “or (ii)” insert “or (1B)(a)(i)”, and
  - (b) in paragraph (b), after “or (iv)” insert “or (1B)(a)(ii) or (iii)”.
- (4) In section 26(2) (interpretation)—
  - (a) for the definition of “religious body” substitute—
    - ““religious or belief body” means an organised group of people—
    - (a) which meets regularly for religious worship; or
    - (b) the principal object (or one of the principal objects) of which is to uphold or promote philosophical beliefs and which meets regularly for that purpose;”, and
  - (b) after that definition insert—
    - ““religious or belief marriage” has the meaning given by section 8(2)(a);”.

### **13 Registration of nominated persons as celebrants**

- (1) The 1977 Act is amended as follows.
- (2) In section 9 (registration of nominated persons as celebrants)—
  - (a) in subsection (1)—
    - (i) for “religious body” substitute “religious or belief body”, and
    - (ii) after “marriages” insert “between persons of different sexes”,
  - (b) after subsection (1) insert—
    - “(1A) A religious or belief body, not being prescribed by virtue of section 8(1B)(a)(i), may nominate to the Registrar General any of its members who it desires should be registered under this section as empowered to solemnise marriages between persons of the same sex.”,
  - (c) in subsection (2)—
    - (i) after “(1)” insert “or (1A)”,
    - (ii) in paragraph (a), for “religious body” substitute “religious or belief body”, and
    - (iii) in paragraph (d)—
      - (A) the word “religious” is repealed, and
      - (B) after “that body” insert “in relation to solemnising marriages between persons of different sexes or, as the case may be, marriages between persons of the same sex”,
  - (d) after paragraph (d) insert “; or
  - (e) the nominating body does not meet the qualifying requirements.”,
  - (e) after subsection (2) insert—

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- “(2A) In subsection (2)(e), the “qualifying requirements” are such requirements as may be set out in regulations made by the Scottish Ministers.
- (2B) Regulations under subsection (2A)—
- (a) may make different provision for different cases or circumstances;
  - (b) may include transitional and saving provision.
- (2C) Regulations under subsection (2A) are subject to the negative procedure.”
- (f) in subsection (3)—
- (i) after “ceremony” insert “for marriage between persons of different sexes”,
  - (ii) in paragraph (a), for the words from “witnesses,” to “wife;” substitute “witnesses—
    - (i) that they accept each other as husband and wife;
    - (ii) that they accept each other in marriage; or
    - (iii) either or both of sub-paragraphs (i) and (ii);”,
  - (iii) in paragraph (b), for the words from “subsection,” to “wife;” substitute “subsection—
    - (i) that the parties are then husband and wife;
    - (ii) that the parties are then married; or
    - (iii) either or both of sub-paragraphs (i) and (ii);”,
 

and
    - (iv) after “ceremonies” insert “for marriage between persons of different sexes”,
- (g) after subsection (3) insert—
- “(3A) For the purposes of subsection (2)(b) above, a marriage ceremony for marriage between persons of the same sex is of an appropriate form if it includes, and is in no way inconsistent with—
- (a) a declaration by the parties, in the presence of each other, the celebrant and two witnesses, that they accept each other in marriage;
  - (b) a declaration by the celebrant, after the declaration mentioned in paragraph (a), that the parties are then married,
- and the Registrar General may, before deciding whether to accept or reject a nomination, require the nominating body to produce in writing the form of words used at its marriage ceremonies for marriage between persons of the same sex.”
- (h) in subsection (4)—
- (i) after “(1)” insert “or (1A)”, and
  - (ii) in paragraph (b), after “area” insert “or place”,
- (i) in subsection (5)(a), after “(1)” insert “or (1A)”,
- (j) after subsection (5) insert—
- “(5ZA) The register mentioned in subsection (5)(a)(ii) is to be in two parts—

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- (a) the first part containing the details mentioned in subsection (5)(a)(ii) in relation to persons nominated by religious or belief bodies to solemnise marriages between persons of different sexes; and
    - (b) the second part containing those details in relation to persons nominated by religious or belief bodies to solemnise marriages between persons of the same sex.”
  - (k) in subsection (6), in the proviso, for “religious body” in each place where it appears substitute “religious or belief body”, and
  - (l) the italic cross-heading preceding section 9 becomes “*Religious or belief marriages*”.
- (3) In section 10 (removal of celebrant’s name from register)—
- (a) in subsection (1)—
    - (i) in paragraph (b), after “9(1)” insert “or (1A)”, and
    - (ii) in paragraph (c), after “9(3)” insert “or (3A)”,
  - (b) after that subsection insert—

“(1A) In relation to any ground mentioned in subsection (1)(a) to (c), references in this section to removal from and restoration to the register include removal from and restoration to the appropriate part of the register.”, and
  - (c) in subsection (4), after “9(1)” insert “or (1A)”.
- (4) In section 14(b) (form of ceremony to be used by approved celebrant), after “9(3)” insert “or (3A)”.
- (5) In section 24(2)(a) (offences), after “area” insert “or place”.

## **14 Temporary authorisation of celebrants**

- (1) The 1977 Act is amended as follows.
- (2) In section 12 (temporary authorisation of celebrants)—
- (a) in subsection (1), for “person” substitute “member of a religious or belief body”, and
  - (b) after subsection (1) insert—

“(1A) The Registrar General may grant an authorisation to a person under subsection (1) only if satisfied that the religious or belief body of which the person is a member meets the qualifying requirements.

(1B) An authorisation under subsection (1)(b) may be granted in relation to—

    - (a) only marriages between persons of different sexes;
    - (b) only marriages between persons of the same sex; or
    - (c) both.

(1C) The Registrar General may grant an authorisation to a person under subsection (1)(b) to solemnise marriages between persons of the same sex only if the religious or belief body of which the person is a member—

    - (a) is prescribed by virtue of section 8(1B)(a)(i); or

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- (b) has nominated members (whether or not including that person) under section 9(1A) to solemnise marriages between persons of the same sex.
- (1D) In subsection (1A), the “qualifying requirements” are such requirements as may be set out in regulations made by the Scottish Ministers.
- (1E) Regulations under subsection (1D)—
  - (a) may make different provision for different cases or circumstances;
  - (b) may include transitional and saving provision.
- (1F) Regulations under subsection (1D) are subject to the negative procedure.”.
- (3) In section 24 (offences), in subsection (2)(c), for the words from “12(a)” to the end substitute “12 of this Act—
  - (i) if authorised under subsection (1)(a) of that section, solemnises a marriage not specified in the authorisation;
  - (ii) if authorised under subsection (1)(b) of that section, solemnises a marriage outwith the period specified in the authorisation;
  - (iii) in either case, solemnises a marriage otherwise than in accordance with such terms and conditions as may be specified in the authorisation;”.

## 15 Religious or belief marriage: further provision

- (1) The 1977 Act is amended as follows.
- (2) In section 6(5) (solemnisation of marriage on date and at place in Marriage Schedule), for “religious marriage” substitute “religious or belief marriage”.
- (3) In section 11 (alterations to register), in paragraph (a), for “religious body” substitute “religious or belief body”.
- (4) In the title of section 13 (preliminaries to solemnisation of religious marriages), for “**religious marriages**” substitute “**marriages by approved celebrants**”.
- (5) In section 14(a) (form of ceremony to be used by approved celebrant), for “religious body” substitute “religious or belief body”.
- (6) In the title of section 15 (registration of religious marriages), for “**religious marriages**” substitute “**religious or belief marriages**”.
- (7) In section 15(3) (entry in register of marriage on receipt of Marriage Schedule), for “religious marriage” substitute “religious or belief marriage”.