



# Marriage (Same Sex Couples) Act 2013

## 2013 CHAPTER 30

### PART 1

#### MARRIAGE OF SAME SEX COUPLES IN ENGLAND AND WALES

##### *Extension of marriage*

#### **1 Extension of marriage to same sex couples**

- (1) Marriage of same sex couples is lawful.
- (2) The marriage of a same sex couple may only be solemnized in accordance with—
  - (a) Part 3 of the Marriage Act 1949,
  - (b) Part 5 of the Marriage Act 1949,
  - (c) the Marriage (Registrar General's Licence) Act 1970, or
  - (d) an Order in Council made under Part 1 or 3 of Schedule 6.
- (3) No Canon of the Church of England is contrary to section 3 of the Submission of the Clergy Act 1533 (which provides that no Canons shall be contrary to the Royal Prerogative or the customs, laws or statutes of this realm) by virtue of its making provision about marriage being the union of one man with one woman.
- (4) Any duty of a member of the clergy to solemnize marriages (and any corresponding right of persons to have their marriages solemnized by members of the clergy) is not extended by this Act to marriages of same sex couples.
- (5) A “member of the clergy” is—
  - (a) a clerk in Holy Orders of the Church of England, or
  - (b) a clerk in Holy Orders of the Church in Wales.

*Status: This is the original version (as it was originally enacted).*

### *Religious protection*

## **2 Marriage according to religious rites: no compulsion to solemnize etc**

- (1) A person may not be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement) to—
- (a) undertake an opt-in activity, or
  - (b) refrain from undertaking an opt-out activity.
- (2) A person may not be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement)—
- (a) to conduct a relevant marriage,
  - (b) to be present at, carry out, or otherwise participate in, a relevant marriage, or
  - (c) to consent to a relevant marriage being conducted,

where the reason for the person not doing that thing is that the relevant marriage concerns a same sex couple.

- (3) In this section—

“opt-in activity” means an activity of the kind specified in an entry in the first column of the following table which falls to be undertaken for the purposes of any enactment specified in the corresponding entry in the second column;

“opt-out activity” means an activity which reverses, or otherwise modifies, the effect of an opt-in activity.

<i>Activity</i>	<i>Enactment</i>
Giving consent	<ul style="list-style-type: none"> <li>— Any of these provisions of the 1949 Act:               <ol style="list-style-type: none"> <li>(a) section 26A(3);</li> <li>(b) section 26B(2), (4) or (6);</li> <li>(c) section 44A(6);</li> <li>(d) section 46(1C)</li> </ol> </li> <li>— Regulations under section 70A(5) of the 1949 Act (as mentioned in section 70A(6)(c) of that Act) relating to an application for registration</li> <li>— Section 1(3) of the Marriage (Registrar General’s Licence) Act 1970</li> <li>— An armed forces overseas marriage Order in its application to marriages of same sex couples (as mentioned in paragraph 9(5) of Schedule 6)</li> </ul>
Applying for the registration of a building	Section 43A of the 1949 Act
Authorising a person to be present at the solemnization of marriages of same sex couples in a building registered under section 43A of the 1949 Act	Section 43B of the 1949 Act

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<i>Activity</i>	<i>Enactment</i>
Being authorised to be present at the solemnization of marriages of same sex couples in a building registered under section 43A of the 1949 Act	Section 43B of the 1949 Act
Giving a certificate, giving a copy of a consent, or certifying any matter	Any of these provisions of the 1949 Act: (a) section 43A(3); (b) section 43B(2); (c) section 44A(7)

(4) In this section—

“1949 Act” means the Marriage Act 1949;

“armed forces overseas marriage Order” means an Order in Council under Part 3 of Schedule 6;

“person”—

- (a) includes a religious organisation;
- (b) does not include a registrar, a superintendent registrar or the Registrar General;

“relevant marriage” means—

- (a) a marriage of a same sex couple solemnized in accordance with—
  - (i) section 26A or 26B of the 1949 Act (marriage in a place of worship or in another place according to religious rites or usages),
  - (ii) Part 5 of the 1949 Act (marriage in a naval, military or air force chapel),
  - (iii) section 1 of the Marriage (Registrar General’s Licence) Act 1970 (deathbed marriage), where the marriage is according to religious rites or usages, or
  - (iv) an armed forces overseas marriage Order, where the marriage is according to religious rites or usages,including any ceremony forming part of, or connected with, the solemnization of such a marriage; and
- (b) a marriage ceremony read or celebrated in accordance with section 46 of the 1949 Act in respect of a same sex couple (religious ceremony after registrar’s marriage of same sex couple);

and a reference to conducting a relevant marriage is to be read accordingly.

