



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

**DRAFT**

# Equalities and Human Rights Committee

**Thursday 5 March 2020**

**Session 5**



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**EQUALITIES AND HUMAN RIGHTS COMMITTEE**

**5<sup>th</sup> Meeting 2020, Session 5**

**CONVENER**

\*Ruth Maguire (Cunninghame South) (SNP)

**DEPUTY CONVENER**

\*Alex Cole-Hamilton (Edinburgh Western) (LD)

**COMMITTEE MEMBERS**

\*Angela Constance (Almond Valley) (SNP)

\*Mary Fee (West Scotland) (Lab)

\*Maurice Golden (West Scotland) (Con)

\*Alison Harris (Central Scotland) (Con)

\*Fulton MacGregor (Coatbridge and Chryston) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Sarah Meanley (Scottish Government)

Shirley-Anne Somerville (Cabinet Secretary for Social Security and Older People)

Simon Stockwell (Scottish Government)

John Thomson (Scottish Government)

**CLERK TO THE COMMITTEE**

Claire Menzies

**LOCATION**

The Adam Smith Room (CR5)



# Scottish Parliament

## Equalities and Human Rights Committee

Thursday 5 March 2020

*[The Convener opened the meeting at 09:30]*

### Civil Partnership (Scotland) Bill: Stage 1

**The Convener (Ruth Maguire):** Good morning, and welcome to the Equalities and Human Rights Committee's fifth meeting in 2020. All mobile devices should be switched off or on silent, please.

Agenda item 1 is an oral evidence session on the Civil Partnership (Scotland) Bill at stage 1. I welcome the Cabinet Secretary for Social Security and Older People, Shirley-Anne Somerville, and, from the Scottish Government, Simon Stockwell, who is head of the family law unit; Sarah Meanley, who is also from the family law unit; and John Thomson, who is a solicitor. You are all very welcome—thank you for being with us. We are limited to one hour this morning, and we have a lot of questions to get through. The committee will therefore be disciplined and concise in their questioning; answers along the same lines would be much appreciated so that we can get through everything. With that in mind, we go straight to a question from Alison Harris.

**Alison Harris (Central Scotland) (Con):** Good morning. Can you explain the legal differences between marriage and civil partnership?

**The Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville):** Certainly. We have tried to ensure that the bill reflects what already happens with same-sex civil partnerships. There are some legal differences between marriage and civil partnership, but there are not a huge number. They can be broken down into three sections: what happens in the creation of the relationship; what happens during the relationship; and what should happen if the couple decides to end the relationship.

In the first strand, there are—as the committee has heard—differences in the numbers of religious and belief bodies that are authorised for the purposes of solemnising marriages and for registering civil partnerships, which reflect the views of the bodies themselves. In the second strand, there is a difference in relation to survivor benefits and pensions. In the third strand, there are some areas that feature in the law on ending civil partnerships in which rights do not exist for

civil partnerships but do exist for marriages. That is a simple breakdown—I hope that it gives enough information.

**Alison Harris:** It does—thank you. There are no plans for a campaign to explain what it will mean when civil partnerships are extended to different-sex couples. However, the Association of Registrars of Scotland has said that the provision of guidance on the differences between marriage and civil partnerships would be helpful to inform the public. What are your thoughts on providing such guidance?

**Shirley-Anne Somerville:** I was interested to see that aspect of the evidence. Civil partnerships are very much a personal decision for people who are in a relationship—if they want to move forward their relationship in that way, it is their choice. It would obviously assist them if they had an understanding of the differences between the respective rights that they may have. It is a very interesting area that we will consider further, bearing fully in mind that it really is very much up to couples themselves to decide what is right for them.

**Alison Harris:** Thank you—I appreciate that.

Several witnesses have suggested that the inclusion of adultery as a ground for irretrievable breakdown is outdated and that it could instead be covered by the ground of unreasonable behaviour, which could be used for a range of infidelities. Would the Scottish Government consider reform in that area?

**Shirley-Anne Somerville:** That would be very much part of divorce law and not an issue that would be for this bill. I appreciate why people would say that that aspect is outdated, and it is reasonable to note that the ground is not widely used at all, but that matter would be for consideration in a different bill.

**Alison Harris:** Thank you—your answers have been helpful.

**Mary Fee (West Scotland) (Lab):** Good morning. Can you give the committee a bit of detail on what impact the introduction of different-sex civil partnerships will have on equality groups?

