

Briefing from the Cutting Edge Consortium (CEC)

Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2011 – Baroness O’Cathain

Short Debate – House of Lords, Thursday 15 December

Summary

Conservative peer, Baroness O’Cathain, has tabled a ‘prayer’ to force a short debate on – and seeking to annul – the Regulations which would allow civil partnership ceremonies to be held on religious premises. A Member can table a ‘prayer’ against a negative Statutory Instrument. Under the standard negative procedure, the SI is annulled if the prayer motion is agreed by the House within 40 days of the SI being laid.

The Cutting Edge Consortium (CEC), which brings together many religious, humanist and secular groups, trades unions, human rights campaigners and others, believes that the change in the law to allow civil partnerships on religious premises is permissive, and urges Peers to **reject** the prayer motion in order to retain the Regulations.

The CEC believes that to annul the Regulations would represent a significant blow to equality and to religious freedom.

Detail

Section 202 of the Equality Act 2010 (created by the cross-Party ‘Alli amendment’ which passed by a large majority in the Lords in March 2010) lifted the ban on civil partnership ceremonies being conducted on religious premises. However, Section 202 cannot come into force until Parliament passes regulations to specify who has the right to register premises for civil partnerships, and who has the right to object.

The amendment was always intended to be entirely permissive – only religious groups who wanted to and gave express permission would be able to conduct civil partnerships on their premises. The civil partnership ceremony would still need to be wholly secular but would allow those (currently very few) religious groups keen to allow such a ceremony in their places of worship to do so, bound by the stringent remit of the Regulations. Indeed, the wording of Section 202(4) of the Equality Act 2010 is explicit. It provides that the following should be inserted after section 6(3) of the Civil Partnership Act:

“(3A) For the avoidance of doubt, nothing in this Act places an obligation on religious organisations to host civil partnerships if they do not wish to do so.”

Moreover, both the previous and present governments, and legal experts, including the Legal Office of the General Synod of the Church of England, the government’s lawyers, the Equality and Human Rights Commission, and in the opinion of Paul Goulding QC, Blackstone chambers, have made expressly clear that no religious group would be liable under the Equality Act 2010 and so could not be forced or compelled to host civil partnerships if it did not want to. That is also the agreed opinion of the wide range of supporters for Section 202, including many religious groups and leading gay equality groups.

It is also clear that gay and lesbian couples would not be able to make a legal challenge against religious groups, such as the Church of England, which refused to allow them to hold a civil partnership ceremony in their church or other place of worship. As a leading Oxford academic notes, 'A Church of England parish is not a public authority. Therefore it does not have the duty of equal treatment of same-sex and opposite-sex partners, and would be free to marry straight couples *and* to refuse to host civil partnerships ceremonies.¹⁷

In his Opinion, Paul Goulding QC sets out: why there is 'no real prospect' that churches or ministers could be liable for sexual orientation discrimination once the Regulations come into effect; and why the written Opinion of Professor Mark Hill QC (08/11/11), which suggests that the Regulations do not afford religious groups protection from the Equality Act, is based 'in large part of misunderstanding of the relevant statutory provisions'. The CEC commends Mr Goulding's Opinion, and is happy to provide an electronic copy on request.

Effect

Allowing the Regulations to pass would ensure a distinct religious freedom by allowing those religious groups who wish to, such as the Unitarians, Quakers and Liberal Jews, to host civil partnership ceremonies on their premises.

The Cutting Edge Consortium supports the permissiveness of Section 202 of the Equality Act 2010 and would not wish any religious group to be forced to hold civil partnership ceremonies if it did not wish to. However, CEC is convinced that once the Regulations come into force, they will be entirely permissive as intended.

The CEC urges Peers to participate in the short debate and to reject the prayer motion.

About the CEC

The Cutting Edge Consortium is an alliance comprising the following organisations:

A: Gender, British Humanist Association, The Campaign for Homosexual Equality, Centre for the Study of Christianity & Sexuality, Ekklesia, Gay and Lesbian Humanist Association, The General Assembly of Unitarian and Free Christian Churches (Great Britain), Inclusive Church, Interfaith Alliance UK, Lesbian & Gay Christian Movement, LGBT Consortium of Voluntary & Community Organisations, Liberal Judaism, Muslim Education Centre Oxford, National Secular Society, Newington Green and Islington Unitarians, Pink Triangle Trust, Progressive British Muslims, Trades Union Congress.

The Aims of the Cutting Edge Consortium:

- Promoting equality and human rights across religions and beliefs
- Gathering into association people of all religious and non-religious beliefs, to promote equality and human rights of lesbian, gay, bisexual and transgendered people
- Advocates for LGBT people across communities based on religion or belief and related organisations

Contact the CEC:

cuttingedgeconsortium1@googlemail.com, 020 8986 0807 or 07714 206404
PO Box 24632, London E9 6XF

¹ See, for example and more explanation on why religious groups will not be exposed to litigation for refusing to conduct civil partnerships unless the disputed Regulations are annulled, a Memorandum by Scot M. Peterson, J.D., D.Phil. (Oxon), 25 November 2011, attached with this Briefing or at http://users.ox.ac.uk/~sedm2263/index_files/Peterson%20Memorandum.pdf