(5) In section 110 of the Equality Act 2010 (liability of employees and agents), after subsection (5) insert—

“(5A) A does not contravene this section if A—

- (a) does not conduct a relevant marriage,
- (b) is not present at, does not carry out, or does not otherwise participate in, a relevant marriage, or
- (c) does not consent to a relevant marriage being conducted,

for the reason that the marriage is the marriage of a same sex couple.

(5B) Subsection (5A) applies to A only if A is within the meaning of “person” for the purposes of section 2 of the Marriage (Same Sex Couples) Act 2013; and

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other expressions used in subsection (5A) and section 2 of that Act have the same meanings in that subsection as in that section.”.

- (6) In Schedule 3 to the Equality Act 2010 (services and public functions: exceptions), after Part 6 insert—

**“PART 6A**

MARRIAGE OF SAME SEX COUPLES IN ENGLAND AND WALES

**25A Marriage according to religious rites: no compulsion to solemnize etc**

- (1) A person does not contravene section 29 only because the person—
- (a) does not conduct a relevant marriage,
  - (b) is not present at, does not carry out, or does not otherwise participate in, a relevant marriage, or
  - (c) does not consent to a relevant marriage being conducted,
- for the reason that the marriage is the marriage of a same sex couple.
- (2) Expressions used in this paragraph and in section 2 of the Marriage (Same Sex Couples) Act 2013 have the same meanings in this paragraph as in that section.”.

*Part 3 of the Marriage Act 1949*

**3 Marriage for which no opt-in necessary**

In Part 3 of the Marriage Act 1949, for section 26 substitute—

**“26 Marriage of a man and a woman; marriage of same sex couples for which no opt-in necessary**

- (1) The following marriages may be solemnized on the authority of two certificates of a superintendent registrar—
- “(a) a marriage of a man and a woman, in a building registered under section 41, according to such form and ceremony as the persons to be married see fit to adopt;
  - (b) a marriage of any couple in the office of a superintendent registrar;
  - (bb) a marriage of any couple on approved premises;
  - (c) a marriage of a man and a woman according to the usages of the Society of Friends (commonly called Quakers);
  - (d) a marriage between a man and a woman professing the Jewish religion according to the usages of the Jews;
  - (dd) a qualifying residential marriage;
  - (e) a marriage of a man and a woman according to the rites of the Church of England in any church or chapel in which banns of matrimony may be published.”

- (2) In this section “qualifying residential marriage” means—
- (a) the marriage of a man and a woman (other than a marriage in pursuance of subsection (1)(c) or (d) above), one or each of whom is house-bound or a detained person, at the usual place of residence of the house-bound or detained person or persons, or
  - (b) the marriage of a same sex couple (other than a marriage according to the rites of the Church of England or other religious rites or usages), one or each of whom is house-bound or a detained person, at the usual place of residence of the house-bound or detained person or persons.”.

#### **4 Opt-in: marriage in places of worship**

- (1) After section 26 of the Marriage Act 1949 insert—

##### **“26A Opt-in to marriage of same sex couples: places of worship**

- (1) A marriage of a same sex couple in an appropriately registered building according to such form and ceremony as the persons to be married see fit to adopt may be solemnized on the authority of two certificates of a superintendent registrar.
  - (2) For the purposes of this section “appropriately registered building” means a building which has been registered under section 43A.
  - (3) An application for registration of a building under section 43A may not be made unless the relevant governing authority has given written consent to marriages of same sex couples.
  - (4) For that purpose, in relation to a building—
    - “relevant governing authority” means the person or persons recognised by the members of the relevant religious organisation as competent for the purpose of giving consent for the purposes of this section;
    - “relevant religious organisation” means the religious organisation for whose religious purposes the building is used.
  - (5) Nothing in this section is to be taken to relate or have any reference to marriages solemnized according to the rites of the Church of England.
  - (6) This section is subject (in particular) to sections 44A to 44C (registration of shared buildings for marriage of same sex couples) and regulations made under any of those sections.”.
- (2) Schedule 1 (registration of buildings etc) has effect.

