

Draft Order in Council laid before Parliament under paragraph 13(1) of Schedule 6 to the Marriage (Same Sex Couples) Act 2013, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

MARRIAGE

The Overseas Marriage (Armed Forces) Order 2014

Made - - - - *****
Coming into force - - *3rd June 2014*

At the Court at Buckingham Palace, the * day of * 2014
Present,
The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by paragraphs 8, 9 and 14 of Schedule 6 to the Marriage (Same Sex Couples) Act 2013(1), is pleased, by and with the advice of Her Privy Council, to make the following Order.

In accordance with paragraph 13(1) of Schedule 6 to that Act a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement, and extent

1.—(1) This Order may be cited as the Overseas Marriage (Armed Forces) Order 2014 and comes into force on 3rd June 2014.

(2) This Order does not extend to Northern Ireland.

Interpretation

2. In this Order—

“the Act” means the Marriage (Same Sex Couples) Act 2013;

“relevant governing authority” means the person or persons recognised by members of a religious organisation as competent for the purpose of giving consent for the purposes of this Order.

Countries or territories in which armed forces marriages may take place

3. The marriage of two people may be solemnized in a country or territory outside the United Kingdom in the presence of an authorised person where—

- (a) the authorised person is satisfied that the conditions set out in paragraph 8(2) of Schedule 6 to the Act are met; and
- (b) in the case of a marriage of a same sex couple, the marriage takes place in a country or territory referred to in article 5.

Relevant part of the United Kingdom

4. For the purposes of paragraph 8(2)(b) of Schedule 6 to the Act the relevant part of the United Kingdom is the part nominated by the parties under article 6(3)(c).

Countries or territories in which the marriage of same sex couples may take place

5. The countries or territories in which two people of the same sex may marry each other in the presence of an authorised person are those countries or territories which have notified the Secretary of State in writing that there is no objection to such marriages taking place in that country or territory and have not subsequently revoked that notice.

Notice of intended marriage

6.—(1) Before any marriage can be solemnized under this Order, one of the parties to the proposed marriage must give notice of the parties' intention to marry to his or her commanding officer.

(2) The notice under paragraph (1) may only be given by a party to the proposed marriage who falls within one of the descriptions in paragraph 8(2)(a) of Schedule 6 to the Act.

(3) A notice under paragraph (1) must contain the following information—

- (a) in respect of each of the parties to the proposed marriage—
 - (i) forenames;
 - (ii) surname;
 - (iii) nationality;
 - (iv) date of birth;
 - (v) gender;
 - (vi) address or place of residence;
 - (vii) whether he or she has previously been a civil partner or married;
- (b) in respect of each of the parties to the proposed marriage who falls within one of the descriptions in paragraph 8(2)(a) of Schedule 6 to the Act—
 - (i) where that person is a member of Her Majesty's forces serving in the country or territory in which the marriage is proposed to take place, the name and location of the unit in which that person is serving;
 - (ii) where that person is a relevant civilian employed in that country or territory, the name and location of the post where that person is employed;
 - (iii) where the person falls within the description in paragraph 8(2)(a)(iii) of Schedule 6 to the Act (but does not fall within either paragraph (i) or (ii) above), the information referred to in (as the case may be) paragraphs (i) or (ii) above about each of that

person's parents who falls within the description in paragraph 8(2)(a)(i) or (ii) of that Schedule;

- (c) the relevant part of the United Kingdom which must be either England and Wales or Scotland which the parties have jointly nominated as the relevant part of the United Kingdom for the purposes of the marriage.

(4) The commanding officer must display in a conspicuous place, in the vicinity of the place where the marriage is to be solemnized for a period of 14 days immediately preceding the day of the solemnization of the marriage to which the notice relates—

- (a) a true copy of the notice of intended marriage; and
- (b) the contact details of the person to whom any information should be sent that the conditions specified in paragraph 8(2) of Schedule 6 to the Act in respect of the proposed marriage are not met.

Certificate of Commanding Officer

7.—(1) Before any marriage can be solemnized under this Order, there is to be produced to the authorised person in whose presence the marriage is to be solemnized a certificate signed by or on behalf of the commanding officer notified under article 6 that states that the conditions specified in paragraph 8(2) of Schedule 6 to the Act are met.

(2) If any information is brought to the attention of the commanding officer that the conditions specified in paragraph 8(2) of Schedule 6 to the Act are not met, the certificate under paragraph (1) shall not be signed until the commanding officer has carried out such inquiries as he sees fit.