**Shirley-Anne Somerville:** That is an interesting area, and one on which I know that the committee has received evidence. The introduction of mixed-sex civil partnerships will have a positive impact on a number of equality groups. The extension of civil partnerships will, in itself, provide heterosexual couples with the same option for a legally recognised relationship that is available to same-sex couples. The levelling up of rights is an important aim that we are seeking to achieve through the bill. Some people in same-sex civil partnerships will no longer be concerned about

being outed if they talk about being in a civil partnership. Again, that is certainly advantageous.

Last week, the committee heard from YWCA Scotland—The Young Women’s Movement that the bill, through increasing access to the rights that flow from a legally recognised relationship, could help to support women. That was an interesting take on the matter. There are a number of areas in which the bill could benefit people who are not themselves going to take part in a mixed-sex partnership.

**Mary Fee:** One of the most frequent answers that we get when we ask about the benefits of different-sex civil partnerships concerns the financial security that this kind of formalised arrangement will bring. Married couples have that security, but those in civil partnerships do not. Are there any other benefits, apart from the financial aspect, that will come from this piece of legislation?

**Shirley-Anne Somerville:** You are absolutely right to say that financial benefits could come from the bill. Currently, for example, a cohabiting couple may not, for personal reasons, wish to move to a marriage. There is a difference between the rights that they have from cohabitation and the rights that they would have in a marriage. If the bill is successful and becomes an act, they will have an alternative option: a legally recognised relationship that brings with it some of the financial benefits that you mentioned.

It is very important that we give people choice. I have listened carefully to the evidence that has been received by the committee and through our consultation. People have spoken passionately about why they feel that marriage is not right for them. The Government is obliged to consider what can be done to ensure that those people can be in a legally recognised relationship and have the benefits that flow from that while having an arrangement that fits their personal beliefs and how they want to live their lives. Although the financial implications are important, we should not underestimate the importance of allowing a couple to be able to be in the type of relationship that they want to be in and to have that legally recognised.

**Mary Fee:** You consider that improving the choice that is available to people as a very important factor in progressing the bill.

**Shirley-Anne Somerville:** I do. As I said, it is about the levelling-up of rights. If there is a right to choose between same-sex civil partnerships and same-sex marriage, the question—quite rightly—is: why should the same choice not be available to other couples? That was why, in the second consultation on the bill, we looked at two options: whether to end civil partnerships for everybody or whether to expand civil partnerships to make them

available to all. The levelling-up of rights is very important, as it gives people choice.

**Maurice Golden (West Scotland) (Con):** The bill replicates existing provisions for religious and belief bodies that might want to opt in to be able to register different-sex civil partnerships. We have taken evidence that suggests that the bill might need to be amended to take account of additional checks on Jewish clergy who may not be represented by different branches of Judaism in Scotland. What are your views on that suggestion?

**Shirley-Anne Somerville:** Depending on how much detail you want to go into, I may bring in Simon Stockwell on that question. We have listened carefully to the evidence, and our officials have held additional meetings to ensure that we get the bill right for everyone. I do not think that drafting changes are required. I know that issues were raised in oral evidence to the committee, and we have looked very carefully at whether any drafting changes are required. However, as a Government, we need to be very careful not to interfere in the internal workings of religious bodies, and we absolutely need to respect where there is a role for Government and where there is not.

If anything additional comes up that would suggest that changes are required in that respect, I would be more than happy to look at that. However, I do not think that changes are required at this time. If you would like more information on that, we can go into the specific details.

**Maurice Golden:** That is sufficient—thank you.

**Angela Constance (Almond Valley) (SNP):** Good morning, cabinet secretary. If the bill is passed, when would you anticipate the introduction of civil partnership registration for different-sex couples?

**Shirley-Anne Somerville:** I know that the committee has received evidence on the timetable for that, and people are obviously keen that we move ahead as quickly as possible. However, if the bill is passed by Parliament and becomes an act, there are other areas that we will need to look into. For example, an order under section 104 of the Scotland Act 1998 will need to be laid at Westminster, and we will need a number of Scottish statutory instruments to go through this Parliament. We will need to make changes to forms and guidance, information technology, training and so on. We would therefore expect the first mixed-sex civil partnerships to take place in Scotland in early 2021.

**Angela Constance:** You mentioned the need for a section 104 order. Why is that necessary? What, roughly, would the order contain?

