CONVENTION RIGHTS MEMORANDUM

Marriage and Civil Partnership Bill

INTRODUCTION

1. This memorandum has been prepared for the Committee for Finance ('the Committee') to assist with its scrutiny of the Marriage and Civil Partnership Bill ('the Bill').

2. The Bill was introduced on 16 March 2026. This memorandum addresses issues arising under the European Convention on Human Rights ('the Convention) and Article 2(1) of the Windsor Framework ('Article 2(1)'), in relation to the Bill. It has been prepared by the Legal Services Office.

3. The memorandum does not constitute legal advice but sets out whether this Bill engages Convention rights, and where there is potential interference with a Convention right, those clauses which may merit further scrutiny by the Committee.

4. Where a clause of the Bill may occasion interference with one or more Convention rights, that clause may merit further scrutiny by the Committee and discussion with the Department of Finance ('the Department').

5. Where a clause of the Bill may engage rights which fall within the scope of Article 2(1), the rights issues in those clauses are set out, and that clause may also merit further scrutiny and discussion with the Department.

6. The Convention rights given effect in domestic law are set out at Annex A to this memorandum. The text of Article 2(1) of the Windsor Framework and its associated annex is at Annex B to the memorandum.

SUMMARY OF THE BILL

7. The Bill consists of 13 clauses, divided into 3 parts, and a Schedule. The long title describes it as,

> *'A Bill to make provision as to the persons who may solemnise marriage; to make provision about the minimum age for marriage and civil partnership; and for connected purposes'*

8. The Explanatory and Financial Memorandum ('EFM') notes the dual purpose of the Bill. Part 1 of the Bill will cement the inclusion of non-religious belief marriages within the statutory framework of the Marriage (Northern Ireland) Order 2003 ('the 2003 Order') and Part 2 increases the minimum age of marriage and civil partnership from 16 to 18.

9. The Bill is divided into 3 parts as follows:

- Part 1 deals with the inclusion of non-religious belief marriages within the statutory framework of the 2003 Order;
- Part 2 deals with increasing the minimum age of marriage and civil partnership;
- Part 3 deals with interpretation, consequential amendments, commencement and the Bill's short title.

SECTION 1: CONVENTION RIGHTS

10. This section sets out the Convention rights[1] which the Legal Services Office considers may be engaged by the Bill. These Convention rights are marked in the table below.

Part I	**The Convention Rights and Freedoms**	Engaged?
Article 2	Right to life	
Article 3	Prohibition of Torture	
Article 4	Prohibition of slavery and forced labour	
Article 5	Right to liberty and security	
Article 6	Right to a fair trial	x
Article 7	No punishment without law	x
Article 8	Right to respect for private and family life	x
Article 9	Freedom of thought, conscience and religion	x
Article 10	Freedom of expression	
Article 11	Freedom of assembly and association	
Article 12	Right to marry	x
Article 14	Prohibition of discrimination	x
Part II	**The First Protocol**	
Article 1	Protection of Property	
Article 2	Right to Education	
Article 3	Right to free elections	

[1] As set out in Section 1(1) and Schedule 1 of the Human Rights Act 1998, see Annex A for further guidance

CLAUSES FOR FURTHER CONSIDERATION

11. This section of the memorandum only deals with provisions of the Bill which may raise Convention rights issues. The remaining provisions of the Bill are not considered to engage the Convention rights.

Clause 1

12. Clause 1 broadens the definition of 'religious body' to include 'belief bodies,' in the 2003 Order, creating a framework for non-religious organisations to have authorised celebrants conduct legally recognised marriages. Clause 1(2)(d) inserts a new paragraph (2)(aa) into Article 10 of the 2003 Order which allows the Registrar General to refuse registration where prescribed qualifying criteria are not met.

Rights engaged: Article 9; Article 12; Article 14

13. Clause 1 engages Article 9 (freedom of thought, conscience and religion) by extending legal recognition from religious bodies to 'belief bodies,' thereby enabling non-religious organisations to collectively manifest their beliefs through legally recognised marriage ceremonies. This represents a positive enhancement of Article 9 rights, which protect both religious and philosophical beliefs in practice and observance. However, the clause also permits the Registrar General to refuse registration where prescribed qualifying criteria are not met, which could amount to an interference with Article 9 if it restricts a group's ability to organise and manifest its beliefs (assuming those beliefs include the solemnisation of marriage) subject to justification under Article 9(2).

