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STATUTORY INSTRUMENTS

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**2014 No. 3168**

**MARRIAGE  
CIVIL PARTNERSHIP  
DEVOLUTION, SCOTLAND**

The Marriage (Same Sex Couples) Act 2013  
(Consequential and Contrary Provisions and Scotland)  
and Marriage and Civil Partnership (Scotland)  
Act 2014 (Consequential Provisions) Order 2014

*Made - - - - 27th November 2014  
Coming into force in accordance with article 1(2) and  
(3)*

A draft of this Order was laid before and approved by a resolution of each House of Parliament in accordance with section 18(2) of the Marriage (Same Sex Couples) Act 2013<sup>(1)</sup>, section 259(8) of the Civil Partnership Act 2004<sup>(2)</sup> and section 115 of, and paragraphs 1 to 3 of Schedule 7 to, the Scotland Act 1998<sup>(3)</sup>.

In accordance with section 18(11)(a) of the Marriage (Same Sex Couples) Act 2013, the Secretary of State has obtained the consent of the Scottish Ministers to the making of articles 4 and 5 of this Order.

This Order is made in exercise of the powers conferred by sections 17(1) to (3) and 18(4) and (10) of, and paragraph 1 of Schedule 2 and paragraph 27(3)(b) of Schedule 4 to, the Marriage (Same Sex Couples) Act 2013, section 259(1) and (3) of the Civil Partnership Act 2004 and sections 104, 112(1) and 113(2) to (3) and (5) of the Scotland Act 1998.

The Secretary of State, in exercise of those powers, makes the following Order:

**Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Provisions) Order 2014.

(2) Subject to paragraph (3), this Order comes into force on 10th December 2014.

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(1) 2013 c. 30.  
(2) 2004 c. 33.  
(3) 1998 c.46.

- (3) The following provisions come into force on 16th December 2014—
- (a) articles 4 and 5, and article 6 so far as it relates to those articles,
  - (b) so far as they extend to Scotland, the amendment to the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957<sup>(4)</sup> at paragraph 4 of the Schedule and articles 2 and 6 so far as they relate to that amendment.
- (4) In this Order “the Act” means the Marriage (Same Sex Couples) Act 2013.

### **Consequential amendments to Acts of Parliament**

2. The Schedule to this Order (which amends Acts of Parliament in consequence of the Act, the Marriage and Civil Partnership (Scotland) Act 2014<sup>(5)</sup> and the Civil Partnership Act 2004) has effect.

### **Contrary provision to section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act**

3. Section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act do not apply to Schedule 1, Part D, rule D.3, paragraph (4) and Schedule 2, Part C, rule C.2, paragraphs (4) and (5) to the Reserve Forces Non Regular Permanent Staff (Pension and Attributable Benefits Schemes) Regulations 2011<sup>(6)</sup>.

### **Revocation of article 5 of the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014**

4. Article 5 of the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014<sup>(7)</sup> is revoked.

### **Transitional and saving provision relating to article 4**

5.—(1) The revocation of article 5 of the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 does not affect—

- (a) anything done prior to the date of revocation by one or both of the deemed civil partners—
    - (i) in relation to the deemed civil partnership, or
    - (ii) otherwise as a deemed civil partner,
  - (b) anything done prior to the date of revocation by any other person in relation to—
    - (i) a deemed civil partnership, or
    - (ii) one or both of the deemed civil partners (as a deemed civil partner), or
  - (c) any relevant court proceedings which have concluded prior to the date of revocation.
- (2) Anything done prior to the date of revocation—
- (a) by one or both of the deemed civil partners (as a deemed civil partner) is to be treated on or after the date of revocation as if it had been done by that person or those persons as a married person or as a married couple, or

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(4) 1957 c. 58.

(5) 2014 asp 5.

(6) These Regulations are not statutory instruments. Copies can be found at [www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations](http://www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations). Hard copies can be obtained from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

(7) S.I. 2014/560.

