

MARRIAGE (SAME SEX COUPLES) ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Schedule 1 – Registration of buildings etc

Introduction

83. [Schedule 1](#) inserts provisions into the Marriage Act to deal with the details of registering certified places of worship for marriage of same sex couples according to religious rites and usages; appointing authorised persons for that purpose; and cancelling registration, along with powers for the Registrar General to make further detailed procedural regulations.

Registration of buildings

84. [Paragraph 2](#) of [Schedule 1](#) (“Registration of buildings”) inserts new sections 43A to 43D into the Marriage Act.
85. New section 43A deals with the procedures for registration of buildings as places where same sex couples can get married. This can be additional to, or separate from, registration as a place where a man and a woman can get married.
- As with registration under section 41 (for marriages between a man and a woman), a building cannot be registered for marriage of same sex couples unless it has been certified as a place of worship (subsection (1)). Part of a building may be registered (subsection (6)).
 - The application is made, as with applications to register a building for marriage of opposite sex couples, by the proprietor or trustee of the building to the superintendent registrar for the local registration district (subsection (2)).
 - The application must be accompanied by a certificate demonstrating the consent of the relevant governing authority, a copy of that consent and (if the building is not already registered for marriage (of opposite sex couples) under section 41 of the Marriage Act), a certificate of use for religious worship (subsection (3)). Certificate of use for religious worship is defined in subsection (7); it must be dated not earlier than one month before the application is made and must be signed by at least twenty householders who are members of the regular congregation who want the building to be used as a place for same sex couples to get married.
 - The local registrar must send the application with the certificates to the Registrar General, who must register the building (subsections (4) and (5)).
86. New section 43B deals with the appointment of authorised persons for the purpose of marriages of same sex couples. There are already authorised persons for marriages of opposite sex couples: for example, a warden, vergers or other church official (he or she could be, but is not normally, a member of the clergy) who is appointed by the local church to keep its marriage register and to be present at the marriage and ensure the marriage certificate is signed and an entry made in the marriage register on behalf of

the local registrar. There does not have to be an authorised person for each registered building, but if there is not, the registrar must be present at the marriage and ensure the certificates are signed and an entry made in the register.

87. New section 43B enables the trustees or governing body of the religious building to appoint an authorised person for marriages of same sex couples (subsection (1)) and, if they do so, requires that they inform the Registrar General and local superintendent registrar (subsection (2)). This is the same process as for religious marriage ceremonies currently. If there is already an authorised person for the building, it will be open to the governing body or trustees to appoint that same person for marriages of same sex couples, or a different person.
88. Where the building is not already registered under section 41, authorised persons can only be appointed after one year following registration under new section 43A, so as to enable the registrar to oversee the initial transition to solemnizing and registering marriages (subsections (3) to (6)). This also applies to new registrations under section 41, where the building is not already registered under new section 43A.
89. Quakers (Society of Friends) and people professing the Jewish religion can carry out marriages in places that are not registered. Therefore they do not now, and will not under the Act, need to appoint authorised persons (subsection (8)).
90. New section 43C enables a building's registration for the conduct of marriages of same sex couples to be cancelled. The procedure for doing so is similar to that for applying for registration. Under subsection (4) of new section 43C, where a building is shared new sections 44A to 44C of the Marriage Act (inserted by paragraph 3 of this Schedule) apply and enable a religious organisation to cancel its registration without the agreement of other sharers.
91. New section 43D gives the Secretary of State a power to make further regulations regarding the procedures to be followed for applications to register buildings for marriages of same sex couples, applications for the registration of buildings to solemnize marriages of both same sex and opposite sex couples, the procedures for appointment of authorised persons and the cancellation of registrations, including procedures to be followed by superintendent registrars and for payment of fees. The use of this power will be subject to the negative parliamentary procedure.

Shared buildings

92. [Paragraph 3](#) ("Shared buildings") inserts new sections 44A to 44D into the Marriage Act. New section 44A sets out procedures for the registration for the purpose of religious marriage ceremonies of same sex couples of certified places of worship which are shared between more than one religious organisation under a formal sharing arrangement under the Sharing of Church Buildings Act 1969 or otherwise covered by that Act (such as university or hospital chapels). In particular, section 44A provides that agreement to registration is required from the governing authority of each of the organisations which share the building. All the sharing organisations do not need to consent to solemnize marriages of same sex couples themselves, but need to agree to the building being used to solemnize such marriages. A power is included for the Secretary of State to make regulations in relation to this section.
93. New section 44B provides for the cancellation of the registration for the conduct of marriages of same sex couples of buildings shared under a formal sharing arrangement. Any application for cancellation must be made in accordance with new section 43C but can be made either by the proprietor or trustee of the building or by the governing authority of any of the sharing churches. If the application is made by a governing authority, it must be accompanied by a written confirmation that the organisation making the application is the relevant governing authority of that religion. The consent of all sharing churches is not required. A power is included for the Secretary of State to make regulations in relation to this section.

*These notes refer to the Marriage (Same Sex Couples) Act
2013 (c.30) which received Royal Assent on 17 July 2013*

94. New section 44C contains a power for the Secretary of State to make regulations about the registration, cancellation of registration and use of certified places of worship which are used by more than one religious organisation but are not subject to a formal sharing arrangement under, or otherwise dealt with in, the Sharing of Church Buildings Act 1969.
95. New section 44D provides definitions of terms used in sections 44A to 44C such as “sharing agreement” and “shared building”. It also provides power for the Secretary of State to make regulations about the registration of shared buildings, and the use of shared premises for marriage of same sex couples more generally. In particular, the regulations may deal with the solemnization of marriages by Quakers or marriages according to the Jewish religion in shared buildings (including consents for registration and cancellation of registrations in these cases). Under subsection (8) of this new section, the affirmative procedure is required for use of any of the powers relating to shared buildings.