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 115 of, and paragraphs 1 to 3 of Schedule 7 to, the Scotland Act 1998 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

MARRIAGE
CIVIL PARTNERSHIP
DEVOLUTION, SCOTLAND

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

Made - - - - 2014
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 115 of, and paragraphs 1 to 3 of Schedule 7 to, the Scotland Act 1998(**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 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, section 259(1) and (3) of the Civil Partnership Act 2004 and sections 104, 112(1) and 113(2) to (3) and (5) of the Scotland Act 1998.

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

(**1**) 2013 c. 30.
(**2**) 2004 c. 33.
(**3**) 1998 c.46.

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) and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Provisions) Order 2014.

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

(3) The following provisions come into force on 16th December 2014—

(a) articles 4 and 5, and article 6 so far as it relates to those articles,

(b) so far as they extend to Scotland, the amendment to the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957(**4**) at paragraph 4 of the Schedule and articles 2 and 6 so far as they relate to that amendment.

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

Consequential amendments to Acts of Parliament

2. The Schedule to this Order (which amends Acts of Parliament in consequence of the Act, the Marriage and Civil Partnership (Scotland) Act 2014(**5**) 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. Section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act do not apply to Schedule 1, Part D, rule D.3, paragraph (4) and Schedule 2, Part C, rule C.2, paragraphs (4) and (5) to the Reserve Forces Non Regular Permanent Staff (Pension and Attributable Benefits Schemes) Regulations 2011(**6**).

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(**7**) 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.

(**4**) 1957 c. 58.
(**5**) 2014 asp 5.
(**6**) These Regulations are not statutory instruments. Copies can be found at www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations. Hard copies can be obtained from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.
(**7**) S.I. 2014/560.

(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.

(6) In this article—

(a) "date of revocation" means 16th December 2014,

(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(**8**),

(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,

(c) this article, and

(d) the amendment to the Registration of Births, Deaths and Marriages Act 1957 at paragraph 4 of the Schedule, and article 2 so far as it relates to that paragraph.

(**8**) 2010 asp 10.

Name
Secretary of State for Education and Minister for Women and Equalities

Date

Department for Education

SCHEDULE Article 2

Consequential Amendments to Acts of Parliament

Wills Act 1837

1.—(1) The Wills Act 1837(**9**) is amended as follows.

(2) In section 18(**10**) (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—

(a) 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; or

(b) the changing of a civil partnership formed under Part 3 of the Civil Partnership Act 2004 into a marriage under—

(i) the Marriage (Scotland) Act 1977(**11**);

(ii) the Marriage and Civil Partnership (Scotland) Act 2014; or

(iii) any order made under section 104 of the Scotland Act 1998 in consequence of the Marriage and Civil Partnership (Scotland) Act 2014.".

(3) After section 18C(**12**) 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—

(a) 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;

(**9**) 1837 c. 26.
(**10**) Section 18 was substituted in relation to England and Wales by the Administration of Justice Act 1982 (c. 53) section 18(1).
(**11**) 1977 c. 15.
(**12**) Section 18C was inserted by the Civil Partnership Act 2004, Schedule 4, paragraphs 1, 2 and 5.