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STATUTORY INSTRUMENTS

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**2020 No. 742**

**The Marriage and Civil Partnership  
(Northern Ireland) Regulations 2020**

**PART 2**

**Religious Marriage of Same-sex Couples**

**Removal of prohibition on religious marriage of same-sex couples**

**3.—**(1) In Article 9(1) of the Marriage Order (persons who may solemnise marriages), omit the second sentence (which prevents religious marriage for same-sex couples).

(2) Omit article 6(3A) of the Overseas Marriage (Armed Forces) Order 2014(2) (same-sex couple may not nominate Northern Ireland if their marriage is to be solemnised by a chaplain).

(3) In consequence of paragraph (1) omit regulation 3(2) of the 2019 Regulations.

(4) In consequence of paragraph (2) omit regulation 14(4)(b) of the 2019 Regulations.

**Meaning of “governing authority” of a religious body**

**4.—**(1) The Marriage Order is amended as follows.

(2) In Article 2(2) (definitions), after the definition of “district” insert—

““governing authority”, in relation to a religious body, has the meaning given by Article 9A;”.

(3) Before Article 10 (but after the heading “Religious marriages”) insert—

**“Governing authority of a religious body**

**9A.—**(1) In this Order “governing authority”—

(a) in relation to a religious body listed in paragraph (2), has the meaning given by that paragraph, and

(b) in relation to any other religious body, means the person recognised by members of the body as competent for the purpose of giving consent, in respect of members of the body, for the purposes of Articles 10 and 14.

(2) The list is as follows—

(a) in relation to the Presbyterian Church in Ireland, and any presbytery or congregation or other part or constituent body of that Church, the governing authority is the General Assembly of that Church;

(b) in relation to the Church of Ireland, and any diocese or congregation or other part or constituent body of that Church, the governing authority is the General Synod of that Church;

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(1) In Article 9, the second sentence was inserted by regulation 3(2) of [S.I. 2019/1514](#).

(2) [S.I. 2014/1108](#). Article 6(3A) was inserted by regulation 14(4)(b) of [S.I. 2019/1514](#).

- (c) in relation to the Methodist Church in Ireland, and any district or circuit or congregation or other part or constituent body of that Church, the governing authority is the Conference of that Church;
  - (d) in relation to the Roman Catholic Church, and any part or constituent body of that Church, the governing authority is the Bishop, or the Apostolic or Diocesan Administrator, of a Roman Catholic diocese in Northern Ireland (wholly or partly).
- (3) Regulations may amend this Article for the purpose of adding entries to or removing entries from, or altering entries in, the list in paragraph (2) as it has effect from time to time.”.

### **Registration of religious body’s members as officiants, and need for consent of governing authority**

5.—(1) The Marriage Order is amended as follows.

(2) In Article 10 (application by religious body for member to be registered to solemnise marriages), after paragraph (1) insert—

“(1A) The application must state whether it is for the member named in it to be registered under Article 11—

- (a) for marriages of parties who are not of the same sex,
- (b) for marriages of parties who are of the same sex, or
- (c) for both those descriptions of marriages.

(1B) Where—

- (a) the statement is as mentioned in paragraph (1A)(a), and the named member is already registered under Article 11 for marriages of parties who are of the same sex,
- (b) the statement is as mentioned in paragraph (1A)(b), and the named member is already registered under Article 11 for marriages of parties who are not of the same sex, or
- (c) the statement is as mentioned in paragraph (1A)(c), and the named member is already registered under Article 11 but only for marriages of one of the two descriptions,

the application operates as an application for registration additionally for marriages of the description for which the named member is not already registered.

(1C) Where the application is for the named member to be registered for marriages of parties who are of the same sex (whether or not it is only for marriages of that description), the Registrar General must refuse to register the named member under Article 11 for marriages of parties of the same sex unless the Registrar General—

- (a) has received written notice of the consent of the body’s governing authority to the member solemnising marriages of parties who are of the same sex, and
- (b) has not received written notice of withdrawal of that consent.

