

Minister for Local Government and Community Empowerment
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Your ref: SUB/23/2015
Our ref: A11120863

22 May 2015

Dear Mr Hamilton,

**MARRIAGE AND CIVIL PARTNERSHIP (SCOTLAND) ACT 2014
SECTION 9
CHANGING CIVIL PARTNERSHIPS REGISTERED OUTWITH SCOTLAND INTO
MARRIAGES IN SCOTLAND**

Thank you for your letter of 3 March.

On "dual status" issues, our intention is that section 11(2)(a) of the 2014 Act will remain in place. This means that for the purposes of the law of Scotland, the civil partnership entered into outwith Scotland will end when it is changed into a marriage in Scotland.

We recognise that we cannot make provision on how other jurisdictions, including Northern Ireland, will recognise the Scottish marriage. Our research suggests that the position will be varied with some jurisdictions fully recognising the change in Scotland (and any subsequent divorce in Scotland) whilst other jurisdictions may not do so.

Clearly, it is for each jurisdiction to reach its own view and Scotland will not and cannot interfere with that. Since in Northern Ireland there are no marriages for same sex couples, the two jurisdictions are already faced with differences of legal status that must be managed if the couples move from one to the other. There is not, of course, any compulsion on couples to change their relationship in this way. The Scottish Government has already made it clear that existing civil partners can remain in their civil partnership if they wish: that will not change.

Following comments by consultees on a Discussion Paper which we issued in March, we do plan to provide guidance to couples to make it clear that, as you say, there is no guarantee on how the marriage would be recognised in jurisdictions outwith Scotland.

I am also considering if it would be helpful to make supplementary provision, by way of an Order under the 2014 Act, so that the dissolution outwith Scotland of a Scottish same sex marriage treated as a civil partnership elsewhere would end the marriage in Scotland. This would be similar to the provision in the Order under section 104 of the Scotland Act which laid down that the dissolution of a marriage deemed to be a civil partnership in Northern Ireland is recognised as ending the marriage. However, any new provision would cover recognition generally in Scotland of dissolutions outwith Scotland of Scottish marriages treated as civil partnerships, and would not just relate to Northern Ireland.

On gender recognition, my officials will discuss the issues further with the Gender Recognition Panel (GRP) Secretariat. My initial view is that if a person applies to the GRP and can show that he or she is in a Scottish marriage, that should be how he or she is treated by the GRP. However, there is no guarantee how the person would be recognised outwith Scotland if he or she should obtain gender recognition.

Our next step is to consult, in line with section 9(3) of the 2014 Act, on a draft of the Order. We plan to issue this in the next few weeks. I will ensure that your officials are sent a copy: I am grateful to you and your officials for your constructive and helpful comments on our proposals.



MARCO BIAGI