



## What does the Marriage and Civil Partnership (Scotland) Bill mean for trans and intersex people?

**Briefing by the Scottish Transgender Alliance 27/06/2013**

### **What the bill means for married trans people where they and their spouse wish to continue their marriage:**

- An application to the gender recognition panel is made
  - To confirm that the couple wish to remain married, a statutory declaration will be submitted by the trans person's spouse stating that they consent to the marriage continuing after gender recognition
- If the application is successful a full Gender Recognition Certificate (GRC) will be issued
- The Gender Recognition Panel will send a copy of the GRC to the Registrar General for Scotland
- Regulations will be made by the Registrar General for issuing a suitable additional revised marriage certificate to the couple (showing new name and gender)

### **What the bill means for married trans people where either/both they and/or their spouse do not wish to continue their marriage:**

- An application to the gender recognition panel is made without any statutory declaration from the spouse
- If the application is successful an interim Gender Recognition Certificate (GRC) will be issued
- Either the trans person or their spouse can initiate divorce using the interim GRC
- Once the divorce is completed the interim GRC is replaced with a full GRC

We are concerned that this process could lead to unreasonable delay in the granting of a full GRC if the spouse is uncooperative and seeks to delay the divorce process. We will be pushing to prevent such unreasonable delays being possible.

### **What the bill means for civil partnered trans people:**

There will be two recognition routes for civil partnered trans people to select from.

First option:

- An application is made to the panel and an interim gender recognition certificate is issued
- The couple either change their civil partnership into a marriage or dissolve their civil partnership
- The interim gender recognition certificate will be replaced with a full GRC

Second option:

- An application is made to the panel
  - To confirm that the couple wish to continue the legal recognition of their relationship, a statutory declaration will be submitted by the trans person's partner stating that they consent to the relationship continuing after gender recognition
- If the application is successful a full Gender Recognition Certificate will be issued
- The Gender Recognition Panel will send a copy of the GRC to the Registrar General for Scotland
- The change of the civil partnership to a mixed sex marriage will be registered

**What the bill means for civil partners where both are seeking gender recognition:**

- Both partners apply to the gender recognition panel
- If the applications are successful both partners will be issued with a full Gender Recognition Certificate

**What the bill means for non-binary gender trans people and intersex people:**

- Although the bill cannot be entirely gender neutral as it needs to allow for those religious celebrants who will only conduct mixed sex marriages and not same sex marriages, all civil registrars and some religion and belief celebrants (such as the Unitarians and the Humanists) will be able to conduct marriages regardless of the legal genders of the couple.
- Providing a marriage has been conducted by a registrar or celebrant who is registered to conduct both same sex and mixed sex marriages then, once the marriage has been registered, there will be no provisions within Scots Law for challenging its validity on grounds of the gender or biological sex of either of the couple.

**Other matters of concern to trans and intersex people:**

- Scots law has **no** marriage consummation requirement
- Scots law does **not** allow marriage annulment on grounds of a spouse not knowing at the time of marriage about their partner's gender recognition certificate