#### **5 Opt-in: other religious ceremonies**

- After section 26A of the Marriage Act 1949 insert—

##### **“26B Opt-in to marriage of same sex couples: other religious ceremonies**

- (1) A marriage may, in any of the following cases, be solemnized on the authority of two certificates of a superintendent registrar.

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- (2) Case A is where—
- (a) the marriage is of a same sex couple according to the usages of the Society of Friends (commonly called Quakers), and
  - (b) the relevant governing authority has given written consent to such marriages of same sex couples.
- (3) For that purpose “relevant governing authority” means the recording clerk for the time being of the Society of Friends in London.
- (4) Case B is where—
- (a) the marriage is of a same sex couple professing the Jewish religion according to the usages of the Jews, and
  - (b) the relevant governing authority has given written consent to such marriages of same sex couples.
- (5) For that purpose the meaning of “relevant governing authority” is to be determined in accordance with this table—

<i>The “relevant governing authority” is...</i>	<i>...if the marriage falls to be registered by...</i>
the Chief Rabbi of the United Hebrew Congregations of the Commonwealth	the secretary of a synagogue certified under paragraph (a) of the relevant definition (certification by the President of the Board of Deputies)
the person or persons duly recognised by the members of— <ol style="list-style-type: none"> <li>(i) the West London Synagogue of British Jews (“the West London Synagogue”), and</li> <li>(ii) the other synagogues that are constituents of or affiliated to the Movement for Reform Judaism</li> </ol>	<ul style="list-style-type: none"> <li>— either the secretary of the West London Synagogue, as certified under paragraph (b) of the relevant definition</li> <li>— or the secretary of another synagogue in a case where:               <ol style="list-style-type: none"> <li>(i) the secretary is certified under paragraph (d) of the relevant definition by the secretary of the West London Synagogue, and</li> <li>(ii) the synagogue is one of those which are constituents of or affiliated to the Movement for Reform Judaism</li> </ol> </li> </ul>
the person or persons duly recognised by the members of— <ol style="list-style-type: none"> <li>(i) the Liberal Jewish Synagogue, St. John’s Wood (“the St. John’s Wood Synagogue”), and</li> <li>(ii) the other synagogues that are constituents of or affiliated to Liberal Judaism</li> </ol>	<ul style="list-style-type: none"> <li>— either the secretary of the St. John’s Wood Synagogue, as certified under paragraph (c) of the relevant definition</li> <li>— or the secretary of another synagogue in a case where:               <ol style="list-style-type: none"> <li>(i) the secretary is certified under paragraph (d) of the relevant definition by the secretary of the St. John’s Wood Synagogue, and</li> </ol> </li> </ul>

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<i>The “relevant governing authority” is...</i>	<i>...if the marriage falls to be registered by...</i>
	(ii) the synagogue is one of those which are constituents of or affiliated to Liberal Judaism
the person or persons duly recognised by the members of the synagogue by whose secretary the marriage falls to be registered	the secretary of a synagogue certified under paragraph (d) of the relevant definition (certification by the secretary of the West London Synagogue or the secretary of the St. John’s Wood Synagogue) in a case where the synagogue is not one of those which are constituents of or affiliated to: (i) the Movement for Reform Judaism, or (ii) Liberal Judaism

In that table—

- (a) “relevant definition” means the definition of “secretary of a synagogue” in section 67;
- (b) a reference to a person or persons being duly recognised is a reference to the person or persons being recognised for the purpose of giving consent for the purposes of this section.

(6) Case C is where—

- (a) the marriage is of a same sex couple according to religious rites or usages (other than the rites of the Church of England),
- (b) one or each of the couple is house-bound or a detained person,
- (c) the marriage is at the usual place of residence of the house-bound or detained person or persons, and
- (d) the relevant governing authority has given written consent to marriages of same sex couples according to those religious rites or usages.

(7) For that purpose—

“relevant governing authority” means the person or persons recognised by the members of the relevant religious organisation as competent for the purpose of giving consent for the purposes of this section;

“relevant religious organisation” means the religious organisation according to whose rites or usages the marriage is to be solemnized.

(8) Subsection (6) does not authorise a marriage that may be solemnized under subsection (2) or (4).”

#### *Part 5 of the Marriage Act 1949*

### **6 Armed forces chapels**

(1) Part 5 of the Marriage Act 1949 is amended as follows.

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(2) Section 68 (solemnization of marriages in naval, military and air force chapels): after subsection (1) insert—

“(1A) Nothing in this Part of this Act which applies to the marriage of same sex couples applies to marriage according to the rites of the Church of England.”.