- (b) by any other person in relation to a deemed civil partnership, or in relation to one or both of the deemed civil partners (as a deemed civil partner), is to be treated on or after the date of revocation as if it had been done by the other person in relation to a marriage or in relation to that person or those persons as a married person or as a married couple.
- (3) In any relevant court proceedings which have not concluded prior to the date of revocation and in any document made prior to the date of revocation—
  - (a) a reference to a deemed civil partnership has effect on or after the date of revocation as, or as including, a reference to a marriage, and
  - (b) a reference to one or both of the deemed civil partners has effect on or after the date of revocation as, or as including, a reference to that person or those persons as a married person or as a married couple.
- (4) In its application to a document made prior to the date of revocation, paragraph (3) is subject to any contrary intention appearing from the document.
- (5) A reference in this article to anything done includes a reference to anything not done.
- (6) In this article—
  - (a) “date of revocation” means 16th December 2014,
  - (b) “deemed civil partnership” refers to a marriage of a same sex couple under the law of England and Wales which has been treated as a civil partnership under the law of Scotland by virtue of article 5 of the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014, and “deemed civil partner” is to be construed accordingly,
  - (c) “document” has the same meaning as in Schedule 1 to the Interpretation and Legislative Reform (Scotland) Act 2010<sup>(8)</sup>,
  - (d) “relevant court proceedings” means any proceedings in a court or tribunal commenced prior to the date of revocation which concern—
    - (i) a deemed civil partnership, or
    - (ii) one or both of the deemed civil partners (as a deemed civil partner).

## **Extent**

- 6.—**(1) Subject to paragraph 2, this Order extends to England and Wales only.
- (2) The following provisions extend also to Scotland—
  - (a) article 1,
  - (b) articles 4 and 5,
  - (c) this article, and
  - (d) the amendment to the Registration of Births, Deaths and Marriages Act 1957 at paragraph 4 of the Schedule, and article 2 so far as it relates to that paragraph.

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<sup>(8)</sup> 2010 asp 10.

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27th November 2014

*Nicky Morgan*  
Secretary of State for Education and Minister for  
Women and Equalities  
Department for Education

## SCHEDULE

Article 2

### Consequential Amendments to Acts of Parliament

#### Wills Act 1837

- 1.—(1) The Wills Act 1837<sup>(9)</sup> is amended as follows.
- (2) In section 18<sup>(10)</sup> (will to be revoked by marriage)—
  - (a) in subsection (1), for “(4)” substitute “(5)”, and
  - (b) after subsection (4) insert—
    - “(5) Nothing in this section applies in the case of a marriage which results from—
      - (a) the conversion of a civil partnership into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section; or
      - (b) the changing of a civil partnership formed under Part 3 of the Civil Partnership Act 2004 into a marriage under—
        - (i) the Marriage (Scotland) Act 1977<sup>(11)</sup>;
        - (ii) the Marriage and Civil Partnership (Scotland) Act 2014; or
        - (iii) any order made under section 104 of the Scotland Act 1998 in consequence of the Marriage and Civil Partnership (Scotland) Act 2014.”.
  - (3) After section 18C<sup>(12)</sup> insert—

#### “Effect on subsisting will of conversion of civil partnership into marriage

- 18D.**—(1) The conversion of a civil partnership into a marriage does not—
  - (a) revoke any will made by a party to the civil partnership before the conversion; or
  - (b) affect any disposition in such a will.(2) The conversion of a civil partnership into a marriage does not affect any previous application of section 18B(2) to (6) to—
  - (a) a will made by a party to the civil partnership before the conversion; or
  - (b) a disposition in such a will.(3) Subsections (1) and (2) are subject to subsection (4).- (4) Any reference in a will to a civil partnership or civil partners (howsoever expressed) is to be read in relation to any civil partnership that has been converted into a marriage, or civil partners who have converted their civil partnership into a marriage, as referring to that marriage or married couple, as appropriate.
- (5) Subsection (4) is subject to any contrary intention appearing from the will.
- (6) In this section “conversion” means—
  - (a) the conversion of a civil partnership into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section;

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<sup>(9)</sup> 1837 c. 26.

<sup>(10)</sup> Section 18 was substituted in relation to England and Wales by the Administration of Justice Act 1982 (c. 53) section 18(1).

<sup>(11)</sup> 1977 c. 15.

<sup>(12)</sup> Section 18C was inserted by the Civil Partnership Act 2004, Schedule 4, paragraphs 1, 2 and 5.

