

SAME-SEX MARRIAGE

1. Following an extensive consultation on the issue, which received over 77,000 responses, Nicola Sturgeon announced (25 July) our intention to legalise same-sex marriage in Scotland, while putting in place a number of safeguards on religious freedom and confirming that no religious body will be compelled to solemnise same-sex marriages.

- The Marriage and Civil Partnership (Scotland) Bill consultation launched in December 2012. It is on the detail of delivering same sex marriage, not on the principle. It closes on 20 March.
- The draft Bill's key aim is to find the **right balance** between the imperative of saying all of our citizens are equal and should be treated equally, and also respecting and protecting the right of conscience and religious objection.
- The consultation is a balanced package not just introducing same-sex marriage but giving details of the protections in relation to:

Religious bodies and celebrants:

- No obligation on religious bodies and celebrants to carry out same-sex marriages.
- Religious and belief celebrants will only be able to solemnise same sex marriage or register civil partnerships if their body has decided to opt in.
- If a religious or belief body decides to opt in, there will be no obligation on individual celebrants to solemnise same sex marriage or register civil partnerships.
- We have asked the UK Government to amend the Equality Act 2010 to provide further protection for such individual religious and belief celebrants (consultation also seeks views on the draft amendment).

Education:

We do not consider it necessary to introduce legislation relating specifically to education. Existing legislation and guidance provides a good framework to ensure pupils are taught in an appropriate way, such as:

- The Education (School and Placing Information) (Scotland) Regulations 2012, in force from 8 December 2012, makes provision on how parents will be informed of any sensitive aspects of learning.
- We will retain the existing rights of parents to opt their children out of programmes of sex education.
- We intend to update Education Circular 2/2001, on the conduct of sex education in schools. This update will take account of the introduction of same sex marriage. We will be consulting with key stakeholders in due course.

Denominational Education:

- No plans to change the role denominational education plays in Scotland.
 - No plans to change the provisions of section 21 of the Education (Scotland) Act 1980 on the management of denominational schools and on how teachers in denominational schools are appointed.
 - No intention of changing the current position where faith aspects of the curriculum in Catholic schools are determined by the Scottish Catholic Education Service.
- The Bill also has a provision making it clear that the introduction of same sex marriage does not affect existing rights under the European Convention of Human Rights and elsewhere to freedom of thought, conscience, religion and expression.
 - Our intention is to introduce the Bill into Parliament in 2013.
 - SNP members will have a free vote on this issue.

2. The UK Government Marriage (Same Sex Couples) Bill had its second reading in the House of Commons on Tuesday, 5 February. It intends to legislate to permit same-sex marriage in England and Wales.

- MPs voted by a majority of 225 in favour of the new Bill (the final vote was 400 to 175). The Bill will now go into its Commons Committee Stage.
- The UK government proposals are broadly in line with our proposals. The most significant difference is the proposal to explicitly ban the Church of England and Church in Wales from carrying out same-sex marriages.
- This position reflects the established nature of the Church of England and Church in Wales. Their clergy have a specific (common law) legal duty to marry parishioners. The Church of Scotland is not established in this way.

3. Consultation Analysis: Registration of Civil Partnerships and Same Sex Marriage:

- First consultation ran from 2 September 2011 to 9 December 2011.
- Its aim was to seek views on the proposed changes.
- A total of 77,508 responses were received.
- The majority of the individuals and groups that responded very firmly either supported both propositions or strongly opposed both.
- Counting all responses, the majority against same sex marriage was 2 to 1.
- However, excluding responses from outwith Scotland and postcards and petitions, the majority in favour of same sex marriage was 2 to 1.
- Consensus did emerge on whether any legislation should allow rather than require religious bodies to be involved.- **93%** of those consultation respondents who replied to question 16 agreed that individual religious celebrants should not be required to solemnise same sex marriages.

BACKGROUND

SUPPORTIVE QUOTES FROM MSPs ON THE DRAFT BILL

Scottish Liberal Democrat leader Willie Rennie MSP said: "This Bill represents a proud step forwards for equality in Scotland. Equal marriage is the right and natural step towards the modern, tolerant and progressive Scotland we all want to see. These reasonable changes are about removing barriers and extending freedoms. It will extend the rights of same-sex couples whilst retaining the freedom of religious groups who do not wish to conduct same sex marriages. Scottish Liberal Democrats look forward to working with the Scottish Government on this historic bill." (SG Release 12 December)

Independent MSP Margo MacDonald said: "I'm glad that the government is going out to consultation on this because the more people who discuss the question the harder it will be for anyone to recommend that such an inequality of treatment should be tolerated – the measure has my full support." (SG Release 12 December)

Co-convener of the Scottish Greens Patrick Harvie MSP said: "Scottish Green Party policy has supported equal marriage for over a decade. Wider Scottish public and political opinions have been moving in the direction of equality for many years too, and I congratulate the Scottish Government for taking this next logical step. I look forward to examining the bill in detail over the coming months to ensure that it commits fully to the principle that same sex couples and mixed-sex couples are equal in Scotland." (SG Release 12 December. Note: We are not advocating opposite sex civil partnerships).

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