Draft Order laid before Parliament under section 18(2) of the Marriage (Same Sex Couples) Act 2013, section 259(8) of the Civil Partnership Act 2004 and section 62(3) of the Human Fertilisation and Embryology Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

MARRIAGE
CIVIL PARTNERSHIP
HUMAN FERTILISATION AND EMBRYOLOGY

The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014

Made - - - - ***
Coming into force in accordance with article 1(2) and (3)

A draft of this Order was laid before and approved by a resolution of each House of Parliament in accordance with section 18(2) of the Marriage (Same Sex Couples) Act 2013(**1**), section 259(8) of the Civil Partnership Act 2004(**2**) and section 62(3) of the Human Fertilisation and Embryology Act 2008(**3**).

In accordance with section 18(11)(a) of the Marriage (Same Sex Couples) Act 2013, the Secretary of State has obtained the consent of the Scottish Ministers to the making of article 5 of, and paragraph 31 of Schedule 1 to, this Order.

This Order is made in exercise of the powers conferred by sections 17(2), (3) and 18(10) of, and paragraph 1(1) of Schedule 2 and paragraph 27(3)(a) and (b) of Schedule 4 to, the Marriage (Same Sex Couples) Act 2013, and in exercise of the powers conferred by section 259(1) and (3) of the Civil Partnership Act 2004 and by section 64(1) and (2) of the Human Fertilisation and Embryology Act 2008.

The Secretary of State, in exercise of those powers, makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014.

(**1**) 2013 c. 30.
(**2**) 2004 c. 33.
(**3**) 2008 c. 22.

(2) Subject to paragraph (3), this Order comes into force on 13th March 2014.

(3) The amendment made to the Family Law (Scotland) Act 2006(**4**) at paragraph 31 of Schedule 1 comes into force on 3rd June 2014.

(4) In this Order—

"the Act" means the Marriage (Same Sex Couples) Act 2013; and

"the 2004 Act" means the Civil Partnership Act 2004.

Consequential amendments to Acts of Parliament

2. Schedule 1 to this Order (which amends primary legislation in consequence of the Act, the 2004 Act and the Human Fertilisation and Embryology Act 2008) has effect.

Contrary provision to section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act

3. Schedule 2 to this Order (which makes provision to which section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act are subject and which disapplies that section and those paragraphs in specified cases) has effect.

Consequential amendments to enactments etc. as a result of contrary provision made by Schedule 2

4. Schedule 3 to this Order (which makes amendments to enactments etc. in consequence of the provision made by Schedule 2 to this Order) has effect.

Scotland

5. Under the law of Scotland, a marriage of a same sex couple under the law of England and Wales is to be treated as a civil partnership formed under the law of England and Wales, and accordingly, the spouses are to be treated as civil partners.

Extent

6.—(1) Subject to paragraphs (2) to (4), this Order extends to England and Wales only.

(2) The amendment to the Family Law (Scotland) Act 2006 at paragraph 31 of Schedule 1, and article 2 so far as it relates to that paragraph, extend to Scotland only.

(3) The following provisions extend also to Scotland—

(a) article 1,

(b) the amendment to the 2004 Act at paragraph 29(1) and (2) of Schedule 1, and article 2 so far as it relates to that paragraph,

(c) article 5, and

(d) this article.

(4) The following provisions extend also to Northern Ireland—

(a) article 1,

(b) the amendment to the 2004 Act at paragraph 29(1) and (2) of Schedule 1, and article 2 so far as it relates to that paragraph, and

(c) this article.

(**4**) 2006 asp. 2.

Secretary of State for Culture, Media and Sport
and
Date Minister for Women and Equalities

SCHEDULE 1

Article 2

Consequential Amendments to Primary Legislation

Metropolitan Public Carriage Act 1869

1. In section 6 of the Metropolitan Public Carriage Act 1869(**5**) (grant of hackney carriage licences)—

(a) in subsection (9)(a)—

(i) for "widow" in both places it occurs, substitute "surviving spouse or surviving civil partner", and

(ii) omit "and", and

(b) omit subsection (9)(b).

Pensions Commutation Act 1871

2. In section 4 of the Pensions Commutation Act 1871(**6**) (power to Treasury to commute pensions), for subsection (2) substitute—

"(2) Where any officer in the naval or land forces of Her Majesty whose pension has been commuted under this Act subsequently marries or forms a civil partnership, the officer's surviving spouse or surviving civil partner shall not be entitled to any pension, and a child of any such officer born after the date of the commutation of the pension shall not be entitled to compassionate allowance:".