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- (b) the changing of a civil partnership formed under Part 3 of the Civil Partnership Act 2004 into a marriage under—
  - (i) the Marriage (Scotland) Act 1977;
  - (ii) the Marriage and Civil Partnership (Scotland) Act 2014; or
  - (iii) any order made under section 104 of the Scotland Act 1998 in consequence of the Marriage and Civil Partnership (Scotland) Act 2014, and“converted” is to be read accordingly.”.

### **Perjury Act 1911**

2.—(1) Section 3 of the Perjury Act 1911(**13**) (false statements, etc, with reference to marriage) is amended as follows.

- (2) In subsection (1)(b)—
  - (a) after “register of marriage” insert “or register of conversions”, and
  - (b) after “marriage” in the second place it occurs, insert “or any civil partnership which is to be converted into a marriage”.
- (3) After subsection (2), insert—
  - “(3) In subsection (1)(b), “register of conversions” means the register of conversions of civil partnerships into marriages kept by the Registrar General in accordance with section 9 of the Marriage (Same Sex Couples) Act 2013(**14**) and regulations made under that section.”

### **Marriage Act 1949**

3.—(1) The Marriage Act 1949(**15**) is amended as follows.

(2) In section 45(**16**) (solemnization of marriage in register office), for “the last foregoing section” substitute “section 44”.

- (3) In section 46(**17**) (register office marriage followed by religious ceremony)—
    - (a) in subsection (1), after “regular minister” insert “, or (in the case of the conversion of a civil partnership at a place of residence) at that place of residence,”,
    - (b) in subsection (1A)—
      - (i) omit ““relevant marriage” means”,
      - (ii) before paragraph (a) insert—
        - ““place of residence”, in relation to the conversion of a civil partnership, means a place that a superintendent registrar attends for the purpose of the conversion because one of the parties to the civil partnership—
- (a) is housebound there,
  - (b) is detained there as a patient in a hospital or in a prison or other place to which the Prison Act 1952(**18**) applies, or
  - (c) is (being a person who is seriously ill and not expected to recover) present there;

(13) 1911 c. 6; there are amendments to section 3 not relevant to this Order.

(14) 2013 c. 30.

(15) 1949 c. 76.

(16) Section 45 was amended by the Immigration and Asylum Act 1999 (c. 33), Schedule 14, paragraphs 3 and 24 and by the Marriage Ceremony (Prescribed Words) Act 1996 (c. 34), section 1(2).

(17) Section 46(1) was amended by, and section 46(1A) to (1D) was inserted by, the Act, Schedule 7, paragraph 13(1) to (3). Section 46(2) was amended by the Marriage Act 1983 (c. 32), Schedule 1, paragraph 12.

(18) 1952 c. 52.

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- “relevant marriage” means—
- (c) in subsection (1D), for the definition of “relevant governing authority” substitute—
- ““relevant governing authority” means—
- (a) except in a case falling within paragraph (b) or (c), 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;
- (b) in the case of a ceremony according to the usages of the Society of Friends, the recording clerk for the time being of the Society of Friends in London; and
- (c) in the case of a ceremony according to the usages of the Jews, the person or persons who would be the relevant governing authority (in accordance with section 26B(5))(19) if the ceremony were a marriage that was to be registered in accordance with section 53(c)(20);”
- (d) in subsection (2)—
- (i) for “any marriage previously solemnised in the presence of a superintendent registrar” substitute “the relevant marriage”, and
- (ii) after “Act” insert “or in the register of conversions of civil partnerships into marriages kept by the Registrar General in accordance with section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section.”
- (e) after subsection (3) insert—
- “(4) In this section a reference to a church or chapel includes a reference to—
- (a) a place of meeting for members of the Society of Friends;
- (b) a Jewish synagogue; and
- (c) a place of worship certified under the Places of Worship Registration Act 1855(21).
- (5) Subsection (4) does not limit—
- (a) the churches or persuasions to which this section applies; or
- (b) the interpretation of this section in its application to a particular church or persuasion.
- (6) In the case of a religious ceremony which follows the conversion of a civil partnership in a country or territory outside of the United Kingdom in accordance with provision made by regulations under section 9 of the Marriage (Same Sex Couples) Act 2013(22) in relation to—
- (a) a member of Her Majesty’s forces (within the meaning of the Armed Forces Act 2006(23)) serving in the country or territory in which it is proposed they convert their civil partnership;
- (b) a relevant civilian (as defined in Part 3 of Schedule 6 to the Marriage (Same Sex Couples) Act 2013 and any Order in Council made under that Part) who is employed in that country or territory; or

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(19) Section 26B was inserted by the Act, section 5.

