

SCHEDULES

SCHEDULE 7

TRANSITIONAL AND CONSEQUENTIAL PROVISION ETC

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

Marriage Act 1949 (c. 76)

- 2 The Marriage Act 1949 is amended as follows.
- 3 Section 3 (marriages of persons under 18), subsection (1): after “widow” insert “or a surviving civil partner”.
- 4 (1) Section 25 (void marriages) is amended as follows.
- (2) At the beginning insert—
- “ (1) A marriage shall be void in any of the following cases.”.
- (3) The existing wording of section 25 becomes subsection (2) of that section; and, at the beginning of that subsection, for “If any persons” substitute—
- “ (2) Case A is where any persons”.
- (4) For the words after paragraph (d) substitute—
- “ (3) Case B is where any persons knowingly and wilfully consent to or acquiesce in the solemnization of a Church of England marriage between them by a person who is not in Holy Orders.
- (4) Case C is where any persons of the same sex consent to or acquiesce in the solemnization of a Church of England marriage between them.
- (5) In subsections (3) and (4) “Church of England marriage” means a marriage according to the rites of the Church of England.”.
- 5 Section 27A (additional information required in certain cases), subsection (1): after “section 26(1)(dd)” insert “or 26B(6)”.
- 6 After section 27C insert—

Status: This is the original version (as it was originally enacted).

“27D Additional information required for certain marriages of same sex couples

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- (1) This section applies in relation to any marriage intended to be solemnized in pursuance of section 26B(2), (4) or (6) (marriage of same sex couples: Quaker marriage, Jewish marriage, marriage of house-bound or detained person).
 - (2) The superintendent registrar to whom notice of such a marriage is given under section 27 may require the relevant governing authority to provide a copy of the consent mentioned in section 26B(2)(b), (4)(b) or (6)(d).
 - (3) In this section, “relevant governing authority”, in relation to an intended marriage under section 26B(2), (4) or (6), has the same meaning as in that provision.”.
- 7 (1) Section 28A (power to require evidence) is amended in accordance with this paragraph.
- (2) After subsection (1) insert—
- “(1A) In the case of an intended marriage to which section 27D applies, the superintendent registrar to whom the notice of the marriage is given may require the relevant governing authority to produce evidence relating to the consent mentioned in section 26B(2)(b), (4)(b) or (6)(d).”.
- (3) Subsection (2): for “Such a requirement” substitute “A requirement under subsection (1) or (1A)”.
- 8 (1) Section 41 (registration of buildings) is amended in accordance with this paragraph.
- (2) The title: at the end insert “: **marriage of a man and a woman**”.
- (3) After subsection (1) insert—
- “(1A) A reference in this section to the solemnization of marriage is a reference to the solemnization of marriage of a man and a woman.”.
- 9 (1) Section 42 (cancellation of registration and substitution of another building) is amended in accordance with this paragraph.
- (2) For the title substitute “**Cancellation of registration under section 41: building no longer used**”.
- (3) Subsection (1): for “registered building” substitute “building registered under section 41”.
- 10 (1) Section 43 (appointment of authorised persons) is amended in accordance with this paragraph.
- (2) For the title substitute “**Buildings registered under section 41: appointment of authorised persons**”.
- (3) Subsection (1): for “registered building” (in each place) substitute “building registered under section 41”.

(4) For the proviso to subsection (1) substitute—

“(1A) The power conferred by this section may only be exercised after the end of the relevant one year period (and, if that period has ended before the date of the registration under section 41, the power may accordingly be exercised immediately).

(1B) The relevant one year period is the period of one year beginning with the date of the registration of the building under section 41 (the “new registration”).

(1C) But if—

- (a) there is any earlier registration of the building under section 43A which is still in force at the date of the new registration, or
- (b) there has been any earlier qualifying registration of a previous building,

the relevant one year period is the period of one year beginning with the date of that registration (or the earlier of those dates).

(1D) For that purpose there is a qualifying registration of a previous building if—

- (a) the congregation on whose behalf the new registration is made previously used another building for the purpose of public religious worship,
- (b) that building was registered under section 41 or 43A, and
- (c) that registration was cancelled not more than one month before the date of the new registration.”.

(5) Omit subsection (2).

11 Section 44 (solemnization of marriage in registered building), subsection (2)(b): for “the last foregoing section” substitute “section 43 (in the case of the marriage of a man and a woman), or section 43B (in the case of the marriage of a same sex couple)”.

12 Section 45A (solemnization of certain marriages), subsection (1): after “section 26(1) (dd)” insert “or 26B(6)”.

13 (1) Section 46 (register office marriage followed by religious ceremony) is amended in accordance with this paragraph.

(2) Subsection (1): for “marriage solemnised in the presence of a superintendent registrar” substitute “relevant marriage”.

