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

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

MARRIAGE
CIVIL PARTNERSHIP

The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) (No. 2) 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**) and section 259(8) of the Civil Partnership Act 2004(**2**).

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 articles 4 and 5 of this Order.

This Order is made in exercise of the powers conferred by sections 17(1) to (3) and 18(4) and (10) of, and paragraph 1 of Schedule 2 and paragraph 27(3)(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.

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) (No. 2) Order 2014.

(2) Subject to paragraph (3), this Order comes into force on 10th December 2014.

(3) Articles 4 and 5 come into force on the day on which section 4(1) of the Marriage and Civil Partnership (Scotland) Act 2014(**3**) comes into force.

(4) In this Order "the Act" means the Marriage (Same Sex Couples) Act 2013.

(**1**) 2013 c. 30.
(**2**) 2004 c. 33.
(**3**) 2014 asp 5.

Consequential amendments to Acts of Parliament

2. Schedule 1 to this Order (which amends Acts of Parliament in consequence of the Act and the Civil Partnership Act 2004) 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 disapplies section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act in specified cases and which makes consequential provision in respect of those specified cases as a result) has effect.

Revocation of article 5 of the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014

4. Article 5 of the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014(**4**) is revoked.

Transitional and saving provision relating to article 4

5.—(1) The revocation of article 5 of the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 does not affect—

(a) anything done prior to the date of revocation by one or both of the deemed civil partners—

(i) in relation to the deemed civil partnership, or

(ii) otherwise as a deemed civil partner,

(b) anything done prior to the date of revocation by any other person in relation to—

(i) a deemed civil partnership, or

(ii) one or both of the deemed civil partners (as a deemed civil partner), or

(c) any relevant court proceedings which have concluded prior to the date of revocation.

(2) Anything done prior to the date of revocation—

(a) by one or both of the deemed civil partners (as a deemed civil partner) is to be treated on or after the date of revocation as if it had been done by that person or those persons as a married person or as a married couple, or

(b) by any other person in relation to a deemed civil partnership, or in relation to one or both of the deemed civil partners (as a deemed civil partner), is to be treated on or after the date of revocation as if it had been done by the other person in relation to a marriage or in relation to that person or those persons as a married person or as a married couple.

(3) In any relevant court proceedings which have not concluded prior to the date of revocation and in any document made prior to the date of revocation—

(a) a reference to a deemed civil partnership has effect on or after the date of revocation as, or as including, a reference to a marriage, and

(b) a reference to one or both of the deemed civil partners has effect on or after the date of revocation as, or as including, a reference to that person or those persons as a married person or as a married couple.

(4) In its application to a document made prior to the date of revocation, paragraph (3) is subject to any contrary intention appearing from the document.

(5) A reference in this article to anything done includes a reference to anything not done.

(**4**) S.I. 2014/560.

(6) In this article—

(a) "date of revocation" means the date on which the revocation of article 5 of the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 comes into force,

(b) "deemed civil partnership" refers to a marriage of a same sex couple under the law of England and Wales which has been treated as a civil partnership under the law of Scotland by virtue of article 5 of the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014, and "deemed civil partner" is to be construed accordingly,

(c) "document" has the same meaning as in Schedule 1 to the Interpretation and Legislative Reform (Scotland) Act 2010(**5**),

(d) "relevant court proceedings" means any proceedings in a court or tribunal commenced prior to the date of revocation which concern—

(i) a deemed civil partnership, or

(ii) one or both of the deemed civil partners (as a deemed civil partner).

Extent

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

(2) The following provisions extend also to Scotland—

(a) article 1,

(b) articles 4 and 5, and

(c) this article.

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

(**5**) 2010 asp 10.

SCHEDULE 1 Article 2

Consequential Amendments to Acts of Parliament

Wills Act 1837

1.—(1) The Wills Act 1837(**6**) is amended as follows.

(2) In section 18(**7**) (will to be revoked by marriage)—

(a) in subsection (1), for "(4)" substitute "(5)", and

(b) after subsection (4) insert—

"(5) Nothing in this section applies in the case of a marriage which results from the conversion of a civil partnership into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section.".

