

EXPLANATORY MEMORANDUM TO
THE MARRIAGE OF SAME SEX COUPLES (REGISTRATION OF BUILDINGS AND
APPOINTMENT OF AUTHORISED PERSONS) REGULATIONS 2014

2014 No. 106

- 1.** This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

- 2. Purpose of the instrument**

2.1 These regulations set out the procedures to be followed for the registration of places of religious worship for the solemnization of marriages of same sex couples. They also provide for the notification to the Registrar General of the appointment of Authorised Persons to attend and register such marriages, and for the cancellation of the registration of premises.

- 3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 These Regulations are made under section 43D of the Marriage Act 1949, as inserted by paragraph 2 of Schedule 1 to the Marriage (Same Sex Couples) Act 2013. Schedule 1 was brought into force for the purpose of making subordinate legislation by article 2 of the Marriage (Same Sex Couples) Act 2013 (Commencement No. 1) Order 2013, (S.I 2013/2789). It is intended that the majority of the provisions of the 2013 Act extending marriage to same sex couples, including Schedule 1, will be fully brought into force on the same date that these Regulations will come into force, namely 13 March 2014.

3.2 Consequential amendments to the Marriage (Authorised Persons) Regulations 1952 (S.I. 1952/1869), which make those regulations applicable to persons authorised for same sex marriage as well as marriage between a man and woman, are made in the Marriage (Same Sex Couples) Act 2013 (Consequential Provision) Order 2014. This Order is also intended to come into force on 13 March 2014.

3.3 These Regulations modify the application of primary legislation in two respects. Regulation 9 modifies the application of section 41 of the Marriage Act 1949 (“the Act”) where an application to register a building for the marriage of opposite sex couples is made in respect of a building that is already registered for the marriage of same sex couples under section 43A of the Act.

3.4 Regulation 10 modifies the procedure to be followed where an application is made for the registration of a building under section 41 and 43A at the same time.

4. Legislative Context

4.1 This is the first use of the powers under section 43D of the Marriage Act 1949. The purpose of the instrument is to implement the Marriage (Same Sex Couples) Act 2013, specifically to enable marriages of same sex couples in places of worship according to religious rites (other than the rites of the Church of England and Church in Wales).

4.2 This is one of a number of Orders and Regulations which are being laid before Parliament at the same time and which are necessary for implementation of the majority of the Act. They include, briefly, statutory instruments:

- making consequential and other amendments to primary and secondary legislation in England and Wales¹;
- setting out procedures for registration of shared religious buildings for the solemnization of marriages of same sex couples²;
- setting out provisions on jurisdiction in the event of divorce or annulment of a marriage of a same sex couple³;
- setting out procedures for registration of military chapels for marriage of same sex couples⁴;
- setting out procedures for marriages in overseas consulates and overseas armed forces bases⁵;
- providing for graduated retirement benefit to be inheritable by a surviving same sex spouse⁶;
- making changes to particular public service pension schemes to provide survivor benefits for married same sex couples on the same basis as civil partners⁷.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

¹ The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provision and Scotland) Order 2014, and the Marriage (Same Sex Couples) Act 2013 (Consequential Provision) Order 2014.

² The Marriage of Same Sex Couples (Registration of Shared Buildings) Regulations 2014.

³ The Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgements) Regulations 2014.

⁴ The Marriage of Same Sex Couples (Use of Armed Forces' Chapels) Regulations 2014.

⁵ The Consular Marriages and Marriages under Foreign Law Order 2014, and the Overseas Marriage (Armed Forces) Order 2014.

⁶ The Social Security (Graduated Retirement Benefit)(Married Same Sex Couples) Regulations 2014.

⁷ The National Health Service Pension Scheme, Additional Voluntary Contributions, Compensation for Premature Retirement and Injury Benefits (Amendment) Regulations 2014, and the Police Pensions (Amendment) Regulations 2014.

6. European Convention on Human Rights

6.1 The Minister of State has made the following statement regarding Human Rights:

In my view the provisions of the Marriage of Same Sex Couples (Registration of Buildings and Appointment of Authorised Persons) Regulations 2014 are compatible with the Convention rights.

7. Policy background

7.1 These regulations are made within the context of the overarching policy of protecting the freedom of religious organisations that do not wish to solemnize marriages of same sex couples while enabling those that wish to solemnize the marriage of same sex couples to do so.

7.2 The purpose of these regulations is to set out in detail the processes for the registration of a religious building by the Registrar General for the marriage of same sex couples including the fee for registration, the cancellation of such registration and for the notification to the Registrar General of the appointment of persons authorised to attend and register marriages of same sex couples in duly registered religious buildings.

8. Consultation outcome

8.1 No formal consultation was undertaken in regard to these regulations as they mirror the existing processes for the registration of buildings for marriages between a man and a woman. Officials from the General Register Office have, however, sought views from the representative bodies of faith groups with knowledge of and an interest in marriage within their buildings and these have been considered in drafting these regulations.

9. Guidance

9.1 The Registrar General for England and Wales will publish guidance that will be available to local authorities, registration officers, citizens and religious organisations setting out the amendments made by these Regulations.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies though there will be a minimal cost to faith groups who choose to register buildings for marriage of same sex couples.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument. An Impact Assessment was published for the Marriage (Same Sex Couples) Act 2013 which can be found at <https://www.gov.uk/government/publications/marriage-same-sex-couples-bill>

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Government has no specific targets in this area other than in regard to the fees which are set to recover full costs and are subject to annual review.

13. Contact

13.1 Alistair MacGregor at the General Register Office (part of Her Majesty's Passport Office) email: alistair.macgregor@gro.gsi.gov.uk can answer any queries regarding the instrument.