(3) Section 70 (registration of chapels for marriages otherwise than according to rites of Church of England): after subsection (3) insert—

“(4) This section does not apply to the marriage of same sex couples.”.

(4) After section 70 insert—

**“70A Registration of chapels for marriages of same sex couples otherwise than according to rites of Church of England**

- (1) The Secretary of State may apply to the Registrar General for a chapel to which this Part applies to be registered for the solemnization of marriages of same sex couples.
- (2) Where an application is made under this section, subsections (1) to (3) of section 70 apply to the application as if it had been made under section 70.
- (3) Where a chapel is registered on an application under this section, subsections (1) to (3) of section 70 apply in relation to the chapel as if it had been registered on an application under section 70.
- (4) Any application for the cancellation of a registration is to be made by the Secretary of State.
- (5) The Secretary of State may by statutory instrument make regulations about—
  - (a) the registration of chapels under this section, and
  - (b) the cancellation of registrations.
- (6) The regulations may, in particular, make provision—
  - (a) as to the procedures to be followed by the Secretary of State in making an application for registration or an application for cancellation of a registration;
  - (b) as to the procedures to be followed by the Registrar General on an application for registration or an application for cancellation of a registration;
  - (c) as to consents required before an application for registration may be made (including such provision amending section 2 of the Marriage (Same Sex Couples) Act 2013 as the Secretary of State considers appropriate to secure that the giving of such a consent is an opt-in activity under that section).
- (7) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (8) In this section a reference to the cancellation of a registration is a reference to the cancellation, under section 70(2) (as applied by this section), of a registration under this section.”.



*The Marriage (Registrar General's Licence) Act 1970*

**7 Opt-in: “deathbed marriages”**

In section 1 of the Marriage (Registrar General's Licence) Act 1970 (marriages which may be solemnized by Registrar General's Licence), after subsection (2) insert—

“(3) A marriage of a same sex couple according to religious rites or usages may not be solemnized in accordance with this Act unless the relevant governing authority has given written consent to marriages of same sex couples according to those religious rites or usages.

(4) For that purpose—

“relevant governing authority” means the person or persons recognised by the members of the relevant religious organisation as competent for the purpose of giving consent for the purposes of this section;

“relevant religious organisation” means the religious organisation according to whose rites or usages the marriage is to be solemnized.”.

*The Church in Wales*

**8 Power to allow for marriage of same sex couples in Church in Wales**

- (1) This section applies if the Lord Chancellor is satisfied that the Governing Body of the Church in Wales has resolved that the law of England and Wales should be changed to allow for the marriage of same sex couples according to the rites of the Church in Wales.
- (2) The Lord Chancellor must, by order, make such provision as the Lord Chancellor considers appropriate to allow for the marriage of same sex couples according to the rites of the Church in Wales.
- (3) The provision that may be made by an order under this section includes provision amending England and Wales legislation.
- (4) In making an order under this section, the Lord Chancellor must have regard to the terms of the resolution of the Governing Body mentioned in subsection (1).
- (5) If it appears to the Lord Chancellor—
  - (a) that a reference in this section to the Governing Body has ceased to be appropriate by reason of a change in the governance arrangements of the Church in Wales, the reference has effect as a reference to such person or persons as the Lord Chancellor thinks appropriate; or
  - (b) that a reference in this section to a resolution has ceased to be appropriate for that reason, the reference has effect as a reference to such decision or decisions as the Lord Chancellor thinks appropriate.
- (6) In Schedule 7 to the Constitutional Reform Act 2005 (functions of the Lord Chancellor which may not be transferred under the Ministers of the Crown Act 1975), in paragraph 4, at the end of Part A insert—

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*Status: This is the original version (as it was originally enacted).*

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*“Marriage (Same Sex Couples) Act 2013*

Section 8”.

