

MARRIAGE (SAME SEX COUPLES) ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 3 of the Marriage Act 1949

Section 3 – Marriage for which no opt-in necessary

36. **Section 3** replaces the existing section 26 in Part 3 of the Marriage Act (Marriages which may be solemnized on the authority of superintendent registrar's certificate) with a new section 26 (Marriage of a man and a woman; marriage of same sex couples for which no opt-in necessary). The new section 26 replicates the existing section 26 for marriages between a man and a woman and further authorises certain marriages of same sex couples (by civil ceremony). New section 26 therefore authorises:
- religious marriage ceremonies between a man and a woman in registered buildings;
 - civil marriage ceremonies for all couples in a register office;
 - civil marriage ceremonies for all couples in approved premises (for example a hotel);
 - religious marriage ceremonies between a man and a woman by the Quakers or those of the Jewish religion;
 - marriages between a man and a woman one of whom is house-bound or detained;
 - civil marriage ceremonies of a same sex couple, one of whom is house-bound or detained;
 - marriages between a man and a woman in a church or chapel of the Church of England or the Church in Wales.
37. Therefore, civil marriage ceremonies of same sex couples are authorised under this section, but religious marriages of same sex couples are authorised under different provisions of the Marriage Act – these are inserted by sections 4 to 6 of this Act, which create arrangements for religious organisations other than the Church of England and Church in Wales to opt in to conducting marriages of same sex couples. Particular provision for the Church in Wales is contained in section 8.
38. This section will allow same sex couples to have a civil marriage ceremony on approved premises such as a hotel or stately home or in a register office, and will also allow the marriage by a registrar of a same sex couple where one of the couple is house-bound or detained at his or her usual place of residence. These marriage ceremonies do not require an opt-in. The remaining provisions of this section restate the provisions in relation to the marriage of opposite sex couples in both civil and religious ceremonies – these marriages also do not require an opt-in.