Consent to marriage

8.—(1) Where either party to the proposed marriage is under the age of 18 and the parties have jointly nominated England and Wales as the relevant part of the United Kingdom then the same consent is required as would be required in respect of a marriage solemnized in England and Wales on the authority of a superintendent registrar under Part 3 of the Marriage Act 1949(2).

(2) The authorised person in whose presence the marriage is to be solemnized may dispense with the requirement to obtain consent if the authorised person is satisfied that it cannot be obtained because of the absence, inaccessibility or disability of the person whose consent is so required.

Solemnization of marriage

9.—(1) Every marriage under this Order must be solemnized in the presence of two or more witnesses none of whom may be the authorised person in whose presence the marriage is solemnized.

(2) Where it would otherwise not be stated or indicated in the course of the ceremony that neither of the parties to the marriage knows of any lawful impediment to their marriage, then, in some part of the ceremony and in the presence of the authorised person and witnesses, each of the parties is to declare—

“I solemnly declare that I know not of any lawful impediment why I A.B (*or C.D.*) may not be joined in matrimony to C.D. (*or A.B.*)”.

(3) As an alternative to the declaration set out in paragraph (2) the persons contracting the marriage may make the requisite declaration either—

- (a) by saying “I declare that I know of no legal reason why I (*name*) may not be joined in marriage to (*name*)”; or

(b) by replying “I am” to the question put to them successively “Are you (*name*) free lawfully to marry (*name*)”.

(4) Where it would otherwise not be stated by each of the parties in the course of the ceremony that they take the other as husband or wife then, in some part of the ceremony and in the presence of the authorised person and witnesses, each of the parties is to say to the other—
“I call upon these persons here present to witness that I A.B. (*C.D*) take you (*or thee*) C.D. (*or A.B.*) to be my lawful wedded wife (*or husband*)”.

(5) As an alternative to the words of the contract set out in paragraph (4) the persons to be married may say to each other—
“I (*name*) take you (*or thee*) (*name*) to be my wedded wife (*or husband*)”.

Description of relevant civilian

10. For the purposes of paragraph 12(2) of Schedule 6 to the Act, the prescribed description of a civilian subject to service discipline is one who performs in support of Her Majesty’s forces any of the following functions: administrative, executive, judicial, clerical, typing, duplicating, machine operating, paper keeping, managerial, professional, scientific, experimental, technical, industrial or labouring functions.

Religious services at forces marriages of opposite sex couples

11. The marriage of an opposite sex couple under this Order may be solemnized according to the rites or usages of a religious organisation if the authorised person in whose presence the marriage would be solemnized has agreed to conduct the marriage according to those rites or usages and has the consent of the relevant governing authority of that religious organisation to do so.

Religious services at forces marriages of same sex couples

12. The marriage of a same sex couple under this Order may be solemnized according to the rites or usages of a religious organisation (other than the Church of England or Church in Wales) if —

- (a) the relevant governing authority of that religious organisation has given written consent to the Secretary of State under this Order for marriages of same sex couples; and
- (b) the authorised person in whose presence the marriage would be solemnized has agreed to conduct the marriage according to those rites or usages and has the consent of that relevant governing authority to do so.

Date

Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

Schedule 6 of the of the Marriage (Same Sex Couples) Act 2013 empowers Her Majesty, by Order in Council, to make provision for two people to marry in countries or territories outside the United Kingdom where one of the proposed parties to the marriage is a member of Her Majesty's armed forces serving in the country or territory or is a person subject to service discipline, or is a child of such a person and whose home is with them. The Order extends to England and Wales and Scotland but not Northern Ireland. Article 5 provides that marriages of same sex couples may take place in countries or territories which have confirmed there is no objection to such marriages taking place.

Article 6 sets out the particulars to be contained in the notice of intended marriage and further provides for the display of the notice of intended marriage. Article 7 requires a certificate to be signed by the commanding officer that the parties satisfy the conditions to marry pursuant to Schedule 6 to the Act. Article 8 sets out the consents which may be required. Article 9 provides for certain formalities for solemnization of the marriage. Article 10 sets out the descriptions of civilians who may be eligible to marry pursuant to the Order. Article 11 permits the use of religious services at forces marriages of opposite sex couples. Article 12 permits the use of religious services at forces marriages of same sex couples other than the Church of England or Church in Wales subject to the consent of the governing authority of the religious organisation concerned and the agreement of the person conducting the solemnization.