

SUCCESSION TO THE CROWN ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Succession to the Crown not to depend on gender

16. **Section 1** provides that the gender of a person who was born after the Perth Agreement on 28 October 2011 will have no relevance when determining succession to the Throne. At present, so far as the gender of the Sovereign is concerned, succession is governed by common law rules which largely follow the feudal rules of hereditary descent that apply to land. The Crown passes lineally to the issue of the reigning Sovereign in birth order, but subject to male preference over females. An effect of the proposed change is that if the Duke and Duchess of Cambridge were to have a daughter and then a son, the daughter would precede the son in the line of succession. The words “(whenever born)” make it clear that subsection (1) applies even where the “other person” was born on or before 28 October 2011.

Section 2: Removal of disqualification arising from marriage to a Roman Catholic

17. **Subsection (1)** provides that a person will not be disqualified from succeeding to the Crown or from being the Sovereign due to their marriage to a Roman Catholic. The current prohibition dates from the Bill of Rights and the Act of Settlement at the end of the 17th and beginning of the 18th centuries. There is no comparable statutory provision about any other religion. The prohibition on the Sovereign being a Roman Catholic is not changed by the Act.
18. **Subsection (2)** provides that subsection (1) applies to marriages contracted both prior to this section being brought into force and after. This will mean that people in the present line of succession who lost their places in it because of their marriages to Roman Catholics will regain their places. However, this does not affect anyone with a realistic prospect of succeeding to the Throne.

Section 3: Consent of Sovereign required to certain Royal Marriages

19. **Subsection (1)** provides that any of the first six people in the line of succession to the Crown must obtain the consent of Her Majesty prior to their marriage. This effects a substantial decrease from the number of people affected by the Royal Marriages Act 1772. The recent practice under that Act is for Ministers to be informed of a proposed marriage of a person close in the succession to the Throne, and to have the opportunity of giving formal advice to Her Majesty as to whether consent should be given. The Government expects this practice to continue.
20. **Subsection (2)** provides that such consent must be signified under the Great Seal of the United Kingdom, declared in Council and recorded in the books of the Privy Council. This is similar to the arrangements in the 1772 Act.
21. **Subsection (3)** provides that a failure to obtain consent as described in subsection (1) will lead to the disqualification of the person marrying without consent as well as any

*These notes refer to the Succession to the Crown Act 2013
(c.20) which received Royal Assent on 25 April 2013*

descendants from that particular marriage. Under the 1772 Act the marriage of a person who marries without consent was void. *Subsection (4)* repeals the 1772 Act.

22. *Subsection (5)* provides that marriages made void under the 1772 Act are not to be regarded as invalid if four conditions apply: (a) the parties involved were not among the first six people next in line to the Throne; (b) the parties did not seek consent to the marriage under section 1 of the 1772 Act or give 12 months' notice to the Privy Council prior to their marriage, without consent of the Sovereign, under the exception in section 2 of the Act; (c) it was reasonable for the parties involved not to be aware that they were caught by the Act and, (d) no one took action on the basis that the marriage was void prior to this section coming into force.
23. *Subsection (6)* provides that subsection (5) applies for all purposes except those relating to the succession to the Crown. The exception means that the validity of the descent of the Crown from King George II down to the present day is not to be affected by the changes.

Section 4: Consequential amendments etc

24. *Subsection (1)* gives effect to the Schedule which deals with consequential amendments.
25. *Subsection (2)* provides that references in legislation to those parts of the Bill of Rights and the Act of Settlement which deal with the succession to the Crown are to be read in conjunction with this Act.
26. *Subsection (3)* provides that Article II of the Union with Scotland Act 1706, Article II of the Union with England Act 1707, Article Second of the Union with Ireland Act 1800 and Article Second of the Act of Union (Ireland) 1800 are subject to the provisions in this Act. All four of these Acts cover the succession to the Crown, the first two referring among other things to the prohibition relating to marriage to a Roman Catholic and the second two referring to succession according to existing laws and to the terms of union between England and Scotland.

Schedule: Consequential Amendments

27. *Paragraph 1* amends the Treason Act 1351, which includes among the acts which constitute treason compassing the death of the King's eldest son and heir and violating the wife of the eldest son and heir. These references need to be amended as the eldest son and the heir will not necessarily be the same person.
28. *Paragraphs 2 and 3* amend the Bill of Rights and the Act of Settlement. The provisions remove all references to marriage to a Roman Catholic as a bar on succession to the Throne. This paragraph is to be read in conjunction with section 2.
29. *Paragraph 4* amends section 3(2) of the Regency Act 1937, which lists the persons disqualified from being Regent. The Act's provision in section 3 that a person who is one of the first six in line to succeed and who fails to obtain the consent of Her Majesty before marrying loses their place in the line is to be an additional ground for disqualification from being Regent.
30. *Paragraph 5* provides that paragraphs 2 and 3 refer to marriages occurring before the date of the commencement of section 2 where the relevant person is alive at that date.

Section 5: Commencement and short title

31. *Subsection (1)* provides that section 5 of the Act will come into force on Royal Assent.
32. *Subsections (2) and (3)* provide that the other provisions of the Act are to be brought into force by means of an order or orders made by the Lord President of the Council. There is power to specify the time of day of commencement and to appoint different days and times for different purposes.