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**From the Office of the  
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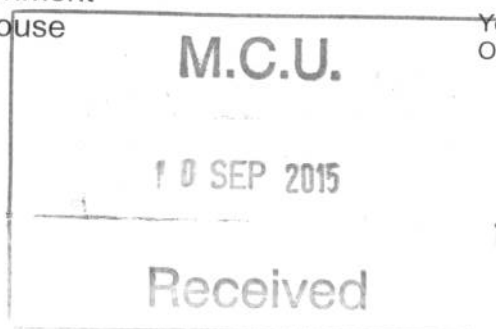
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Your reference: A11120863

Our reference: COR/1245/2015

Marco Biagi MSP  
Minister for Local Government and  
Community Empowerment  
Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG



4 September 2015

Dear Marco

Thank you for your letter of 22 May which was in response to a letter of 3 March 2015 from my predecessor, Simon Hamilton MLA.

I know Minister Hamilton had raised a number of concerns with regard to the exercise of the order-making power in section 9 of the Marriage and Civil Partnership (Scotland) 2014 and I am grateful to you for having taken the time to consider and respond to those concerns. I have carefully reflected on the points that you have made. However, I too am concerned about what is proposed. I am keen to continue the dialogue between our administrations in the hope that we can reach an agreed settlement and I thought it might be helpful if I set out my own thoughts.

Firstly, there is little to be gained from the fact that, post-conversion, the Scottish courts will regard the non-Scottish civil partnership as having ended. The partnership will continue to exist under the law of the home jurisdiction and the parties will, therefore, have a "dual status", with which they, other parties and other jurisdictions will have to grapple. I am sure we would both concede that, from time to time, a policy will produce unforeseen difficulties. However, as policy makers we strive to minimise that possibility and I am sure that neither of us would wish to place same sex couples in an uncertain legal position, which may be difficult and expensive to resolve. In this instance, we can achieve legal certainty by restricting the definition of a "qualifying civil partnership" so as to exclude civil partnerships which were entered into in Northern Ireland.

Secondly, with regard to dissolution, we believe a deemed civil partnership can only exist in Northern Ireland if the Scottish marriage did not result from the conversion of a Northern Irish civil partnership (i.e. a deemed civil partnership cannot exist alongside the original partnership). That belief is, however, untested and that is another reason why the definition of "qualifying civil partnership" should be restricted.

Finally, I think it would be helpful if there were UK-wide discussions with the Secretariat to the Gender Recognition Panel and I have asked my officials to liaise with yours in that regard.

Yours sincerely

A handwritten signature in black ink that reads "Arlene Foster". The signature is written in a cursive, flowing style.

**ARLENE FOSTER MLA**