
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to subordinate legislation as a consequence of the coming into force of the Marriage (Same Sex Couples) Act 2013 (c. 30) (“the 2013 Act”) in England and Wales and as a consequence of the coming into force of the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5) (“the 2014 Act”) in relation to Scotland.

Some provisions of the 2013 Act are already in force and two orders making consequential amendments as a result of the 2013 Act (as well as other provision) have already been made. These orders are the Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107) and the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 (S.I. 2014/560). Other statutory instruments which were required to implement the 2013 Act have also been made.

The provisions of the 2013 Act now being brought into force by a separate commencement order mainly concern the conversion of civil partnerships into marriage (“conversions”) and allow, subject to certain conditions, a couple to remain married if one or both of them changes their legal gender.

As part of the implementation of these provisions of the 2013 Act, the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Provisions) Order 2014 has been laid in each House of Parliament. This makes consequential amendments to Acts of Parliament mainly consequential on the remaining provisions of the 2013 Act coming into force, as well as making other provision.

This Order makes consequential amendments to enactments which are not Acts of Parliament.

It also makes amendments in Schedule 2 to various public service pension schemes which form part of the law of Scotland (but which are not devolved to the Scottish Government) as a consequence of the coming into force of the 2014 Act under the power contained in section 104 of the Scotland Act 1998 (c. 46). These amendments replicate amendments made in relation to England and Wales both in Schedule 1 to this Order and in S.I.s 2014/107 and 2014/560.

This Order additionally makes amendments to legislation concerning pensions payable by the Church of England as a consequence of the 2013 Act coming into force and consequential amendments as a result of changes to consular marriage legislation.

Article 2 and Schedule 1 make consequential amendments to subordinate legislation having effect in England and Wales, and in the case of paragraphs 2, 4, and 5 of Schedule 1, in Scotland.

Paragraph 1 of Schedule 1 makes an amendment to the Marriage (Authorised Persons) Regulations 1952 (S.I. 1952/1869) as a consequence of the coming into force of section 6 of the 2013 Act which makes provision about marriages of same sex couples in military chapels.

Paragraph 2 of Schedule 1 makes amendments to the Service Departments Registers Order 1959 (S.I. 1959/406) to reflect the fact that a marriage can now result from a conversion or change of a civil partnership into a marriage and also makes an amendment to this Order which follows on from provision made by the Overseas Marriages (Armed Forces) Order 2014 (S.I. 2014/1108).

Paragraphs 3, 7 and 9 of Schedule 1 make amendments to the Registration of Births, Deaths and Marriages Regulations 1968 (S.I. 1968/2049), the Registration of Births and Deaths Regulations 1987 (S.I. 1987/2088) and the Special Guardianship (Wales) Regulations 2005 (S.I. 2005/1513) as a consequence of it now being possible to convert a civil partnership into a marriage.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Paragraph 4 of Schedule 1 amends the Social Security (Credits) Regulations 1975 (S.I. 1975/556) to reflect the fact that a same sex couple may now live together as if they were a married couple.

Paragraphs 5 and 8 amend the Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979 (S.I. 1979/643) and the Standards Committees (Wales) Regulations 2001 (S.I. 2001/2283) respectively to insert previously omitted references to civil partners.

Paragraph 6 amends the Registration of Marriages Regulations 1986 (S.I. 1986/1442) and paragraph 10 amends the Civil Partnership (Registration Provisions) Regulations 2005 (S.I. 2005/3176). Prior to marriage for same sex couples becoming lawful, where a couple married each other after having been in a civil partnership with each other, this would have revealed that one of the couple must have changed legal gender. Similarly if a couple were previously married before marriage of same sex couples became lawful and then entered a civil partnership, this would have revealed one of the couple had changed legal gender. SI 1986/1442 and S.I. 2005/3176 made provision to ensure that couples marrying and entering a civil partnership were not inadvertently revealed as a couple where one member had acquired a new legal gender. Now that marriage for same sex couples is lawful, these two regulations have been updated to ensure the same protections apply.

Part 2 of Schedule 1 amends various public service pension schemes enshrined in legislation to make provision for the survivor benefits available to the spouse of a member of the scheme in a case where the member has acquired a new legal gender.

Article 3 and Schedule 2 to the Order make amendments to public service pension schemes insofar as the legislation containing these is part of the law of Scotland. These amendments are made in consequence of provision made by the 2014 Act and replicate amendments made in relation to England and Wales.

Article 4 and Schedule 3 to the Order make amendments to various Measures of the Church of England and one set of regulations applying to the Church of England where these Measures and regulations concern pension schemes provided by the Church. None of the amendments affect the Church's stance as regards the ability of a member of the clergy to enter into a marriage with someone of the same sex.

Article 5 and Schedule 4 to the Order make provision consequential upon the repeal of the Foreign Marriage Act 1892 (c.23) and provide that the Registrars General for England and Wales and Scotland will issue certified copies of consular marriages entries registered under previous legislation as well as certified copies of certificates of marriages under foreign law which were deposited with them under the previous legislation. The previous legislation still applies in Northern Ireland.

Paragraph 3 of Schedule 4 ensures that the Registrar General for England and Wales will continue to pass on to the Registrar General for Northern Ireland any consular marriage certificates which show that the couple elected Northern Ireland as the relevant part of the United Kingdom for the purposes of these marriages under the previous legislation (which still applies in relation to Northern Ireland).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.