

MARRIAGE (SAME SEX COUPLES) ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 3 of the Marriage Act 1949

Section 4 – Opt-in: marriage in places of worship

39. *Section 4* inserts a new section 26A (Opt-in to marriage of same sex couples: places of worship) into the Marriage Act. The effect of the section is to authorise religious marriage ceremonies of same sex couples in certified places of worship (where the relevant religious organisation has opted in and registered the place of worship to solemnize marriages of same sex couples).
40. New section 26A (subsection (1)) permits religious marriage ceremonies of same sex couples in a place of worship that has been specifically registered to solemnize marriages of same sex couples under section 43A (“an appropriately registered building”). New section 43A (inserted by paragraph 2 of Schedule 1 to the Act) sets out the procedure for the registration of a building for religious marriage ceremonies of same sex couples. Subsection (3) of section 26A provides that an application for registration under section 43A cannot be made without the written consent of the relevant governing authority of the religious organisation concerned. Subsection (4) of new section 26A defines what is meant by the “relevant governing authority”. This definition leaves it open to religious organisations to define their governing authority as they wish for the purpose of giving consent to religious marriage of same sex couples.
41. Subsection (5) of new section 26A makes clear that the ability to opt in does not apply in respect of marriage according to the rites of the Church of England or the Church in Wales. In this Part of the Marriage Act, references to the Church of England include the Church in Wales.
42. Subsection (6) makes the provisions of section 26A subject to the provisions of sections 44A to 44C of the Marriage Act and any regulations made under any of these sections. Sections 44A to 44C are new sections inserted by paragraph 3 of Schedule 1 to the Act and make provision about registration of buildings for marriage of same sex couples where buildings are shared by more than one religious organisation.
43. Subsection (2) of section 4 brings into effect Schedule 1 (Registration of buildings etc). This will enable same sex couples to be married in religious ceremonies at certified places of worship where the religious organisation concerned has registered the building for the solemnization of marriages of same sex couples. There is no requirement for religious organisations to register their buildings and, if the organisation does not wish to solemnize marriages of same sex couples, it does not have to do so. This applies to all religious organisations except for the Church of England, the Church in Wales, the Society of Friends (Quakers) and those of the Jewish religion.