(1D) Consent for the purposes of paragraph (1C)(a), or its withdrawal, may be—

- (a) for solemnisations by persons who are, or who from time to time are, of a particular description, or
- (b) for solemnisations by a person or persons identified by name.”.

(3) In Article 11(3) (duty to register named member, except as provided by paragraph (2) of Article 10), for “paragraph” substitute “paragraphs (1C) and”.

(4) In Article 11 (registration of officiants), after paragraph (3) insert—

“(3A) The registration of a person under this Article must indicate—

- (a) whether the person is, or is not, registered for marriages of parties who are not of the same sex;
- (b) whether the person is, or is not, registered for marriages of parties who are of the same sex.

(3B) Where a person is registered under this Article immediately before 1st September 2020, that registration has effect on and after that day as a registration for marriages of parties who are not of the same sex (but subject to Article 12).”.

### **Declarations to be made by parties in religious marriage ceremonies**

6.—(1) The Marriage Order is amended as follows.

(2) In Article 10(2) omit sub-paragraph (b) (registration to be refused if body’s marriage ceremony does not include, or contradicts, appropriate declaration), but not the “or” at the end.

(3) In Article 10, after paragraph (2) insert—

“(2A) The Registrar General must refuse to register a member of a religious body under Article 11 for marriages of parties who are not of the same sex if the Registrar General considers that the marriage ceremony used by that body for marriages of that description does not include, or is inconsistent with, an appropriate declaration.

(2B) The Registrar General must refuse to register a member of a religious body under Article 11 for marriages of parties who are of the same sex if the Registrar General considers that the marriage ceremony used by that body for marriages of that description does not include, or is inconsistent with, an appropriate declaration.”.

(4) In Article 10(3) (meaning of “appropriate declaration” in Article 10(2)(b)), for “(2)(b)” substitute “(2A)”.

(5) In Article 10, after paragraph (3) insert—

“(3A) In paragraph (2B) an “appropriate declaration” means a declaration by the parties, in the presence of—

- (a) each other;
- (b) the officiant; and
- (c) two witnesses,

that they accept each other as husband and husband *or* as wife and wife.”.

(6) In Article 15(2)(b) (ceremony used for religious marriage must include, and not contradict, appropriate declaration), after “within the meaning of Article 10(3)” insert “or (as the case may be) Article 10(3A)”.

### **Cancellation of registrations, and appeals against refusal or cancellation of registration**

7.—(1) The Marriage Order is amended as follows.

(2) In Article 12(1) (grounds for cancellation of officiant’s registration)—

(a) in sub-paragraph (c) (marriage ceremony no longer contains appropriate declaration), after “ceremony used by that body” insert “for marriages of parties who are not of the same sex”, and

(b) before the “or” at the end of that sub-paragraph insert—

“(ca) that the marriage ceremony used by that body for marriages of parties who are of the same sex no longer contains an appropriate declaration within the meaning of Article 10(3A);”.

- (3) In Article 12 (cancellation of registration), after paragraph (3) insert—
- “(4) Where a person is registered under Article 11—
- (a) for marriages of parties who are not of the same sex, and
  - (b) for marriages of parties who are of the same sex,
- cancellation on the ground mentioned in paragraph (1)(a), (b), (c), (ca) or (d)(iv) may be of the person’s registration for one only of those descriptions of marriages.”.
- (4) In Article 13 (appeals against refusal or cancellation of registration), after paragraph (2) insert—
- “(2A) But there is no right of appeal—
- (a) under paragraph (1)(b) where the refusal is under Article 10(1C); or
  - (b) under paragraph (2) in relation to so much of the cancellation as relates to marriages of parties who are of the same sex if—
- (i) the cancellation in relation to marriages of that description is on the ground mentioned in Article 12(1)(a) or (b), and
  - (ii) the Registrar General has received written notice of the withdrawal of the consent of the body’s governing authority to the person solemnising marriages of parties who are of the same sex.”.

### **Temporary authorisation to solemnise religious marriage**

8.—(1) Article 14 of the Marriage Order (temporary authorisation to solemnise religious marriage) is amended as follows.