(3) After section 18C(**8**) insert—

"**Effect on subsisting will of conversion of civil partnership into marriage**

18D.—(1) The conversion of a civil partnership into a marriage does not—

(a) revoke any will made by a party to the civil partnership before the conversion, or

(b) affect any disposition in such a will.

(2) The conversion of a civil partnership into a marriage does not affect any previous application of section 18B(2) to (6) to—

(a) a will made by a party to the civil partnership before the conversion, or

(b) a disposition in such a will.

(3) Subsections (1) and (2) are subject to subsection (4).

(4) Any reference in a will to a civil partnership or civil partners (howsoever expressed) is to be read in relation to any civil partnership that has been converted into a marriage, or civil partners who have converted their civil partnership into a marriage, as referring to that marriage or married couple, as appropriate.

(5) Subsection (4) is subject to any contrary intention appearing from the will.

(6) In this section "conversion" means the conversion of a civil partnership into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section, and "converted" is to be read accordingly.".

Perjury Act 1911

2.—(1) Section 3 of the Perjury Act 1911(**9**) (false statements, etc, with reference to marriage) is amended as follows.

(2) In subsection (1)(b)—

(a) after "register of marriage" insert "or register of conversions", and

(b) after "marriage" in the second place it occurs, insert "or any civil partnership which is to be converted into a marriage".

(3) After subsection (2), insert—

(**6**) 1837 c. 26.
(**7**) Section 18 was substituted in relation to England and Wales by the Administration of Justice Act 1982 (c. 53) section 18(1).
(**8**) Section 18C was inserted by the Civil Partnership Act 2004, Schedule 4, paragraphs 1, 2 and 5.
(**9**) 1911 c. 6; there are amendments to section 3 not relevant to this Order.

"(3) In subsection (1)(b), "register of conversions" means the register of conversions of civil partnerships into marriages kept by the Registrar General in accordance with section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section.".

Marriage Act 1949

3.—(1) The Marriage Act 1949(**10**) is amended as follows.

(2) In section 46(**11**) (register office marriage followed by religious ceremony), in subsection (2)—

(a) for "any marriage previously solemnised in the presence of a superintendent registrar" substitute "the relevant marriage", and

(b) at the end insert "or in the register of conversions of civil partnerships into marriages kept by the Registrar General in accordance with section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section.".

(3) In section 65(**12**) (searches of indexes kept by Registrar General)—

(a) after subsection (1), insert—

"(1A) The Registrar General shall cause indexes of all copies of entries in consular marriage registers sent to the Registrar General to be made and kept in the General Register Office.",

(b) in subsection (2), after "register books," insert "or entry in the consular marriage register, as the case may be,", and

(c) after subsection (3) insert—

"(3A) In this section, "consular marriage register" means any register of marriages required to be maintained by an Order under Part 1 of Schedule 6 to the Marriage (Same Sex Couples) Act 2013.".

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

4.—(1) The Registration of Births, Deaths and Marriages (Special Provisions) Act 1957(**13**) is amended as follows.

(2) In section 1(**14**) (records of deaths, births and marriages among armed forces and service civilians and their families overseas), in subsection (1), for "solemnised" substitute "entered into".

(3) In section 3(**15**) (general provisions as to service departments records), after "1874" in both places it occurs insert "or of regulations made under section 9 of the Marriage (Same Sex Couples) Act 2013".

(**10**) 1949 c. 76.
(**11**) Section 46(2) was amended by the Marriage Act 1983 (c. 32), Schedule 1, paragraph 12. Section 46(1) was amended by, and section 46(1A) to (1D) was inserted by, the Act, Schedule 7, paragraph 13(1) to (3).
(**12**) Section 65(2) was amended by the Registration Service Act 1953 (c. 37), Schedule 1 and by S.I. 1968/1242 and S.I. 2010/441. Subsection (4) was repealed by the Registration Service Act 1953, Schedule 2.
(**13**) 1957 c. 58.
(**14**) Section 1(1) was amended by the Civil Partnership Act 2004 (c. 33), Schedule 27, paragraph 21 and by the Armed Forces Act 2006 (c. 52), Schedule 16, paragraph 39(1) and (2). There are other amendments to section 1 not relevant to this Order.
(**15**) Section 3(3) was amended by S.I. 2002/1419.