(20) Section 53(c) was amended by the Act, Schedule 7, paragraphs 2 and 16. There are other amendments to section 53 not relevant to this Order.

(21) 1855 c.81.

(22) 2013 c. 30.

(23) 2006 c. 52.

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- (c) a child of a person falling within paragraph (a) or (b) and whose home is with that person in that country or territory (including a person who is or has been treated as the child of a person (“P”) in relation to a marriage or civil partnership to which P is or was a party);

this section is to be read in accordance with subsection (7).

(7) In a case to which subsection (6) applies—

(a) subsection (1) is to be read as if—

- (i) the reference to a clergyman or minister (including a reference to a clergyman or minister of a particular church or persuasion) includes a reference to a chaplain serving in any of Her Majesty’s forces;
- (ii) there is no reference to a superintendent registrar; and
- (iii) the reference to the place of worship of which a person is a regular minister is a reference to the place where the conversion occurs (including any place of worship that is provided by the Secretary of State); and

(b) subsection (1C) is to be read as if it —

- (i) requires the relevant governing authority’s written consent to the reading or celebrating of the marriage service to be given to the Secretary of State; and
- (ii) additionally, requires the clergyman, minister or chaplain who is to read or celebrate the service to have the consent of the relevant governing authority to do so.”

(4) The validity of a consent given before the commencement of paragraph (3)(c) is not affected by the amendments of section 46(1D) made by that paragraph where the person or persons who gave the consent (or any successor or successors of that person or those persons) continue to be the relevant governing authority under section 46(1D) as so amended.

### **Registration of Births, Deaths and Marriages (Special Provisions) Act 1957**

4.—(1) The Registration of Births, Deaths and Marriages (Special Provisions) Act 1957(24) is amended as follows.

(2) In section 1(25) (records of deaths, births and marriages among armed forces and service civilians and their families overseas)—

- (a) in subsection (1), for “solemnised” substitute “entered into”, and
- (b) for subsection (6), substitute—

“(6) In this section—

“civilian subject to service discipline” has the same meaning as in the Armed Forces Act 2006, and

“marriages” includes a marriage resulting from—

- (a) the conversion of a civil partnership into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section,

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(24) 1957 c. 58.

(25) Section 1(1) was amended by the Civil Partnership Act 2004 (c. 33), Schedule 27, paragraph 21 and by the Armed Forces Act 2006, Schedule 16, paragraph 39(1) and (2). Section 1(6) was substituted for subsection (5) as originally enacted by the Armed Forces Act 2006, Schedule 16, paragraph 39(1) and (4). There are other amendments to section 1 not relevant to this Order.



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- (b) the changing of a civil partnership formed under Part 3 of the Civil Partnership Act 2004<sup>(26)</sup> into a marriage under any order made under section 104 of the Scotland Act 1998 in consequence of the Marriage and Civil Partnership (Scotland) Act 2014<sup>(27)</sup>.”.
- (3) In section 3<sup>(28)</sup> (general provisions as to service departments records)—
  - (a) after “1874” in both places it occurs insert “or of any relevant order,”,
  - (b) in subsection (2) for “and marriages” substitute “, marriages and civil partnerships”, and
  - (c) after subsection (3) insert—

“(4) In this section “relevant order” means any order made under section 104 of the Scotland Act 1998 in consequence of the Marriage and Civil Partnership (Scotland) Act 2014 which provides for the change of a civil partnership formed under Part 3 of the Civil Partnership Act 2004 in a country or territory outside the United Kingdom by—

    - (a) a member of Her Majesty’s forces (within the meaning of the Armed Forces Act 2006) serving in the country or territory in which it is proposed they change their civil partnership;
    - (b) a civilian subject to service discipline within the meaning of the Armed Forces Act 2006 who is employed in that country or territory;
    - (c) a child of a person falling within paragraph (a) or (b) and whose home is with that person in that country or territory (including a person who is or has been treated as the child of a person (“P”) in relation to a marriage or civil partnership to which P is or was a party.”.

#### **Public Libraries and Museums Act 1964**

5. In Schedule 1 to the Public Libraries and Museums Act 1964<sup>(29)</sup> (superannuation and other benefits in cases of transfer etc), for “widow” in each place it occurs, substitute “surviving spouse or surviving civil partner”.