(2) After paragraph (1) insert—

“(1A) The Registrar General must not under paragraph (1) authorise a member of a religious body to solemnise marriages of parties who are of the same sex unless the Registrar General—

- (a) has received written notice of the consent of the body’s governing authority to the member solemnising marriages of parties who are of the same sex, and
- (b) has not received written notice of withdrawal of that consent.”.

(3) After paragraph (2) insert—

“(2A) An authorisation under paragraph (1)(b) must state whether it is—

- (a) for marriages of parties who are not of the same sex,
- (b) for marriages of parties who are of the same sex, or
- (c) for both those descriptions of marriages.

(2B) Where—

- (a) an authorisation under paragraph (1)(b) is granted before 1st September 2020, and
- (b) the specified period includes the whole or part of 1st September 2020 or of any later day,

then, for so much of the specified period as is on or after 1st September 2020, the authorisation has effect as an authorisation only for marriages of parties who are not of the same sex.

(2C) Where an authorisation under paragraph (1)(a) is granted before 1st September 2020 and a marriage covered by the authorisation has not been solemnised before that day then, on and after that day, the authorisation has effect in relation to the marriage only if, immediately before the marriage, the parties are not of the same sex.

- (2D) Consent for the purposes of paragraph (1A)(a), or its withdrawal, may be—
- (a) for solemnisations by persons who are, or who from time to time are, of a particular description, or
  - (b) for solemnisations by a person or persons identified by name.”.

### **Solemnisation of religious marriages**

- 9.**—(1) The Marriage Order is amended in accordance with paragraphs (2) and (3).
- (2) In Article 15 (solemnisation of religious marriage), after paragraph (2) insert—
- “(3) A person registered under Article 11—
- (a) must not solemnise a marriage of parties who are not of the same sex unless registered under Article 11 for marriages of parties who are not of the same sex, and
  - (b) must not solemnise a marriage of parties who are of the same sex unless registered under Article 11 for marriages of parties who are of the same sex.
- (4) A person authorised under Article 14(1)(a) must not solemnise a marriage unless the marriage is specified in the authorisation.
- (5) A person authorised under Article 14(1)(b)—
- (a) must not solemnise a marriage of parties who are not of the same sex unless authorised under Article 14(1)(b) to solemnise marriages of parties who are not of the same sex, and
  - (b) must not solemnise a marriage of parties who are of the same sex unless authorised under Article 14(1)(b) to solemnise marriages of parties who are of the same sex.”.

(3) In Article 7—

    - (a) in paragraph (3) (religious marriage may be solemnised only in accordance with marriage schedule, but subject to paragraphs (4) to (6)), for “(6)” substitute “(7)”, and
    - (b) after paragraph (6) insert—

“(7) Paragraph (3), and regulations under paragraph (5) or (6), have effect subject to Article 15(3) to (5).”.

(4) In regulation 6(4) of the Marriage Regulations (Northern Ireland) 2003<sup>(3)</sup> (officiant acting in place of officiant named in marriage schedule), after “may” insert “(subject to Article 15(3) to (5) of the Order)”.

### **Use of religious service at armed-forces marriage overseas**

- 10.**—(1) In the Overseas Marriages (Armed Forces) Order 2014<sup>(4)</sup>, article 12 (use, with consent of governing authority of religious organisation concerned, of religious service at forces marriage of parties who are of the same sex) extends also to Northern Ireland.
- (2) Accordingly—
- (a) omit article 1(2) of that Order, and
  - (b) in regulation 14 of the 2019 Regulations—

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<sup>(3)</sup> [S.R. 2003/468](#). Regulation 6 was amended by [S.I. 2015/395](#).

<sup>(4)</sup> The 2014 Order (except article 12) was extended to Northern Ireland by regulation 14(1), and article 1(2) of the Order was amended by regulation 14(2), of [S.I. 2019/1514](#).

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- (i) in paragraph (1), after “to Northern Ireland” insert “(but see regulation [10\(1\)](#) of the Marriage and Civil Partnership (Northern Ireland) Regulations 2020 as regards article 12)”, and
- (ii) omit paragraph (2).