(3) After subsection (1) insert—

“(1A) In this section “relevant marriage” means—

- (a) the marriage of a man and a woman solemnized in the presence of a superintendent registrar,
- (b) the marriage of a same sex couple solemnized in the presence of a superintendent registrar, and
- (c) a marriage which arises from the conversion of a civil partnership under regulations under section 9 of the Marriage (Same Sex Couples) Act 2013.

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(1B) This section does not authorise the marriage service of the Church of England to be read or celebrated in the case of a relevant marriage of a same sex couple.

(1C) This section does not authorise any other marriage service to be read or celebrated in the case of a relevant marriage of a same sex couple unless the relevant governing authority has given written consent to the reading or celebration of that service in the case of such marriages.

(1D) 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 whose marriage service is to be read or celebrated.”.

14 Section 48 (proof of certain matters not necessary to validity of marriages), subsection (1)—

(a) paragraph (d): omit “or”;

(b) after paragraph (d) insert—

“(da) that, in the case of a marriage under section 26B(2), (4) or (6), the relevant governing authority had given consent as mentioned in section 26B(2)(b), (4)(b) or (6)(d);”;

(c) at the end of paragraph (e) insert “or

(ea) that, in the case of a marriage under section 26A, the relevant governing authority had given consent as mentioned in section 26A(3);”.

15 After section 49 insert—

“49A Void marriages: additional provision about same sex couples

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(1) If a same sex couple knowingly and wilfully intermarries under the provisions of this Part of this Act in the absence of the required consent, the marriage shall be void.

(2) In this section, in relation to a marriage of a same sex couple, “required consent” means consent under—

(a) section 26A(3), in a case where section 26A applies to the marriage (but section 44A does not apply to it);

(b) section 26A(3) and section 44A(6), in a case where section 26A and section 44A apply to the marriage;

(c) section 26B(2)(b), in a case where section 26B(1), (2) and (3) apply to the marriage;

(d) section 26B(4)(b), in a case where section 26B(1), (4) and (5) apply to the marriage;

(e) section 26B(6)(d), in a case where section 26B(1), (6) and (7) apply to the marriage.”.

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

- 16 Section 53, paragraph (c): for the words from “religion” to the end substitute “religion—
- (i) where the parties to the marriage are both members of the same synagogue, the marriage shall be registered by the secretary of that synagogue; and
 - (ii) where the parties to the marriage are members of different synagogues, the marriage shall be registered by the secretary of whichever of those synagogues the parties to the marriage nominate;”.
- 17 Section 69 (licensing of chapels for marriages according to rites of Church of England), subsection (5): for “authorised persons” substitute “persons authorised under section 43”.
- 18 Section 70 (registration of chapels for marriages otherwise than according to rites of Church of England), subsection (1), paragraphs (a) and (b): for “registered building” substitute “building registered under section 41”.
- 19 (1) Section 75 (offences relating to solemnization of marriages) is amended in accordance with this paragraph.
- (2) Subsection (2)(bb): after “section 26(1)(dd)” insert “or 26B(6)”.
 - (3) Subsection (3)(d): after “(dd)” insert “or 26B(6)”.
 - (4) Subsection (5): after “seventy” insert “or 70A”.
- 20 (1) Section 78 (interpretation) is amended in accordance with this paragraph.
- (2) Subsection (1)—
 - (a) for the definition of “authorised person” substitute—
 - ““authorised person” means—
 - (a) in relation to a building registered under section 41, a person whose name and address have been certified in accordance with section 43;
 - (b) in relation to a building registered under section 43A, a person whose name and address have been certified in accordance with section 43B;”;
 - (b) after the definition of “ecclesiastical district” insert—
 - ““England and Wales legislation” has the same meaning as in the Marriage (Same Sex Couples) Act 2013;”;
 - (c) definition of “registered building”: for “Part III” substitute “section 41 or section 43A”.
 - (3) After subsection (5) insert—
 - “(6) If, for the purpose of any provision of this Act, a relevant governing authority has given written consent to marriages of same sex couples, the validity of that consent is not affected only because there is a change in the person or persons constituting that relevant governing authority.”.
- 21 (1) Schedule 4 (provisions of Act which are excluded or modified in their application to Naval, Military and Air Force chapels) is amended in accordance with this paragraph.
- (2) Part 3 (exclusion of provisions relating to marriages otherwise than according to the rites of the Church of England): after the entry relating to section 43 insert—

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“Sections 43A and 43C.”.

- (3) Part 4 (modification of provisions relating to marriages otherwise than according to the rites of the Church of England), after “forty-three,” insert “43B,”.