**Shirley-Anne Somerville:** In general, the order will amend existing legislation to reflect the introduction of mixed-sex civil partnerships. We are discussing the details of that with the United Kingdom Government. Our current thinking is that the order will have to include amendments to the Equality Act 2010 in order to provide protection for religious and belief bodies that do not wish to be involved in the registration of mixed-sex civil partnerships; changes to the Human Fertilisation and Embryology Act 2008; and provisions in relation to consular and armed forces civil partnerships overseas when the couple identify with Scotland as a relevant part of the UK.

**Angela Constance:** As a matter of interest, I wonder why the Government has opted to use primary legislation as opposed to secondary legislation. I am conscious that Westminster responded quickly to the relevant court judgment via regulations.

**Shirley-Anne Somerville:** That was because the issue was dealt with at Westminster initially through a private members' bill, which gave the UK Government the power to move forward through regulations. Scotland was not covered by that bill, so it is impossible for us to move forward through regulations as the UK Government has done.

We looked at other options to see whether there was a way to speed up the process in Scotland. One possible option was to use the Human Rights Act 1998 (Remedial) Order 2019. On reflection, when we looked at taking such an approach, I did not think that it would include everything that was needed to establish mixed-sex civil partnerships in Scotland, because orders are very narrowly framed. When we looked at the timetables for taking through an order and for passing primary legislation, we saw that there was not that much difference between them.

Given that Scotland was not covered by the primary legislation that was passed at Westminster, and given that the Human Rights Act 1998 (Remedial) Order 2019 was not a good fit for this area and would not save us any time, primary legislation was the only route that we could go down.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** Good morning, cabinet secretary—thank you for coming to see us today. We have heard quite a bit of evidence during stage 1 about the importance of the bill in relation to the views that people have about marriage. The term “marriage” has a lot of baggage attached to it, and it can be quite an emotive topic for some people. That is why there is some anxiety about the interim measures that would apply before the act is fully commenced. Civil partnerships for different sexes that are registered outside Scotland will be

regarded as marriages if people in those partnerships visit or move to Scotland during the interim period. What could we do about that through the bill? Could we approach the issue differently? For example, could such partnerships be regarded as civil partnerships rather than as marriages until the legislation is commenced?

**Shirley-Anne Somerville:** I appreciate that strong views were expressed to you on that aspect. However, I stress that the interim recognition scheme is, at its heart, about access to rights. If a couple stays in Scotland, they can still say that they are in a civil partnership—they can still use that terminology. The interim recognition scheme is not about telling them to change what they say and to talk about the fact that they are married; it is about the rights that they would have when they are in Scotland.

The options are as follows: we could provide for no interim recognition at all, so if people in a mixed-sex civil partnership were to move up to Scotland, their rights would not be recognised whatsoever; or we can, as we have suggested, provide that they are deemed to have access to rights by being treated in the same way as a married couple.

09:45

I note that there were suggestions during the committee's evidence sessions that we could somehow act as if those people were in a civil partnership, and technical changes to the bill have been suggested to allow that to happen. However, I do not see how that could work in reality. Unless we have all the secondary legislation that goes alongside the primary legislation, we would not have a comprehensive body of law that would allow us to say that such people had the rights of a civil partnership. There would therefore be a risk that people would miss out on rights because we do not have that comprehensive body of law.

I absolutely appreciate that people who want to go into a civil partnership rather than a marriage will not find it at all ideal that we are saying that they should be classed as a married couple. However, I go back to my original point: it is about access to rights rather than about what people in a partnership call themselves. I hope that that provides a little bit of reassurance, and also reassures people that we have looked at alternative options, which I do not consider would give couples the access to rights that I think they would expect and hope to have.

**Alex Cole-Hamilton:** Thank you for that. I find those arguments compelling; nevertheless that anxiety still exists. Would the cabinet secretary agree to meet me to discuss a potential drafting change to the language in that section of the bill?

While still acknowledging that that may be the only way to deal with the issue, we could perhaps change or soften the language. Rather than saying—I cannot remember the exact wording, as I do not have the bill in front of me—something like “the partnership will be treated as a marriage”, the bill could say that those in mixed-sex civil partnerships who relocate to Scotland will enjoy the same rights as married couples, or something like that. Perhaps we could take that forward together.

**Shirley-Anne Somerville:** I would be more than happy to meet the member to discuss that. I really do understand the point that he makes, and the challenge that exists in that area. If there are other avenues that involve drafting that would allow such access to rights, I would be happy to look at them.

**Alex Cole-Hamilton:** I have a final supplementary question on that point before I move on to my next question. Tim Hopkins of the Equality Network suggested to the committee that the best way to deal with the issue would be to do things quickly and ensure that the act is commenced as fast as possible. Is there any way that we can reduce the period until those provisions commence?