Local Government (Emergency Provisions) Act 1916

3. For section 2 of the Local Government (Emergency Provisions) Act 1916(**7**) (payments under superannuation schemes) substitute—

"If an officer or servant of a local authority dies whilst serving in or with His Majesty's forces, or in consequence of wounds or disease received or contracted during such service which prevented that person from returning to the service of the local authority, the local authority shall have, and shall be deemed always to have had, power to make to that person's surviving spouse, surviving civil partner or other dependants, such payments as could have been made to them under any superannuation scheme (whether established by statute or otherwise) in force in the district had that person been actually serving the local authority at the time of death.".

Population (Statistics) Act 1938

4. For paragraph 1(d) of the Schedule to the Population (Statistics) Act 1938(**8**) (particulars which may be required to be provided to registration officer) substitute—

"(d) where the birth is of a child to whom section 1(3) of that Act applies by reason of any marriage or civil partnership between the child's parents—

(i) the date of the marriage or formation of the civil partnership, and

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(**5**) 1869 c. 115; section 6 was substituted by the Greater London Authority Act 1999 (c. 29), Schedule 20, paragraph 5(1) and (3).
(**6**) 1871 c. 36; section 4(2) was amended by the 2004 Act, Schedule 26, paragraph 3(1); it was repealed in relation to certain persons by the Superannuation Act 1972 (c. 11), Schedule 8. There are other amendments to section 4 not relevant to this Order.
(**7**) 1916 c. 12.
(**8**) 1938 c. 12; the Schedule was substituted by the Schedule to the Population (Statistics) Act 1960 (c. 32), section 1(2); paragraph 1(c) to (e) was inserted in relation to England and Wales by the Welfare Reform Act 2009 (c. 24), Schedule 6, paragraph 20(1)(b) and (2). There are other amendments to the Schedule not relevant to this Order.

(ii) whether before she married, or formed the civil partnership with, the child's other parent, the mother had been married to, or had formed a civil partnership with, any other person;".

Marriage Act 1949

5.—(1) The Marriage Act 1949(**9**) is amended as follows.

(2) In section 28(**10**) (declaration to accompany notice of marriage), in subsection (1)(c), for "or widow" substitute ", widow or surviving civil partner".

(3) After section 42(3)(**11**) (cancellation of registration of building) insert—

"(3A) In a case where—

(a) the registration of a building is cancelled under this section, and

(b) the building is also registered under section 43A,

the Registrar General must also cancel the registration under section 43A.".

(4) In section 49A(**12**) (which provides marriages of same sex couples may be void in the absence of the required consent), in subsection (2), after paragraph (b) insert—

"(ba) section 26A(3) and under any regulations made under section 44C that require the consent to use of a building for the solemnization of marriages of same sex couples, in a case where section 26A and section 44C apply to the marriage;".

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

6. In the closing words of section 46(3) of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(**13**) (payments to make up civil remuneration), for "his widow" substitute "that person's surviving spouse, surviving civil partner".

Births and Deaths Registration Act 1953

7. In the heading to section 10 of the Births and Deaths Registration Act 1953(**14**) (registration of father or of second female parent where parents neither married nor civil partners), before "civil partners" insert "married or".

Registration of Births, Deaths and Marriages (Special Provisions) Act 1957

8. In section 5(3) of the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957(**15**) (registration of births of legitimated persons in the service departments registers), in paragraph (b), for "is" substitute "includes".

(**9**) 1949 c. 76.

(**10**) Subsection (1)(c) was amended by the Family Law Reform Act 1987 (c. 42), Schedule 2, paragraph 9. There are other amendments to section 28 not relevant to this Order.

(**11**) Section 42 was amended by the Marriage Acts Amendment Act 1958 (c. 29), section 1(1) and by the Act, Schedule 7, paragraphs 2 and 9.

(**12**) Section 49A was inserted by the Act, Schedule 7, paragraphs 2 and 15.

(**13**) 1951 c. 65; paragraph (a)(i) and (ii) of section 46(3) was substituted by the Superannuation Act 1972, Schedule 6, paragraph 30; paragraph (a)(iii) was amended by the Fire and Rescue Services Act 2004 (c. 21), Schedule 1, paragraph 12(1) and (2); paragraph (a) was amended, and paragraph (b) inserted, by the 2004 Act, Schedule 26, paragraph 25(1) and (3). There are other amendments to section 46 not relevant to this Order.

(**14**) 1953 c. 20; the heading to section 10 was substituted by the Family Law Reform Act 1987, section 24 and subsequently substituted by the Human Fertilisation and Embryology Act 2008, Schedule 6, paragraph 5(1) and (2). There are other amendments to section 10 not relevant to this Order.

(**15**) 1957 c. 58; section 5(3) was inserted by the Human Fertilisation and Embryology Act 2008, Schedule 6, paragraph 12. There are other amendments to section 5 not relevant to this Order.