*Other provisions relating to marriages of same sex couples*

**9 Conversion of civil partnership into marriage**

- (1) The parties to an England and Wales civil partnership may convert their civil partnership into a marriage under a procedure established by regulations made by the Secretary of State.
- (2) The parties to a civil partnership within subsection (3) may convert their civil partnership into a marriage under a procedure established by regulations made by the Secretary of State.
- (3) A civil partnership is within this subsection if—
  - (a) it was formed outside the United Kingdom under an Order in Council made under Chapter 1 of Part 5 of the Civil Partnership Act 2004 (registration at British consulates etc or by armed forces personnel), and
  - (b) the part of the United Kingdom that was relevant for the purposes of section 210(2)(b) or (as the case may be) section 211(2)(b) of that Act was England and Wales.
- (4) Regulations under this section may in particular make—
  - (a) provision about the making by the parties to a civil partnership of an application to convert their civil partnership into a marriage;
  - (b) provision about the information to be provided in support of an application to convert;
  - (c) provision about the making of declarations in support of an application to convert;
  - (d) provision for persons who have made an application to convert to appear before any person or attend at any place;
  - (e) provision conferring functions in connection with applications to convert on relevant officials, relevant armed forces personnel, the Secretary of State, or any other persons;
  - (f) provision for fees, of such amounts as are specified in or determined in accordance with the regulations, to be payable in respect of—
    - (i) the making of an application to convert;
    - (ii) the exercise of any function conferred by virtue of paragraph (e).
- (5) Functions conferred by virtue of paragraph (e) of subsection (4) may include functions relating to—
  - (a) the recording of information on the conversion of civil partnerships;
  - (b) the issuing of certified copies of any information recorded;
  - (c) the conducting of services or ceremonies (other than religious services or ceremonies) following the conversion of a civil partnership.
- (6) Where a civil partnership is converted into a marriage under this section—
  - (a) the civil partnership ends on the conversion, and

- (b) the resulting marriage is to be treated as having subsisted since the date the civil partnership was formed.

(7) In this section—

“England and Wales civil partnership” means a civil partnership which is formed by two people registering as civil partners of each other in England or Wales (see Part 2 of the Civil Partnership Act 2004);

“relevant armed forces personnel” means—

- (a) a member of Her Majesty’s forces;
- (b) a civilian subject to service discipline (within the meaning of the Armed Forces Act 2006);

and for this purpose “Her Majesty’s forces” has the same meaning as in the Armed Forces Act 2006;

“relevant official” means—

- (a) the Registrar General;
- (b) a superintendent registrar;
- (c) a registrar;
- (d) a consular officer in the service of Her Majesty’s government in the United Kingdom;
- (e) a person authorised by the Secretary of State in respect of the solemnization of marriages or formation of civil partnerships in a country or territory in which Her Majesty’s government in the United Kingdom has for the time being no consular representative.

## **10 Extra-territorial matters**

(1) A marriage under—

- (a) the law of any part of the United Kingdom (other than England and Wales), or
- (b) the law of any country or territory outside the United Kingdom,

is not prevented from being recognised under the law of England and Wales only because it is the marriage of a same sex couple.

(2) For the purposes of this section it is irrelevant whether the law of a particular part of the United Kingdom, or a particular country or territory outside the United Kingdom—

- (a) already provides for marriage of same sex couples at the time when this section comes into force, or
- (b) provides for marriage of same sex couples from a later time.

(3) Schedule 2 (extra-territorial matters) has effect.

### *Effect of extension of marriage*

## **11 Effect of extension of marriage**

(1) In the law of England and Wales, marriage has the same effect in relation to same sex couples as it has in relation to opposite sex couples.

(2) The law of England and Wales (including all England and Wales legislation whenever passed or made) has effect in accordance with subsection (1).

(3) Schedule 3 (interpretation of legislation) has effect.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Schedule 4 (effect of extension of marriage: further provision) has effect.
- (5) For provision about limitations on the effects of subsections (1) and (2) and Schedule 3, see Part 7 of Schedule 4.
- (6) Subsections (1) and (2) and Schedule 3 do not have any effect in relation to—
  - (a) Measures and Canons of the Church of England (whenever passed or made),
  - (b) subordinate legislation (whenever made) made under a Measure or Canon of the Church of England, or
  - (c) other ecclesiastical law (whether or not contained in England and Wales legislation, and, if contained in England and Wales legislation, whenever passed or made).
- (7) In Schedules 3 and 4—
  - “existing England and Wales legislation” means—
    - (a) in the case of England and Wales legislation that is primary legislation, legislation passed before the end of the Session in which this Act is passed (excluding this Act), or
    - (b) in the case of England and Wales legislation that is subordinate legislation, legislation made on or before the day on which this Act is passed (excluding legislation made under this Act);
  - “new England and Wales legislation” means—
    - (a) in the case of England and Wales legislation that is primary legislation, legislation passed after the end of the Session in which this Act is passed, or
    - (b) in the case of England and Wales legislation that is subordinate legislation, legislation made after the day on which this Act is passed.