14. Clause 1 also engages Article 12 (right to marry) by expanding the categories of organisations authorised to solemnise marriages to include 'belief bodies.' This enhances individuals' ability to marry in accordance with their philosophical or non-religious beliefs, thereby widening practical access to marriage in a form meaningful to them. While Article 12 allows states to regulate the formalities of marriage, the Registrar General's power to refuse registration could engage the right where it limits access to a preferred type of ceremony, although such regulation is generally permissible if it remains reasonable and proportionate.

15. Article 14 prohibits discrimination in the enjoyment of other Convention rights. Clause 1 engages Article 14, read with Article 9 and Article 12, by addressing differential treatment between religious organisations and non-religious belief bodies. By extending the legal framework to include 'belief bodies,' it promotes equality and reduces discrimination based on religion or belief in the context of marriage recognition and solemnisation. However, the power to refuse registration where qualifying criteria are not met could raise Article 14 issues if

those criteria are applied in a way that disproportionately or unjustifiably disadvantages certain belief groups compared to religious bodies.

16. As the prescribed qualifying criteria will be set out in regulations, the Committee may wish to seek further detail from the Department on their proposed content and application to ensure compliance with Convention requirements. In particular, any criteria must be applied in a manner that is proportionate and pursues a legitimate aim in accordance with Article 9(2), must not impose unreasonable restrictions on individuals' practical ability to marry in accordance with their beliefs under Article 12, and must avoid unjustified differential treatment between religious and belief bodies so as to comply with Article 14.

17. The Committee will, however, note that under section 24 of the Northern Ireland Act 1998, Ministers and departments have no power to make, confirm or approve any subordinate legislation, or to do any act, so far as the legislation or act is incompatible with any Convention rights. The Committee may reasonably expect that these regulation-making powers will be exercised in a way which is compatible with Convention rights.

Clause 2

18. Clause 2 extends the existing power to grant temporary authorisation to solemnise religious marriages in the 2003 Order so that it also applies to belief bodies and inserts a new paragraph (1ZA) requiring the Registrar General to refuse authorisation where the body does not meet prescribed qualifying criteria.

Right engaged: Article 9; Article 12 and Article 14

19. Clause 2 engages Articles 9, 12 and 14 by extending temporary authorisation to solemnise marriages to 'belief bodies', thereby facilitating the collective manifestation of non-religious beliefs through legally recognised ceremonies and enhancing individuals' ability to marry in accordance with their beliefs. Similar to clause 1, this represents a positive enhancement of Convention rights. However, the requirement that the Registrar General must refuse authorisation where prescribed qualifying criteria are not met may amount to an interference with these rights, insofar as it could restrict a body's ability to manifest its beliefs or individuals' access to a belief-based marriage ceremony, and must therefore be justified as proportionate, in pursuit of a legitimate aim, and applied in a non-discriminatory manner in accordance with Articles 9(2), 12 and 14.

20. As the qualifying criteria will be set out in regulations, the Committee may wish to seek further detail from the Department on their proposed content and application to ensure compliance with Articles 9(2), 12 and 14, including how they will operate in practice to avoid disproportionate restrictions on belief bodies or unjustified differential treatment.

Clause 5

21. Clause 5 raises the minimum legal age for marriage to 18, making any marriage involving a person under that age void and removing provisions in the 2003 Order that previously allowed 16 and 17-year-olds to marry with consent.

Rights engaged: Article 8; Article 12 and Article 14

22. Clause 5 engages Articles 8, 12 and 14 by raising the minimum age of marriage to 18 and removing provisions permitting marriage under that age. The clause also engages Article 8, as decisions about marriage form part of private and family life. It also engages Article 12 by imposing a restriction on the right to marry for individuals aged 16–17. In addition, Article 14 may be engaged if the measure has differential impacts on certain cultural or religious groups.

23. Overall, the clause is likely to be compatible with the Convention as a proportionate measure pursuing a legitimate aim, particularly for the protection of minors.