**Shirley-Anne Somerville:** No, because, unfortunately, the process does not rest completely in our hands. Yes, the bill can proceed through this Parliament as quickly as possible—that would be fantastic—but, as I have said, work will still need to be done not just in this Parliament, but at Westminster. The drafting process will need to run its course between the Scottish and Westminster Governments, and that does not lie solely in our power.

I am happy to look at what can be expedited, but, given the requirement for a comprehensive package of law in secondary legislation and through a section 104 order, I do not see how that aspect can be delivered more quickly. Nonetheless, we are determined to move as fast as we can, within our gift, on the legislation.

**Alex Cole-Hamilton:** The other area that I want to address is the possible need to reregister children on the commencement of a civil partnership. The Births and Deaths Registration Act 1953 and the Legitimacy Act 1976 require that children are reregistered when they are children of cohabiting parents who become married or—as they would through this legislation—enter into a civil partnership. I understand that the 1979 European Court of Human Rights judgment in *Marckx v Belgium* renders that unnecessary, but it is still an issue of confusion for registrars. Can you confirm whether children will need to be reregistered on the solemnisation of a civil

partnership, or whether we would need to specify in the bill that that is no longer an issue?

**Shirley-Anne Somerville:** There are detailed arrangements on birth registration in England and Wales, which are very different from what happens in Scotland. I appreciate that that is an area of concern down south, but it is not an area that we consider needs to be of concern in Scotland, as the birth registration arrangements are different here.

**Mary Fee:** I want to cover the issue of interim gender recognition. You will be aware, from following the evidence that has been submitted to the committee, that Professor Norrie expressed concerns that the provisions in the bill are “overly complex” and that they may make some things more complex than they perhaps need to be because of the way that some aspects are almost lifted from another piece of legislation.

Tim Hopkins, who gave evidence last week, was very helpful and laid out quite clearly his views on the complexity of that particular aspect of the bill. Although he agreed that the provisions were “overly complex”, he gave quite a detailed response on how he thought that the details could be simplified and on the changes that would need to be made by removing certain sections from the Gender Recognition Act 2004.

Do you share that view? Will you look at that aspect as you take forward the draft gender recognition reform (Scotland) bill?

**Shirley-Anne Somerville:** The committee will be aware that there is a separate consultation on gender recognition, which is currently still open. That includes the draft bill, which contains our suggested provisions for interim gender recognition certificates.

I feel that it is important to keep the bill before us as simple as possible. It may involve adding in and replicating provisions from another complex piece of legislation, but I do not feel that consideration of this bill is the place for a discussion about what an interim gender recognition certificate should be. The important thing with this bill is to ensure that we replicate the current system and move it forward so that the new aspect is contained in the bill as well.

Any changes to interim gender recognition certificates would be part of the on-going consultation on gender recognition and would be taken forward in the draft gender recognition reform (Scotland) bill. I am very keen to keep the two areas separate.

**Mary Fee:** If any changes are made to the draft gender recognition reform (Scotland) bill as you undertake the consultation on that subject, will that have any impact on what is currently in this bill?



We need to make sure that there is a match between the two pieces of legislation.

**Shirley-Anne Somerville:** Yes—that is what we have attempted to do. We have tried to match what is in the current legislation on gender recognition with what we are proposing in this bill. If there was a change in the future, in respect of what happens with interim gender recognition certificates, it would change what is in this bill.

I am absolutely determined that we should, in effect, have a level playing field. There would be one area of law on interim gender recognition certificates, which would apply regardless of whether it came forward initially in this bill or as an amendment to the 2004 act through the draft bill.

**Mary Fee:** If the draft bill goes ahead, the provisions will be separate but the same.

**Shirley-Anne Somerville:** Yes.

**Mary Fee:** That is helpful. Thank you.

**The Convener:** I would like to ask about the conversion of a marriage to a civil partnership. The committee has heard that there is support for allowing mixed-sex couples to convert their marriage to a civil partnership without there being a time limit on that option. Why has the Government chosen not to allow that?

**Shirley-Anne Somerville:** I appreciate that people are asking the Government to look at that area, and I am very interested in the evidence that we have heard. I am really keen to ensure that we get as wide a breadth of thought as possible on the matter.

