

# MARRIAGE (SAME SEX COUPLES) ACT 2013

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS AND SCHEDULES

#### *Schedule 4 – Effect of extension of marriage: further provision*

#### **Part 7 – Provisions which limit equivalence of all marriages etc**

141. Certain provisions of the Act (referred to in these notes as the “equivalence provisions”) have a wide general effect. These provisions are:
- section 11(1) and (2) (which provide for marriage to have the same effect in law in relation to same sex couples that it has in relation to opposite sex couples and for the law of England and Wales to have effect accordingly) and Schedule 3 (which supports section 11(1) and (2) by making specific provision about the interpretation of legislation);
  - section 9(6)(b) (which provides that, where a marriage is converted into a civil partnership, the marriage has effect as if it had subsisted since the date when the civil partnership was formed).
142. In some cases, the wide general effect of the equivalence provisions goes too far, and so would produce results which are not in line with the policy. It is therefore necessary to ensure that the wide general effect of the equivalence provisions does not apply in particular circumstances, or applies in a different way from normal.
143. Some of these cases are already dealt with in the preceding provisions of Schedule 4. Other cases like this may be dealt with by an order under paragraph 27(3). The legislation which deals with cases like this is referred to as “contrary provision”.
144. Sub-paragraphs 27(1) and (2) ensure that, where cases like this are dealt with by contrary provision, that provision overrides the wide general effect of the equivalence provisions.

#### *Examples*

- An Act of Parliament provides that a benefit is to be given to a widow who meets prescribed requirements. The effect of section 11(1) and (2), combined with Schedule 3, means that the benefit would also be available to a person in a marriage of a same sex couple (of either sex) whose spouse had died. However, a man who was married to a woman and whose wife had died would not be entitled to the benefit. In this instance the equivalence provisions go too far, and the Act conferring the benefit could be excluded from their effect by the making of contrary provision.