



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities, Human Rights and Civil Justice Committee

Tuesday 30 May 2023

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Tuesday 30 May 2023

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
SUBORDINATE LEGISLATION.....	2
Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011 (Application to Civil Partnerships and Consequential Provision) Order 2023 [Draft]	2

EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE
14th Meeting 2023, Session 6

CONVENER

*Kaukab Stewart (Glasgow Kelvin) (SNP)

DEPUTY CONVENER

*Maggie Chapman (North East Scotland) (Green)

COMMITTEE MEMBERS

*Karen Adam (Banffshire and Buchan Coast) (SNP)

*Pam Gosal (West Scotland) (Con)

*Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Paul O’Kane (West Scotland) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Shirley-Anne Somerville (Cabinet Secretary for Social Justice)

Simon Stockwell (Scottish Government)

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Equalities, Human Rights and Civil Justice Committee

Tuesday 30 May 2023

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Kaukab Stewart): Good morning, and welcome to the 14th meeting in 2023, in session 6, of the Equalities, Human Rights and Civil Justice Committee. We have received no apologies.

Our first agenda item is a decision on taking business in private. Do members agree to take in private item 4, which is consideration of our draft annual report, and item 5, which is discussion of our future work programme?

Members indicated agreement.

Subordinate Legislation

Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011 (Application to Civil Partnerships and Consequential Provision) Order 2023 [Draft]

10:00

The Convener: Under our second agenda item, we will take evidence on an affirmative Scottish statutory instrument. I refer members to paper 1. I welcome to the meeting Shirley-Anne Somerville, Cabinet Secretary for Social Justice, and Simon Stockwell, head of the family law policy unit of the Scottish Government.

I invite the cabinet secretary to speak to the instrument.

The Cabinet Secretary for Social Justice (Shirley-Anne Somerville): Good morning. I will make a brief statement on the purpose of the SSI.

The SSI relates to our work to implement the Civil Partnership (Scotland) Act 2020, which introduced mixed-sex—that is, opposite-sex—civil partnerships in Scotland. Some 939 mixed-sex civil partnerships were entered into in Scotland in 2021 and 2022. We have been implementing the 2020 act in stages.

When the Scottish Government introduced the bill that became the 2020 act, we recognised that the introduction of mixed-sex civil partnerships could increase the risk of forced civil partnership. We do not consider that the risk of forced civil partnership is nearly as great as the risk of forced marriage. However, there is a range of protections against forced marriage, and we wanted to close any loophole that might allow those protections to be circumvented by forcing someone into a civil partnership instead. Therefore, section 13 of the 2020 act extends the forced marriage criminal offence to cover forced civil partnerships, too. I have just signed the Civil Partnership (Scotland) Act 2020 (Commencement No 5) Regulations 2023, which will commence section 13 of the 2020 act from 30 November 2023.

We noted in the policy memorandum accompanying the bill that part 1 of the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011 contains civil measures on forced marriage, including forced marriage protection orders. We noted that we intended to introduce an SSI to extend forced marriage protection orders so that they can cover forced civil partnerships, too—that is the SSI that is before the committee. Those orders can contain prohibitions, restrictions, requirements or other

provisions that are intended to protect someone from forced marriage. The provisions in the 2020 act to extend the forced marriage offence, and this SSI to extend the civil measure of forced marriage protection orders, provide a legislative package against forced civil partnership.

The SSI also makes two technical changes. First, it amends the definition of “marriage” in the 2011 act to include belief ceremonies. That is consequential to the Marriage and Civil Partnership (Scotland) Act 2014, which included provision for the solemnisation of marriage by authorised celebrants of belief bodies.

Secondly, the SSI provides for decrees of declarator of nullity of marriage, when they are granted by a sheriff, to be included in a register of divorces that is operated by National Records of Scotland. That reflects the fact that the 2011 act extended jurisdiction in proceedings for declarator of nullity of marriage to the sheriff court; previously, those proceedings could be heard only in the Court of Session. Declarators of nullity are declarations by the courts that, in the eyes of the law, the relationship never existed.

If the SSI is approved by Parliament, our intention is to bring it into force on 30 November, to coincide with the forced marriage criminal offence being extended to cover forced civil partnerships.

That outlines the purpose of the SSI that is before the committee.

The Convener: Thank you, cabinet secretary. No member of the committee has indicated that they wish to ask questions or make comments, so we will move straight to agenda item 3, which is formal consideration of the motion for approval of the affirmative instrument. I invite the minister to move motion S6M-08951.

Motion moved,

That the Equalities, Human Rights and Civil Justice Committee recommends that the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (Application to Civil Partnerships and Consequential Provision) Order 2023 [draft] be approved.—[*Shirley-Anne Somerville*]

Motion agreed to.

The Convener: I invite the committee to delegate to me the publication of a short factual report on our deliberation on the affirmative SSI that we have considered today. Do members agree to do so?

Members indicated agreement.

The Convener: That completes our consideration of the affirmative instrument. I thank the cabinet secretary and her official for attending this morning.

That concludes the committee’s formal business in public this morning.

10:05

Meeting continued in private until 11:38.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot

