

Draft Regulations laid before Parliament under section 44D(8) of the Marriage Act 1949, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

**REGISTRATION OF BIRTHS, DEATHS,
MARRIAGES, ETC., ENGLAND AND WALES**

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

Made - - - - *****
Coming into force - - - *13th March 2014*

A draft of these Regulations was laid before and approved by a resolution of each House of Parliament in accordance with section 44D(8) of the Marriage Act 1949(1).

The Secretary of State, in exercise of the powers conferred by sections 44B(7), 44C(1) and (2), and 44D(2) to 44D(5) of the Marriage Act 1949(2), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Marriage of Same Sex Couples (Registration of Shared Buildings) Regulations 2014 and come into force on 13th March 2014.

Interpretation

2. In these Regulations, unless the context otherwise requires—
- “the 1949 Act” means the Marriage Act 1949;
 - “the 1969 Act” means the Sharing of Church Buildings Act 1969(3);
 - “consent to marriages of same sex couples” means consent given, under section 26A(3) of the 1949 Act, by a relevant governing authority of a sharing church;
 - “registration” means registration of a building under section 43A of the 1949 Act;
 - “relevant superintendent registrar” means the superintendent registrar of the registration district in which the building which is, or is to be, registered is situated;

(1) 1949 c.76; section 44D was inserted by paragraph 3 of Schedule 1 to the Marriage (Same Sex Couples) Act 2013 c.30.
(2) Sections 44A to 44D were inserted by paragraph 3 of Schedule 1 to the Marriage (Same Sex Couples) Act 2013.
(3) 1969 c.38.

“sharing church” means one of the sharing churches.

Buildings subject to the 1969 Act: cancellation application process

3.—(1) This regulation supplements section 44B of the 1949 Act and applies where a cancellation application is made by a relevant governing authority.

(2) A relevant governing authority of a sharing church may not make a cancellation application unless that church has been a party to a sharing agreement or used the building as mentioned in section 6(4) of the 1969 Act for a period of not less than two years ending with the date on which the application is made.

(3) The relevant governing authority must, not less than three months prior to the date on which the cancellation application is made, send a written notice to the proprietor or trustee of the building—

- (a) stating the intention to make the application and when it is proposed to make it; and
- (b) providing a copy of the proposed application.

(4) The application may not be made if the proprietor or trustee of the building has, before the end of the period of three months beginning with the date of the receipt of the notice referred to in paragraph (3), sent a written notice to the applicants objecting to the application because either or both of the following is disputed—

- (a) that the applicants are a relevant governing authority of the sharing church;
- (b) that the sharing church has been a party to a sharing agreement or used the building as mentioned in section 6(4) of the 1969 Act for a period of not less than two years ending with the date when the application is made.

(5) The relevant governing authority must when it makes the application—

- (a) send the notice mentioned in paragraph (3) to the superintendent registrar with the application; and
- (b) send a copy of the application to the proprietor or trustee of the building.

(6) The superintendent registrar must (in addition to forwarding the application in accordance with section 43C(3)(4) of the 1949 Act) send a copy of the notice mentioned in paragraph (3) to the Registrar General.

(7) The Registrar General must not cancel the registration before the end of the period of nine months beginning with the date on which the cancellation application is received by the superintendent registrar.

Other shared places of worship: registration application process

4.—(1) This regulation applies to registration applications relating to other shared places of worship.

(2) Such a registration application must be made in accordance with section 43A(5) of the 1949 Act (as read with section 26A(3)(6) of the 1949 Act).

(3) But those provisions have effect subject to the following provisions of this regulation.

(4) Each of the sharing churches is a relevant religious organisation for the purposes of section 26A(4) of the 1949 Act.

(4) Section 43C was inserted by paragraph 2 of Schedule 1 to the Marriage (Same Sex Couples) Act 2013.

(5) Section 43A was inserted by paragraph 2 of Schedule 1 to the Marriage (Same Sex Couples) Act 2013.

(6) Section 26A was inserted by section 4 of the Marriage (Same Sex Couples) Act 2013.

(5) A consent to marriages of same sex couples given by the relevant governing authority of any of the sharing churches is sufficient for the registration application to be made in compliance with section 26A(3) of the 1949 Act (and references to the consent of the relevant governing authority in section 43A of the 1949 Act are to be read accordingly).

(6) But the registration application may not be made unless the relevant governing authorities of each of the qualifying sharing churches (other than those which have given consents to marriages of same sex couples) have given a separate written consent to the use of the other shared place of worship for the solemnization of marriages of same sex couples (a “consent to use”).

(7) The registration application must also be accompanied by—

(a) a certificate, given by the applicant and dated not more than one month before the making of the application, that the relevant governing authorities mentioned in paragraph (6) have given written consents to use, and

(b) copies of the consents to use and, in addition to the consent required by section 43A(3) of the 1949 Act, any additional consents to marriages of same sex couples under section 26A(3) of the 1949 Act given by the relevant governing authority of any of the sharing churches.

(8) The superintendent registrar must also send to the Registrar General—

(a) the certificate, and

(b) the copies of those consents

which accompany the application in accordance with paragraph (7).

(9) The Registrar General must not register the other shared place of worship unless and until paragraph (8) and the requirements of section 43A of the 1949 Act have been complied with.

(10) A qualifying sharing church for the purposes of paragraph (6) is a sharing church—

(a) on whose behalf a trustee holds the other shared place of worship on trust; or

(b) that has used the other shared place of worship for public religious worship on two or more occasions (each of which has lasted for not less than 30 minutes) in—

(i) each calendar month of the six calendar month period ending immediately prior to the beginning of the month in which the certificate mentioned at paragraph (7)(a) is given; or

(ii) nine of the calendar months in the period of 12 calendar months ending immediately prior to the beginning of the month in which the certificate mentioned at paragraph (7)(a) is given.

Other shared places of worship: cancellation application process

5.—(1) This regulation applies to cancellation applications relating to other shared places of worship registered under section 43A of the 1949 Act in accordance with regulation 4 above.

(2) Such a cancellation application must be made in accordance with section 43C of the 1949 Act.

(3) But section 43C of the 1949 Act has effect subject to the following provisions of these Regulations.

(4) The cancellation application may be made either—

(a) by a proprietor or trustee of the other shared place of worship; or

(b) by the relevant governing authority of any qualifying sharing church which shares use of the other shared place of worship.

(5) For that purpose, in relation to a qualifying sharing church and subject to regulations 6 and 7, “relevant governing authority” means the person or persons recognised by the members of the

qualifying sharing churches as competent for the purpose of making an application in accordance with this regulation.

- (6) In relation to a cancellation application by a relevant governing authority—
- (a) the relevant governing authority must, not less than three months prior to the date on which the cancellation application is made, send a written notice to the proprietor or trustee of the other shared place of worship—
 - (i) stating the intention to make the application and when it is proposed to make it; and
 - (ii) providing a copy of the proposed application;
 - (b) the application may not be made if the proprietor or trustee of the building has before the end of the period of three months beginning with the date of receipt of the notice sent under sub-paragraph (a) sent a written notice to the applicants objecting to the application because it disputes that the applicants are the relevant governing authority of a qualifying sharing church;
 - (c) the application must be accompanied by a certificate, given by the relevant governing authority making the application, that—
 - (i) they are the relevant governing authority of one of the qualifying sharing churches;
 - (ii) the notice mentioned at sub-paragraph (a) was sent to the proprietor or trustee not less than three months prior to the date of the certificate; and
 - (iii) the proprietor or trustee has not sent a notice under sub-paragraph (b) objecting to the application;
 - (d) the application must be accompanied by a copy of the notice mentioned in sub-paragraph (a);
 - (e) a copy of the application (and the accompanying certificate and notice) must be sent to the proprietor or trustee when the application is sent to the superintendent registrar.
- (7) The superintendent registrar must (in addition to forwarding the application in accordance with section 43C(3) of the 1949 Act) send a copy of the certificate mentioned in paragraph (6)(c) and the notice mentioned in paragraph (6)(a) to the Registrar General.
- (8) The Registrar General must not cancel the registration before the end of the period of nine months beginning with the date of on which the cancellation application is received by the superintendent registrar.
- (9) A qualifying sharing church for the purposes of this regulation is a sharing church—
- (a) on whose behalf a trustee holds the other shared place of worship on trust; or
 - (b) that has used the other shared place of worship for public religious worship—
 - (i) for a period of not less than two years prior to the date on which the application is made; and
 - (ii) on two or more occasions (each of which has lasted for not less than 30 minutes) in—
 - (aa) each calendar month of the six calendar month period ending immediately prior to the beginning of the month in which the notice mentioned at paragraphs (6)(a) given; or
 - (bb) nine of the calendar months in the period of 12 calendar months ending immediately prior to the beginning of the month in which the notice mentioned at paragraphs (6)(a) is given.

Relevant governing authority for the Society of Friends

6.—(1) This regulation applies to the provision of consent to use under section 44A(6) of the 1949 Act, and to applications under regulations 3 and 4, and cancellation under regulation 5, in cases where the sharing church is the Society of Friends (commonly called the Quakers).

(2) In such cases, the relevant governing authority for the Society of Friends is the recording clerk for the time being of the Society of Friends in London.

Relevant governing authority for the Jewish religion

7.—(1) This regulation applies to the provision of consent to use under section 44A(6) of the 1949 Act, and to applications under regulations 3 and 4, and cancellation under regulation 5, in cases where the sharing church is the Jewish religion.

(2) In such a case, the relevant governing authority for the Jewish religion is to be determined in accordance with the table in section 26B(5)(7) of the 1949 Act as if the marriage was to be solemnized by the sharing church whose consent is required.

Sharing churches' use of shared buildings registered for the marriage of same sex couples

8.—(1) This regulation applies to shared buildings registered under section 43A of the 1949 Act.

(2) Subject to paragraphs (3) and (5) below, a sharing church may only use a shared building for the solemnization of marriages of same sex couples if consent to marriages of same sex couples from the persons who are the relevant governing authority of that church accompanied the registration application for that building.

(3) If the process set out in paragraph (4) is completed, a sharing church who had not previously provided consent to marriages of same sex couples in respect of a shared building may also use that shared building for the solemnization of marriages of same sex couples.

(4) The process referred to in paragraph (3) is that—

- (a) a sharing church may send written notice to the proprietor or trustee of the shared building that it wishes to solemnize marriages of same sex couples in that building;
- (b) the sharing church's written notice to the proprietor or trustee must be accompanied by the consent to marriages of same sex couples from the persons who are the relevant governing authority of that church;
- (c) on receipt of the consent provided under sub-paragraph (b) the proprietor or trustee must send a copy of it to the relevant superintendent registrar, and the relevant superintendent registrar must send a copy of the consent to the Registrar General;
- (d) the Registrar General must record, in relation to the registration of the building, the consent to marriages of same sex couples provided by the relevant governing authority of the sharing church and, having done so, notify the relevant superintendent registrar;
- (e) on receipt of the notification from the Registrar General under sub-paragraph (d) the relevant superintendent registrar must notify the proprietor or trustee of this; and
- (f) the proprietor or trustee must send a written notice to the relevant governing authority of the sharing church that its consent to marriage of same sex couples in the building has been recorded by the Registrar General.

(5) Paragraph (2) does not apply to the solemnization of—

- (a) marriages of same sex couples according to the usages of the Society of Friends (commonly called Quakers); or

(7) Section 26B was inserted by section 5 of the Marriage (Same Sex Couples) Act 2013.

- (b) marriages of same sex couples professing the Jewish religion according to the usages of the Jews.

Registered buildings that become shared

9.—(1) This regulation applies to a building registered under section 43A of the 1949 Act which, after it has been so registered, becomes a shared building that is used for religious worship by another religious organisation.

(2) The building will remain registered under section 43A of the 1949 Act (but as a shared building) for the solemnization of marriages of same sex couples.

Registered buildings that cease to be shared

10.—(1) This regulation applies to a shared building registered under section 43A of the 1949 Act which ceases to be used for religious worship by more than one religious organisation.

(2) As from the date when the building ceases to be so used—

- (a) it will remain registered under section 43A of the 1949 Act for the solemnization of marriages of same sex couples,
- (b) but it may only be used for the solemnization of marriages of same sex couples (in accordance with sections 26A and 43A of the 1949 Act) by a religious organisation if—
 - (i) that organisation's relevant governing authority gave consent to marriages of same sex couples for the purpose of the registration application for the building; or
 - (ii) that organisation was, immediately prior to the building ceasing to be shared, entitled to solemnize the marriages of same sex couples in the building under regulation 8(3).

(3) The proprietor or trustee of the building must, within 14 days of the building ceasing to be shared, give written notice to the relevant superintendent registrar that the building ceases to be a shared building and stating—

- (a) the identity of the religious organisation that continues to be entitled (as mentioned at paragraph (2)(b)) to use the building for the solemnization of marriages of same sex couples; or
- (b) that no religious organisation continues to be entitled to use the building for the solemnization of marriages of same sex couples.

(4) The relevant superintendent registrar must send a copy of the written notice mentioned in paragraph (3) to the Registrar General.

(5) If paragraph (3)(a) applies, the Registrar General must record in relation to the building the remaining religious organisation who may use the building for the solemnization of marriages of same sex couples and notify the relevant superintendent registrar accordingly.

(6) If paragraph (3)(b) applies, the Registrar General must cancel the registration and notify the relevant superintendent registrar accordingly.

(7) On receipt of a notification from the Registrar General under paragraph (5) or (6), the relevant superintendent registrar must notify the proprietor or trustee of the amendment or cancellation of the registration as appropriate.

Registered buildings where the sharing churches change

11.—(1) This regulation applies where a shared building has been registered under section 43A of the 1949 Act and there is a change in the sharing churches that use the building for religious worship by the ceasing of sharing by any church.

(2) The building will remain registered under section 43A of the 1949 Act for the solemnization of marriages of same sex couples.

(3) The proprietor or trustee of the building must, within 14 days of the change in the sharing churches, give written notice to the superintendent registrar—

(a) confirming whether—

(i) the relevant governing authority of a sharing church that uses the building had given consent to marriages of same sex couples for the purpose of the registration application for the building; or

(ii) a sharing church that uses the building was, prior to the change, entitled to solemnize the marriages of same sex couples in the building as provided in regulation 8(3); and

(b) if either is confirmed, identifying such church.

(4) The superintendent registrar must send a copy of the written notice mentioned in paragraph (3) to the Registrar General.

(5) The Registrar General must—

(a) either—

(i) record, in relation to the building, the identity of any sharing church as mentioned at paragraph (3) above; or

(ii) in the event of there being no sharing church identified in the notice, cancel the registration of the building; and

(b) notify the relevant superintendent registrar accordingly.

(6) On receipt of a notification from the Registrar General under paragraph 5(b) the relevant superintendent registrar must notify the proprietor or trustee accordingly.

Address for service of notices served under these Regulations

12. Where these Regulations provide for the sending of a written notice to a proprietor or trustee by a relevant governing authority or to a relevant governing authority by a proprietor or trustee then such notice must be sent to those persons at—

(a) the building in relation to which that notice relates, or

(b) such other address as the proprietor or trustee or the relevant governing authority may have specified by a written notice sent to that building.

Date

Name
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the procedure for the registration under section 43A of the Marriage Act 1949 (“the 1949 Act”), as amended by the Marriage (Same Sex Couples) Act 2013 (“the 2013 Act”), and cancellation of the registration of buildings which are shared by more than one religious organisation for the solemnization of marriages of same sex couples.

Regulation 3 supplements section 44B of the 1949 Act which set out the procedure for registration and cancellation of the registration of shared buildings subject to the Sharing of Church Buildings Act 1969 (“the 1969 Act”).

Regulations 4 and 5 set out the registration and cancellation procedure for buildings which are shared by more than one religious organisation other than under the 1969 Act.

Regulations 6 and 7 set out respectively, the relevant governing authority for the Society of Friends and for persons professing the Jewish religion for the purposes of giving consent to use of a building that is shared with them and for cancellation of a building that they share.

Regulation 8 specifies which of the sharing churches may use the registered building for the solemnization of marriages of same sex couples and the process for notification of the Registrar General of these sharing churches.

Regulations 9 to 11 make provision for cases when a building that is registered under section 43A of the 1949 Act becomes shared, for buildings that cease to be shared and for buildings where the sharers change.

Regulation 12 sets out the address for service of the notices required under these Regulations.

An Impact Assessment has not been prepared for this instrument as no cost on business is foreseen, but an impact assessment was published alongside the 2013 Act and this is available through the DCMS website at <https://www.gov.uk/government/publications/marriage-same-sex-couples-bill>