#### **Matrimonial Causes Act 1973**

- 6.—(1) The Matrimonial Causes Act 1973<sup>(30)</sup> is amended as follows.
- (2) In section 11<sup>(31)</sup> (grounds on which a marriage is void), after “1971” insert “, other than a marriage to which section 12A applies,”.
  - (3) In section 12<sup>(32)</sup> (grounds on which a marriage is voidable), after “1971” insert “, other than a marriage to which section 12A applies,”.
  - (4) After section 12, insert—

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<sup>(26)</sup> 2004 c. 33.

<sup>(27)</sup> 2014 asp 5.

<sup>(28)</sup> Section 3(3) was amended by S.I. 2002/1419.

<sup>(29)</sup> 1964 c. 75; Schedule 1 was amended by the Superannuation Act 1972 (c. 11), Schedule 8, and by S.I. 1974/520 and S.I. 1977/1341.

<sup>(30)</sup> 1973 c. 18.

<sup>(31)</sup> Section 11 was amended by the Marriage Act 1983, section 2(4), the Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16), the Private International Law (Miscellaneous Provisions) Act 1995 (c. 42), the Schedule, paragraph 2(2), section 6(4), the Civil Partnership Act 2004, Schedule 27, paragraph 40 and the Act, Schedule 7, paragraphs 26 and 27.

<sup>(32)</sup> Section 12 was amended by the Act, Schedule 4, paragraphs 4(1) to (3), the Mental Health Act (c. 20), Schedule 4, paragraph 34 and by the Gender Recognition Act 2004, Schedule 2, paragraphs 1 and 2 and Schedule 4, paragraphs 4 and 5.

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**“Grounds on which a marriage converted from a civil partnership is void or voidable**

**12A.**—(1) This section applies to a marriage which has been converted, or is purported to have been converted, from a civil partnership under section 9 of the 2013 Act and regulations made under that section.

(2) A marriage which results from the purported conversion of a void civil partnership is void.

(3) A marriage which results from the conversion of a civil partnership is voidable if any of paragraphs (c) to (h) of section 12(1) applied at the date from which the marriage is treated as having subsisted in accordance with section 9(6) of the 2013 Act.

(4) In this section, the “2013 Act” means the Marriage (Same Sex Couples) Act 2013.”.

**Domicile and Matrimonial Proceedings Act 1973**

**7.** In paragraph 8(1)(b) of Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973(**33**) (staying of matrimonial proceedings (England and Wales)), for “its celebration” substitute “they entered into it”.

**Social Security Pensions Act 1975**

**8.**—(1) Section 59 of the Social Security Pensions Act 1975(**34**) (increase of official pensions) is amended as follows.

(2) In subsection (5ZB)(**35**), for paragraph (a) substitute—  
in the case of a pension payable to a woman in respect of the services—

- (i) of her deceased male spouse; or
- (ii) of her deceased female spouse in a relevant gender change case;

one half of the rate of the deceased spouse’s guaranteed minimum pension at the relevant time;”.

(3) In subsection (5ZC)(**36**)—

- (a) in paragraph (a)(i) omit “or”,
- (b) in paragraph (a)(ii) for “spouse,” substitute “spouse;”,
- (c) after paragraph (a)(ii) insert—

“(iii) a pension payable to a woman in respect of the services of her deceased female spouse in a relevant gender change case; or

(iv) a pension payable to a man in respect of the services of his deceased male spouse in a relevant gender change case,” and

(d) in paragraph (b), after “sex” insert “(other than a pension within paragraph (a)(iii) or (iv))”.

(4) In subsection (7)(**37**), after the definition of “lump sum” insert—

““relevant gender change case” means a case where—

(33) 1973 c. 45. There are amendments to Schedule 1 not relevant to this Order.

(34) 1975 c. 60.

(35) Subsection (5ZB) was inserted by the Pensions Act 2008 (c. 30), section 137(1) and (8), and, in relation to England and Wales, was amended by S.I. 2014/560.

(36) Subsection (5ZC) was inserted by the Pensions Act 2008, section 137(1) and (8), and, in relation to England and Wales, was amended by S.I. 2014/560.