24. The Committee may wish to seek further detail from the Department on the assessment undertaken to ensure compliance with Articles 8, 12 and 14, including how the restriction on 16 and 17 year olds will operate in practice and whether it may give rise to disproportionate impacts on particular groups or unjustified differential treatment.

Clause 6

25. Clause 6 extends the offence of forced marriage under section 16 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 to create a new offence criminalising any conduct carried out with the purpose of causing a child (under 18) to marry. It applies regardless of whether force, threats or coercion are used, and even if the conduct takes place outside Northern Ireland.

Right engaged: Article 6; Article 7, Article 8; Article 12 and Article 14

26. Article 6(1) is engaged where there is to be a determination of an individual's civil rights and obligations, or of any criminal charge against them. Article 6 requires that the law creating an offence is adequately accessible, and is formulated with sufficient precision to enable the citizen, if necessary with legal advice, to regulate his conduct. Article 7 is also engaged as it creates a new criminal offence and it requires that the scope of the offence is clearly defined, foreseeable in its application and does not impose retrospective criminal liability.

27. The Committee should be satisfied that the particulars of this offence are sufficiently clear, foreseeable and it does have retrospective effect (in this regard we note the transitional provisions in clause 10).

28. The clause also engages Article 8 by interfering with matters of personal autonomy and family life, and Article 12 by restricting the ability of individuals under 18 to marry, although this is likely to be justified by the aim of protecting children. It also engages Article 14, read with Articles 8 and 12, insofar as the offence may have a disproportionate impact on certain cultural or religious groups, requiring that its application be non-discriminatory and proportionate.

29. The Committee may wish to seek further detail from the Department on the assessment undertaken to ensure compliance with the above Convention rights, in particular how the offence has been framed to operate proportionately, to avoid unjustified differential impacts on particular groups, and ensure that appropriate procedural safeguards are in place for individuals subject to criminal liability.

Clause 7

30. Clause 7 amends the Civil Partnership Act 2004 to bring civil partnership law into line with the new minimum age for marriage in clause 5, so that any civil partnership involving a person under 18 will no longer be permitted.

Right engaged: Article 8; Article 12; Article 14

31. Clause 7 engages Articles 8, 12 and 14 by raising the minimum age for entering into a civil partnership to 18 and removing the possibility for 16 and 17-year-olds to enter into a civil partnership with consent.

32. It engages Article 8, as the decision to enter into a civil partnership is part of private and family life. It also engages Article 12 by restricting access to a legally recognised union for those under 18. In addition, Article 14, read with Articles 8 and 12, may be engaged if the measure has a disproportionate impact on certain groups, requiring that it be justified as a proportionate and non-discriminatory means of pursuing the legitimate aim of protecting young people.

33. The Committee may wish to seek further detail from the Department on the assessment undertaken to ensure compliance with Articles 8, 12 and 14 including how the restriction on 16 and 17 year olds entering into civil partnerships will operate in practice and whether it may give rise to disproportionate impacts on particular groups or unjustified differential treatment.

Clause 8

34. Clause 8 provides that certain civil partnerships formed outside Northern Ireland will not be legally recognised where one of the parties was under 18 and domiciled in Northern Ireland at the time of registration.

Rights engaged: Article 8; Article 12 and Article 14

35. Clause 8 engages Articles 8, 12 and 14 by providing that a civil partnership registered outside Northern Ireland will be void where one party was under 18 and domiciled in Northern Ireland at the time. It engages Article 8, as recognition of personal relationships formed abroad falls within private and family life. It also engages Article 12 by restricting the recognition of certain civil partnerships entered into abroad, thereby limiting access to legal recognition of that union. In addition, Article 14, read with Articles 8 and 12, may be engaged if the provision disproportionately affects individuals from jurisdictions where civil partnerships are permitted under 18, requiring that the rule be justified as proportionate and non-discriminatory in pursuit of the legitimate aim of protecting young people.

36. The Committee may wish to seek further detail from the Department on the assessment undertaken to ensure compliance with Articles 8, 12 and 14, including how the non-recognition of civil partnerships formed abroad involving persons under 18 will operate in practice and whether it may give rise to disproportionate impacts on particular groups or unjustified differential treatment.

