

VI SOLEMNISATION OF SAME SEX MARRIAGE ACT (ACT VI 2022)

Edinburgh, 23 May 2022, Session 4

The General Assembly, with consent of a majority of Presbyteries, hereby enact and ordain as follows:

Definitions and Interpretation

1. (a) "Parish Minister" shall have the meaning ascribed to it in the Parish Ministry Act (Act II 2018);
- (b) "Minister of Word and Sacrament" shall have the meaning ascribed to it in the Parish Ministry Act (Act II 2018);
- (c) "same sex marriage" shall mean the process described in the MSA;
- (d) "the MSA" shall mean the Marriage (Scotland) Act 1977 as it exists at 24 May 2021;
- (e) "Deacon" shall mean a person holding the office of Deacon in terms of the Deacons Act (Act VIII 2010);
- (f) "Authorised Celebrant" for the purposes of this Act means a Minister of Word and Sacrament or a Deacon who is empowered to solemnise same sex marriage in terms of the MSA;
- (g) "Principal Clerk" includes a person deputising for the Principal Clerk.

General provisions

2. A Minister of Word and Sacrament or a Deacon may apply in terms of this Act to become an Authorised Celebrant for same sex marriage.
3. No person shall be required by this Act to participate in the solemnisation of, or be involved in the arrangements for, a same sex marriage.
4. In all matters referred to in this Act, including but not limited to making application to become an Authorised Celebrant, permitting or granting consent for use of buildings, arranging for the participation of others in the solemnisation of a same sex marriage, and making practical arrangements for same sex weddings, a Minister of Word and Sacrament or a Deacon, as the case may be, shall take account of the peace and unity and pastoral needs of the congregation and of any parish or other grouping of which it is a part.

Becoming an Authorised Celebrant for same sex marriage

5. The process for becoming an Authorised Celebrant shall be:
 - (i) Application shall be made initially to the Principal Clerk's Office on a form prescribed by the Principal Clerk.
 - (ii) The Principal Clerk will make application to the Registrar General for Scotland on behalf of the Minister of Word and Sacrament or Deacon, as the case may be, in terms of section 9(1A) of the MSA.
 - (iii) The Principal Clerk will liaise with and advise the Minister of Word and Sacrament or Deacon, as the case may be, of the outcome of the application.
6. The Principal Clerk shall maintain an up to date record of Authorised Celebrants.
7. Authorised Celebrants shall be responsible for initiating their own three yearly renewal of their status in terms of the MSA, although the actual process will be administered through the Principal Clerk's Office.

Use of buildings

8. Only a Parish Minister who has become an Authorised Celebrant in terms of sections 5 to 7 above may, in accordance with and subject to the terms of sections 12 to 15 of the Parish Ministry Act (Act II 2018):
 - (i) permit the use of a Church building in their charge for the solemnisation of same sex marriage, and
 - (ii) grant consent for other Authorised Celebrants to use such a building for the solemnisation of same sex marriage. For the avoidance of doubt, any specific

permission or consent for an individual same sex marriage granted by a Parish Minister in terms of this section 8 shall endure notwithstanding that such Parish Minister subsequently departs from the charge in respect of which such permission or consent was granted.

9. An Interim Moderator who is a Minister of Word and Sacrament shall, for the purposes of this Act, have the same rights and obligations as a Parish Minister under section 8 of this Act in relation to use of buildings.

Minister's or Deacon's discretion

10. Nothing in this Act shall contravene the general principle of Church law that any Minister of Word and Sacrament or Deacon has the right to determine at any time whether or not to conduct the marriage of any persons.

Territorial extent

11. This Act makes provision for same sex marriage conducted in accordance with the MSA.

Consequential amendments

12. The Recognition of Marriage Services Act (Act I 1977) shall be amended as follows:
 - (i) Section 2 shall be deleted and the following shall be substituted: "Solemnisation of marriage in the Church of Scotland is effected by an ordained minister or deacon in a religious ceremony wherein, before God, and in the presence of the minister or deacon and at least two competent witnesses, the parties covenant together to take each other in marriage as long as they both shall live, and the minister or deacon declares the parties to be married."
 - (ii) In section 3, the words "or deacon" shall be inserted after the word "minister".
 - (iii) Section 4 shall be deleted.
13. The Parish Ministry Act (Act II 2018) shall be amended as follows: Add a new subparagraph (5) as follows to section 4: "(5) where a Minister of Word and Sacrament who is an Authorised Celebrant in terms of the Solemnisation of Same Sex Marriage Act (Act VI 2022), enters the bounds of the Charge of an existing Parish Minister who is not such an Authorised Celebrant, to solemnise a same sex marriage."

Guidance

14. The Legal Questions Committee shall produce Guidance to accompany this Act, which Guidance shall be reviewed by it from time to time. Such Guidance shall be taken into account by all those using or affected by this Act.