I appreciate that people think that that aspect should be covered in this bill. The reason that we have developed the bill as we have is that we are looking to link different-sex civil partnerships with the rights that are available to those in same-sex civil partnerships. There is currently no right to change a same-sex marriage to a same-sex civil partnership. We would, therefore, be asking for a right to be made available that would enable people in a different-sex marriage to transfer to a different-sex civil partnership, if you follow me—I hope that I am making myself clear.

**The Convener:** Just about.

**Shirley-Anne Somerville:** The challenge is how we move forward in a different area. With same-sex relationships, we moved from having only same-sex civil partnerships available to same-sex marriages coming on board. In this area of law, we are moving from having different-sex marriages available to different-sex civil partnerships coming along.

I appreciate that some people may currently be in a marriage because they wanted to be in a legally recognised relationship and marriage was

the only option available to them at that point. I am interested in what is being discussed in committee around that aspect, and I would be happy to consider that option.

However, there are difficulties and challenges around that. For example, if someone had been in a marriage and they moved to a civil partnership, how would we treat that civil partnership if it came to an end? The couple in question might have been married for longer than the length of time for which civil partnerships had been available.

It is not a simple process, and there are some legal challenges around how that situation would be dealt with. I appreciate that the committee has heard evidence on that area and that there are views on it. Nonetheless, it is challenging to see how such a change could be made without recognising the implications and challenges that would come with it.

**The Convener:** There are proposals to allow different-sex married couples in England and Wales to convert their marriage to a civil partnership. What would the implications be if such a change were to go ahead there but not in Scotland?

**Shirley-Anne Somerville:** It is entirely up to Westminster to take that decision. That option is not currently available, as the Civil Partnership (Opposite-sex Couples) Regulations 2019 have been passed, but it may be something that Westminster will look at in the future. The important aspect for Scotland is how we would treat those people once they moved up here. If they were in a marriage, they would be treated as if they were in a marriage; if they were in a civil partnership, once our civil partnerships are in place, they would be treated as being in a civil partnership. Again, we need to bear in mind the possible complications—for example, what would happen at the end of a civil partnership and what rights would be available to people at that time.

**The Convener:** Some of the evidence and discussion in committee has been about levelling up rights and providing equality of choice for people, which you have mentioned. If we got to a point at which people had that choice in other parts of the UK but not in Scotland, would that mean that you could be forced to make such a change at a later date if you did not take care of it in this bill?

**Shirley-Anne Somerville:** We should note that there are certain areas of family law, in particular, such as cohabitation, in which there are differences between England and Scotland with regard to how certain aspects are treated.

**The Convener:** One might argue that people in Scotland who are cohabiting have more rights, not fewer, than they would have elsewhere and that, if

the bill is passed, people here will have less choice rather than more choice.

**Shirley-Anne Somerville:** They do. As I said, I am very interested in the evidence that has come forward on that aspect. However, to date, it has not taken into account the challenges that we would have to ensure were looked at from a legal perspective around how we would deal with the legacy aspect in the example that I gave of a relationship ending. There are challenges—it is not just about whether or not the proposal would be a good thing to do. It would have to be very much looked at in law with regard to how we would deal with those challenges.

**The Convener:** Can you expand on what those legal challenges or complications might mean for people in practical terms?

**Shirley-Anne Somerville:** Yes. I gave the example of a mixed-sex marriage changing to a civil partnership, which raises the question of how we would treat such civil partnerships if the original marriage predated the existence of civil partnership law in Scotland. That is one of the areas of which we would need to be mindful. Simon Stockwell may have other examples to hand.

**Simon Stockwell (Scottish Government):** That is the particular example that we would be concerned about. We mention it in the policy memorandum—I am looking at paragraph 147. The UK Government has also mentioned in one of its consultations that there could be issues in relation to inheritable state pension rights, which we mention at paragraph 146. The UK Government said that it would issue some guidance in that area.

The other point to make is that the UK Government has been talking about having time limits on conversions south of the border, whereas in Scotland we are not planning to have any time limits on changing civil partnerships to marriages.

10:00

**The Convener:** Let me press you a little on that. Has any thought gone into possible solutions to those challenges? Challenges are never insurmountable, although I know that they can be annoying.

**Shirley-Anne Somerville:** With careful legal drafting, they can possibly be dealt with. The issue is whether the wish for people to have that option is strong enough. I am absolutely not saying that the Government is dead set against it and that we do not think that it is possible or credible. I have listened carefully to the evidence that has been given so far. It would also be interesting to know the thoughts of religious bodies and how they

would feel about people being able to convert a marriage to a civil partnership. I do not think that that aspect has come out so far in evidence. It did not come out in our consultation, because we were not proposing to make such a change, but it may generate some discussion.

