

# MARRIAGE (SAME SEX COUPLES) ACT 2013

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS AND SCHEDULES

#### Part 5 of the Marriage Act 1949

#### Other provisions relating to marriages of same sex couples

#### *Section 9 – Conversion of civil partnership into marriage*

55. [Section 9\(1\)](#) enables civil partners who had their partnership formed in England and Wales to have their partnership converted into a marriage, and provides a power for the Secretary of State to make regulations establishing the procedures for doing so. The use of this power is subject to the affirmative parliamentary procedure on first use of the power and the negative procedure thereafter.
56. Subsections (2) and (3) provide a power for the Secretary of State to make regulations establishing procedures for conversion of civil partnerships formed outside the United Kingdom under an Order in Council made under Chapter 1 of Part 5 of the Civil Partnership Act which deals with civil partnerships registered at British consulates or by armed forces personnel. Subsection (3) makes clear that this applies where England and Wales is the relevant part of the United Kingdom for the purposes of registration of the civil partnership under the respective Order. The use of this power is subject to the affirmative parliamentary procedure.
57. Subsections (4) and (5) set out the scope of the regulation-making powers, including regulations about:
- the application procedure for conversion;
  - the information required to support the application;
  - declarations to support an application to convert (for example, by the civil partners themselves);
  - a requirement for applicants to appear for example before a local registrar or at a register office, in order, for example, to validate their identity;
  - conferral of functions in connection with applications to convert on, for example, the Secretary of State, the Registrar General, armed forces personnel, or other persons. These functions include record-keeping; issuing certified copies of records; conducting civil ceremonies or services following conversion into a marriage;
  - application fees and fees for connected functions.
58. Under subsection (6), the completed conversion process automatically ends the civil partnership and the couple are treated as having been married since the date the civil partnership was formed.

***Section 10 – Extra-territorial matters***

59. **Section 10** provides that existing or new marriages of same sex couples that take place outside England and Wales can be recognised as marriages under the law of England and Wales. It is irrelevant whether the law of the place of marriage provides for marriage of same sex couples before or after this provision comes into force. Section 10 also gives effect to Schedule 2, which contains more detailed provisions (see below). Overseas marriages of opposite sex couples which are valid as to capacity and form according to the relevant law are recognised under the law of England and Wales. New and existing overseas marriages of same sex couples which are valid as to capacity and form according to the relevant law will be recognised under the law of England and Wales from the date of implementation of the Act.