Marriage (Registrar General’s Licence) Act 1970

- 22 The Marriage (Registrar General’s Licence) Act 1970 is amended as follows.
- 23 Section 1 (marriages which may be solemnized by Registrar General’s licence), subsection (2): after “section 26(1)(dd)” insert “or 26B(6)”.
- 24 Section 2 (notice of marriage), after subsection (3) insert—
- “(4) Sections 27D and 28A(1A) and (2) of the principal Act apply (with the appropriate modifications) to a marriage intended to be solemnized in pursuance of this Act as they apply to a marriage intended to be solemnized in pursuance of 26B(2), (4) or (6) of that Act.”.
- 25 After section 13 insert—

“13A Void marriages: additional provision about same sex couples

“13A Void marriages: additional provision about same sex couples

- (1) If a same sex couple knowingly and wilfully intermarries under the provisions of this Act in the absence of the required consent, the marriage shall be void.
- (2) In this section “required consent” means consent under section 1(3).”.

Matrimonial Causes Act 1973 (c. 18)

- 26 The Matrimonial Causes Act 1973 is amended as follows.
- 27 Section 11 (grounds on which a marriage is void): omit paragraph (c).

Public Order Act 1986 (c. 64)

- 28 (1) Section 29JA of the Public Order Act 1986 (protection of freedom of expression (sexual orientation)) is amended in accordance with this paragraph.
- (2) The existing provision of section 29JA becomes subsection (1) of that section.
- (3) After that provision insert—
- “(2) In this Part, for the avoidance of doubt, any discussion or criticism of marriage which concerns the sex of the parties to marriage shall not be taken of itself to be threatening or intended to stir up hatred.”.

Social Security Contributions and Benefits Act 1992 (c. 4)

- 29 The Social Security Contributions and Benefits Act 1992 is amended as follows.
- 30 Section 48 (use of former spouse’s or civil partner’s contributions): after subsection (4) insert—

“(5) For the purposes of this section, a civil partnership is not to be treated as having terminated by reason of its having been converted into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013.”.

Pension Schemes Act 1993 (c. 48)

- 31 The Pension Schemes Act 1993 is amended as follows.
- 32 Section 99 (trustees’ duties after exercise of option), subsection (3)(b): for “his widow” substitute “his or her surviving spouse or civil partner”.

Civil Partnership Act 2004 (c. 33)

- 33 The Civil Partnership Act 2004 is amended as follows.
- 34 Section 1 (civil partnership), subsection (3)—
- (a) after “only” insert “(a)”;
 - (b) after “annulment” insert “, or
 - (b) in the case of a civil partnership formed as mentioned in subsection (1)(a)(i) or (iv), on the conversion of the civil partnership into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013.”.
- 35 Section 4 (parental etc consent where proposed civil partner under 18), subsection (3): after “partner” insert “or a widower or a widow”.
- 36 Section 210 (registration at British consulates etc), subsection (6), paragraph (b) of the definition of “Registration officer”: after “country” (in both places) insert “or territory”.

Human Fertilisation and Embryology Act 2008 (c. 22)

- 37 The Human Fertilisation and Embryology Act 2008 is amended as follows.
- 38 (1) Section 35 (woman married at time of treatment) is amended in accordance with this paragraph.
- (2) The title: after “**married**” insert “**to a man**”.
 - (3) Subsection (1)(a): after “marriage” insert “with a man”.
- 39 Section 40 (embryo transferred after death of husband etc who did not provide sperm), subsection (1)(b): after “marriage” insert “with a man”.
- 40 (1) Section 42 (woman in civil partnership at time of treatment) is amended in accordance with this paragraph.
- (2) The title: after “**partnership**” insert “**or marriage to a woman**”.
 - (3) Subsection (1)—
 - (a) after “partnership” (in the first place) insert “or a marriage with another woman”;
 - (b) after “partnership” (in the second place) insert “or marriage”.
- 41 (1) Section 46 (embryo transferred after death of civil partner or intended female parent) is amended in accordance with this paragraph.

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- (2) The title: after “**civil partner**” insert “**or wife**”.
- (3) Subsection (1)—
 - (a) paragraph (b), after “partnership” insert “or marriage with another woman”;
 - (b) paragraphs (c), (d) and (e), after “partnership” insert “or marriage”;
 - (c) the words after paragraph (f), after “partnership” insert “or marriage”.

Equality Act 2010 (c. 15)

- 42 The Equality Act 2010 is amended as follows.
- 43 (1) Section 23 (comparison by reference to circumstances) is amended in accordance with this paragraph.
- (2) Subsection (3): after “married” insert “to a person of the opposite sex”.
- (3) After subsection (3) insert—
 - “(4) If the protected characteristic is sexual orientation, the fact that one person (whether or not the person referred to as B) is married to a person of the same sex while another is married to a person of the opposite sex is not a material difference between the circumstances relating to each case.”.
- 44 Schedule 3 (services and public functions: exceptions): for the title to Part 6 substitute—

“MARRIAGE: GENDER REASSIGNMENT”.

- 45 Schedule 9 (work: exceptions), Part 1 (occupational requirements), paragraph 2 (religious requirements relating to sex, marriage etc, sexual orientation), sub-paragraph (4): after paragraph (c) insert—
 - “(ca) a requirement not to be married to a person of the same sex;”.