The issues are not insurmountable—you are quite right about that, convener—and I am really keen on, and open to, seeing the committee's recommendations in that area.

**The Convener:** Thank you. That is really helpful.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** Good morning, cabinet secretary. I want to ask about the number of different-sex civil partnerships that there might be. The Government says that there would be between 100 and 150 a year. However, as you might be aware, the committee has heard various figures in evidence, which go right up to 8,000. Last week, the Equality Network told us that it feels that the real figure will be somewhere in the middle of those projections. How did the Government come to estimate the number at 109?

**Shirley-Anne Somerville:** I have certainly been surprised by some of the figures that have been mentioned in committee with regard to the number of civil partnerships that there would be. As you rightly say, we set out in the financial memorandum an estimate of around 100 mixed-sex civil partnerships every year. In essence, we based our calculations on information from New Zealand, where marriage and civil partnerships are open to both mixed-sex and same-sex couples, and the two relationships offer very similar rights and responsibilities. The situation is therefore comparable with the situation in Scotland, or as comparable as it can be. The take-up of civil partnerships has been low in New Zealand, and the similarities with Scotland suggest that the take-up here may also be low.

It has been difficult to come up with estimates, but I hope that the background that we have given as to how that has been done—using the example of New Zealand, which we think replicates reasonably closely the situation in terms of rights and what happens in Scotland—will reassure the committee about why the number in the financial memorandum is as low as it is in comparison with some of the other numbers that have been given in evidence to the committee.

**Fulton MacGregor:** Do you think that there will be an initial spike if and when the bill is passed and that demand will then tail off, or do you think that such partnerships could become more popular over time and that the number could gradually increase? Has any thought been given to that?

**Shirley-Anne Somerville:** It really is very difficult to tell when something like this is introduced. I am sure that there are couples in Scotland who have got married not because of their personal beliefs—they do not feel that marriage is something that they want—but because they would like to be in a legally recognised relationship. Once the option of a civil partnership is open to them, those couples may wish to move forward in that way.

You are quite right to say that there may not simply be an initial spike and that mixed-sex civil partnerships may become more popular over time. As I said, it is one of those areas in which it is exceptionally difficult to forecast behavioural change once we have passed the bill, although I do not think that the take-up will reach the extent of some of the numbers that have been referred to in committee. Only time will tell, but I hold to the fact that the numbers that we have produced in the financial memorandum are a reasonable estimate of the initial demand that we will see.

**Fulton MacGregor:** I hear what you are saying, and I tend to agree with the numbers that you have suggested. However, in the event that take-up is higher and the estimates from the Equality Network prove to be more accurate than those of the Government, has any thought been given to the possible cost implications? Would the systems that are currently in place be able to cope with that demand?

**Shirley-Anne Somerville:** The systems would absolutely be able to cope. I do not see the situation changing dramatically overnight in a way that cannot be foreseen; it will develop over time. We have a robust system in Scotland, and if movements were seen in that area, they would be catered for.

Couples may legally register in a civil partnership instead of choosing a marriage, so we may see a change in the type of legally recognised relationship that people enter into rather than an overall increase in demand.

**Fulton MacGregor:** I have a follow-up question on cohabitation. Can you explain the difference between the rights of cohabitants and the rights of civil partners in Scotland? Does the Government have any plans to provide stronger rights and responsibilities for cohabitants?

**Shirley-Anne Somerville:** Cohabitants have some rights, but they are not as comprehensive as the rights that are available, and that are being extended, to spouses or those in civil partnerships. There are differences, for example, in parental responsibilities and rights, succession in pensions and occupancy rights.

As the committee has heard, the Scottish Law Commission is carrying out a project on financial

provision for cohabitants who separate, and a discussion paper was published in February. Cohabitants do have rights—as was pointed out earlier, they have more rights in Scotland than they have in England and Wales—but there are still differences in Scotland between the rights that are available to people who are cohabiting and the rights that are available to those who are in a legally recognised relationship. Some of those aspects will be dealt with in the Scottish Law Commission's discussion paper.

**The Convener:** Thank you very much for your evidence, cabinet secretary. The next meeting of the committee will take place on Thursday 12 March, when we will consider petition PE1695, on access to justice in Scotland, and our approach to our inquiry on race equality, employment and skills.

10:08

*Meeting continued in private until 10:23.*



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