(37) Subsection 7 was amended by the Social Security Act 1979 (c. 18), Schedule 3, paragraph 20, the Pension Schemes Act 1993c. 48), Schedule 8, paragraph 9(1)(b) and the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), section 5(2) and in relation to England and Wales by S.I. 2014/560. There are other amendments to section 59 not relevant to this Order.

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- (a) the deceased spouse was a man or a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004<sup>(38)</sup>; and
- (b) the marriage of the deceased spouse and the surviving spouse (that ends with the deceased spouse's death) subsisted before the time when the certificate was issued.”.

### **Legitimacy Act 1976**

**9.** In section 1 of the Legitimacy Act 1976<sup>(39)</sup> (legitimacy of children of certain void marriages), after subsection (4) insert—

“(5) Subsections (1) and (4) are to be read, in relation to the child of a void marriage which has resulted from the purported conversion of a civil partnership under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section, as if the reference to the time of the celebration of the marriage was a reference to the date of the purported conversion of the civil partnership into a marriage.”.

### **Forgery and Counterfeiting Act 1981**

**10.**—(1) Section 5 of the Forgery and Counterfeiting Act 1981<sup>(40)</sup> (offences relating to money orders, share certificates, passports, etc) is amended as follows.

(2) In subsection (5)(l), after “civil partnerships” insert “, conversions”.

(3) After subsection (6) insert—

“(6A) In subsection (5)(l) above, “conversion” means the conversion of a civil partnership into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section.”.

### **Social Security Contributions and Benefits Act 1992**

**11.**—(1) Schedule 5 to the Social Security Contributions and Benefits Act 1992<sup>(41)</sup> (pension increase or lump sum where entitlement to retirement pension is deferred) is amended as follows.

(2) In paragraph 5(2)<sup>(42)</sup>—

(a) for paragraph (a), substitute—

where W is a woman—

(i) whose deceased spouse was a man, or

(ii) who falls within paragraph 7(3) below,

an amount equal to the sum of the amounts set out in paragraph 5A(2) or (3) below (as the case may be),”, and

(b) for paragraph (c)(i), substitute—

“(i) a woman who does not fall within paragraph 7(3) below and whose deceased spouse was a woman,”.

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<sup>(38)</sup> 2004 c. 7.

<sup>(39)</sup> 1976 c. 31; section 1(1) was amended by, and section 1(3) and (4) was inserted by, the Family Law Reform Act 1987 (c. 42), section 28. Section 1(2) was amended in relation to England and Wales by S.I. 2014/560.

<sup>(40)</sup> 1981 c. 45; section 5(5)(l) was amended by the Civil Partnership Act 2004, Schedule 27, paragraph 67. There are other amendments to section 5 not relevant to this Order.

<sup>(41)</sup> 1992 c. 4.

<sup>(42)</sup> Paragraph 5 was amended by S.I. 2005/2053 and in relation to England and Wales, by S.I. 2014/560. Paragraphs 5, 5A and 6 were substituted for paragraphs 5 and 6 as originally enacted by the Pensions Act 1995 (c. 26), Schedule 4, paragraph 21(15). Paragraphs 5 to 6A were repealed by the Pensions Act 2011 (c. 19), section 2(5), subject to savings made by section 2(7). That repeal was brought into force in respect of certain specified provisions by S.I. 2011/3034 but is not yet fully in force.

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- (3) In paragraph 5A(43)—
- (a) for sub-paragraph (1) substitute—
- “(1) This paragraph applies where W (referred to in paragraph 5 above) is a woman—
- (a) whose deceased spouse was a man, or
- (b) who falls within paragraph 7(3) below.”, and
- (b) in sub-paragraphs (2) and (3), for “husband” in each place it appears, substitute “spouse”.
- (4) For paragraph 6A(1)(a)(44), substitute—
- “(a) a woman who does not fall within paragraph 7(3) below and whose deceased spouse was a woman,”.
- (5) In paragraph 7(45), after sub-paragraph (2) insert—
- “(3) For the purposes of paragraphs 5, 5A and 6A above, a woman falls within this sub-paragraph if—
- (a) she was married to another woman who, at the time of her death, was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) that marriage subsisted before the time when that certificate was issued.”.

## Social Security Administration Act 1992

12.—(1) Section 124 of the Social Security Administration Act 1992(46) (provisions relating to age, death and marriage) is amended as follows.