Clause 10

37. Clause 10 makes transitional provisions to ensure that changes raising the minimum age for marriage and civil partnership to 18 do not apply retrospectively. It also allows intended marriages and civil partnerships involving 16 and 17-year-olds to proceed under the previous legal framework where sufficient steps, such as giving notice and obtaining required consents, were completed before that date, including for marriages taking place abroad. Additionally, it ensures that existing overseas civil partnerships registered before the commencement date continue to be recognised.

Rights engaged: Article 8; Article 12 and Article 14

38. Clause 10 engages Articles 8, 12 and 14 by preserving the validity of marriages and civil partnerships entered into, or substantially progressed, before the new minimum age applies. It engages Article 8 as it relates to personal autonomy. It also engages Article 12 as it protects individuals' ability to proceed with a lawful marriage or civil partnership under the previous legal framework, thereby safeguarding legitimate expectations. In addition, Article 14, read with Articles 8 and 12, is engaged insofar as the clause distinguishes between those who had

taken the necessary steps before the relevant date and those who had not. This differential treatment is likely to be justified as a proportionate and necessary transitional measure to ensure fairness and legal certainty.

SECTION 2: ARTICLE 2(1) OF THE WINDSOR FRAMEWORK

39. It is not considered that any clause in the Bill falls within the scope of Article 2(1) of the Windsor Framework.

SECTION 3: SUMMARY

- Clauses or provisions of Schedules to the Bill which call for particular scrutiny by the Committee have been set out in Section 1.
- Minor elucidation might be sought from the Department on how several provisions will operate in practice, but none raise particular concerns as regards compatibility with the Convention.
- Article 2(1) is not engaged by the Bill.

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Legal Services Office
May 2026

ANNEX A: THE CONVENTION RIGHTS AND FREEDOMS

Article 2: Right to life

(1) Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

(2) Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3: Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 4: Prohibition of slavery and forced labour

(1) No one shall be held in slavery or servitude.

(2) No one shall be required to perform forced or compulsory labour.

(3) For the purpose of this Article the term "forced or compulsory labour" shall not include:

- (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
- (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
- (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
- (d) any work or service which forms part of normal civic obligations.

Article 5: Right to liberty and security

(1) Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

(2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

(3) Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

(4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

(5) Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

Article 6: Right to a fair trial

(1) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

(2) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

(3) Everyone charged with a criminal offence has the following minimum rights:
    (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
    (b) to have adequate time and facilities for the preparation of his defence;
    (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
    (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
    (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7: No punishment without law

(1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

(2) This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Article 8: Right to respect for private and family life

(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9: Freedom of thought, conscience and religion

(1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

(2) Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society

in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10: Freedom of expression

(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11: Freedom of assembly and association

(1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

(2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 12: Right to marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 16: Restrictions on political activity of aliens

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

Article 17: Prohibition of abuse of rights

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 18: Limitation on use of restrictions on rights

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

Article 1 of the First Protocol: Protection of property

(1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

(2) The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 2 of the First Protocol: Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Article 3 of the First Protocol: Right to free elections

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

ANNEX B: ARTICLE 2 OF THE WINDSOR FRAMEWORK

Article 2: Rights of individuals

(1) The United Kingdom shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination, as enshrined in the provisions of Union law listed in Annex 1 to this Protocol, and shall implement this paragraph through dedicated mechanisms.

(2) The United Kingdom shall continue to facilitate the related work of the institutions and bodies set up pursuant to the 1998 Agreement, including the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland and the Joint Committee of representatives of the Human Rights Commissions of Northern Ireland and Ireland, in upholding human rights and equality standards.

Annex 1: provisions of Union law referred to in Article 2(1)

- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services[1]
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation[2]
- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin[3]
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation[4]
- Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC[5]
- Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security[6]

[1] OJ L 373, 21.12.2004, p. 37.
[2] OJ L 204, 26.7.2006, p. 23.
[3] OJ L 180, 19.7.2000, p. 22.
[4] OJ L 303, 2.12.2000, p. 16.
[5] OJ L 180, 15.7.2010, p. 1.
[6] OJ L 6, 10.1.1979, p. 24.