

**EXPLANATORY MEMORANDUM TO**  
**THE FAMILY PROCEDURE (AMENDMENT) RULES 2014**

**2014 No. 524 (L. 5)**

1. This explanatory memorandum has been prepared by the Ministry of Justice 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 This Statutory Instrument makes minor consequential amendments to the Family Procedure Rules 2010 (“the FPR 2010”) to support the implementation of the Marriage (Same Sex Couples) Act 2013 (“the Act”). It amends the language used in rule 7.11 of the FPR 2010 to make clear that this rule applies to marriages of both opposite sex and same sex couples and amends rule 7.26 to make clear this rule only applies to marriages of opposite sex couples. It also amends rule 31 of the FPR 2010 to make reference to the Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014 (“the Jurisdiction Regulations”).

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

3.1 This instrument is one of a number of instruments which have been laid before Parliament and which are necessary for the implementation of the majority of the Act. To enable the first marriages of same sex couples to take place on 29 March 2014, all instruments, including this one, must be in force by 13 March 2014. However, because the content of this instrument depended on the Jurisdiction Regulations being approved by Parliament it was not possible to lay this instrument until approval of the Jurisdiction Regulations had been obtained.

3.2 The Jurisdiction Regulations were approved by Parliament on 5 March 2014 following a deferred division in the House of Commons. This has meant that it has not been possible to lay this instrument in accordance with the 21 day rule. However, the Ministry of Justice has made every effort to make sure that this instrument was laid as soon after Parliamentary approval of the Jurisdiction Regulations was obtained as possible. The Family Procedure Rule Committee was asked to approve this instrument late on 5 March, the instrument was then allowed by the Minister on 6 March and it was laid on 10 March.

## **4. Legislative Context**

4.1 This instrument is one of a number of instruments which have been laid before Parliament 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 subordinate legislation in England and Wales<sup>1</sup>;
- allowing registration of religious buildings and appointment of authorised persons for marriage of same sex couples<sup>2</sup>;
- setting out procedures for registration of shared religious buildings for the solemnization of marriages of same sex couples<sup>3</sup>;
- setting out provisions on jurisdiction in the event of divorce or annulment of a marriage of a same sex couple<sup>4</sup>;
- setting out procedures for registration of military chapels for marriage of same sex couples<sup>5</sup>;
- setting out procedures for marriages in British consulates and overseas armed forces bases<sup>6</sup>;
- providing for graduated retirement benefit to be inheritable by a surviving same sex spouse<sup>7</sup>;
- making changes to particular public service pension schemes to provide survivor benefits for married same sex couples on the same basis as civil partners<sup>8</sup>.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

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<sup>1</sup> The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 and the Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014.

<sup>2</sup> The Marriage of Same Sex Couples (Registration of Buildings and Appointment of Authorised Persons) Regulations 2014.

<sup>3</sup> The Marriage of Same Sex Couples (Registration of Shared Buildings) Regulations 2014.

<sup>4</sup> The Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014.

<sup>5</sup> The Marriage of Same Sex Couples (Use of Armed Forces' Chapels) Regulations 2014.

<sup>6</sup> The Consular Marriages and Marriages under Foreign Law Order 2014, and the Overseas Marriage (Armed Forces) Order 2014.

<sup>7</sup> The Social Security (Graduated Retirement Benefit) (Married Same Sex Couples) Regulations 2014.

<sup>8</sup> 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.

## **7. Policy background**

- What is being done and why

7.1 The overall purpose of the Act is to make marriage of same sex couples possible in England and Wales. The Act seeks to make sure that same sex married couples are generally treated in the same way as opposite sex married couples, while making provision to protect religious freedom in relation to the solemnisation of marriage. To achieve this overall aim it is necessary to make some minor consequential amendments to the FPR 2010 in this instrument to make sure that the procedural rules for the courts in England and Wales are compatible with the provisions of the Act.

- Consolidation

7.2 Not applicable.

## **8. Consultation outcome**

8.1 A limited consultation with specialist judiciary, practitioners and academics was carried out. No comments were received.

## **9. Guidance**

9.1 The amendment rules will be published on the Family Procedure Rule Committee webpage and the amendments will be incorporated into the web version of Family Procedure Rules 2010. No specific guidance is considered necessary.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument. It does not impose burdens for business, charities or voluntary bodies. It does not impose costs on business or civil society organisations. The impact on the public sector is below £5 million.

## **11. Regulating small business**

11.1 These amendment rules will have no impact on the regulation of small business except that small firms of legal representatives will need to be aware of them.

## **12. Monitoring & review**

12.1 The Family Procedure Rule Committee continuously monitors and updates FPR 2010. The Ministry of Justice will bring before the Committee any requirement for review of these provisions which is identified.

### **13. Contact**

**Ms Tina Jenkins** at the Ministry of Justice Tel: 020 3545 8988 or email: [tina.jenkins@justice.gsi.gov.uk](mailto:tina.jenkins@justice.gsi.gov.uk) can answer any queries regarding the instrument.