(2) In the closing words to subsection (1), after “custody” insert “(or in the case of marriages converted from civil partnerships, copies or extracts from the register of conversions)”.

(3) After subsection (3)(47), insert—

“(3A) Where it is required to be ascertained or proved for the purposes mentioned in subsection (1) above, that a civil partnership has been converted into a marriage, any person—

- (a) on presenting to the superintendent registrar in whose district the conversion took place, a duly completed requisition in writing in that behalf; and
- (b) on payment of a fee of £10.00;

is entitled to obtain a copy, certified under the hand of the superintendent registrar, of the entry relating to that marriage in the register of conversions.”.

(4) In subsection (4), for “subsection (3)” substitute “subsections (3) and (3A)”.

(43) Paragraph 5A was amended by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 39 and the Pensions Act 2007 (c. 22), Schedule 1, paragraph 20 and Schedule 7, Part 3 and in relation to England and Wales by S.I. 2014/560.

(44) Paragraph 6A was inserted by S.I. 2005/2053 and was amended by the Pensions Act 2007, Schedule 1, paragraph 20 and Schedule 7, Part 3 and in relation to England and Wales, by S.I. 2014/560.

(45) Paragraph 7 was amended by S.I. 2005/2053. It was repealed by the Pensions Act 2011, section 2(5), subject to savings made by section 2(7), but that repeal is not yet fully in force.

(46) 1992 c. 5; subsection (1)(aa) was inserted by the Jobseekers Act 1995 (c. 18), Schedule 2, paragraph 59, subsection (1)(ab) was inserted by the State Pension Credit Act 2002 (c. 16), Schedule 2, paragraphs 8 and 13, subsection (1)(ac) was inserted by the Welfare Reform Act 2007 (c. 5), Schedule 3, paragraphs 10(1) and 16 and amended by the Welfare Reform Act 2012 (c. 5), Schedule 2, paragraphs 3 and 17(a), subsection 1(ad) was inserted by the Welfare Reform Act 2012, Schedule 2, paragraphs 3 and 17(b), subsection (1)(ae) was inserted by the Welfare Reform Act 2012, Schedule 9, paragraphs 7 and 15, subsection (1)(af) was inserted by the Pensions Act 2014 (c. 19), Schedule 12, paragraphs 8 and 15, subsection (1)(ag) was inserted by the Pensions Act 2014, Schedule 16, paragraphs 20 and 28.

(47) Subsection (3) was amended by S.I. 1997/2939, in relation to England and Wales by S.I. 2010/441 and in relation to Scotland by S.S.I. 2010/428. There are other amendments to section 124 not relevant to this Order.

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(5) In subsection (5)(a), before the definition of “Registrar General” insert—

““register of conversions” means the register of conversions of civil partnerships into marriages kept by the Registrar General in accordance with section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section;”.

### **Statistics and Registration Service Act 2007**

**13.** In section 42(2) of the Statistics and Registration Service Act 2007(**48**) (information relating to births and deaths etc), after paragraph (e) insert—

“(ea) any information recorded under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section on the conversion of a civil partnership into a marriage;”.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes amendments to primary legislation as a consequence of the coming into force of the Marriage (Same Sex Couples) Act 2013 (c. 30) (“the Act”). It also makes amendments in consequence of the Civil Partnership Act 2004 (c.33) to correct previously omitted references to civil partners, and, in relation to Scotland, in consequence of the Marriage and Civil Partnership (Scotland) Act 2014 (2014 asp 5).

Some provisions of the Act are already in force and two orders making consequential amendments (as well as other provision) have already been made, being the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 (S.I. 2014/560) and the Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107). Various other statutory instruments have also been made. The provisions of the Act being brought into force on 10th December 2014 mainly concern the conversion of civil partnerships into marriages (“conversions”) and allow, subject to certain conditions, a couple to remain married if one or both of them changes their legal gender.

The Marriage and Civil Partnership (Scotland) Act 2014 makes marriage of same sex couples lawful in Scotland and makes similar changes to the Act in Scotland to allow couples in a civil partnership to change this to a marriage and for couples who are married to remain so, where one or both of them changes legal gender. The Marriage and Civil Partnership (Scotland) Act 2014 will come into force on 16th December 2014.

Article 2 and the Schedule make consequential amendments to primary legislation. Paragraph 1 of the Schedule amends the Wills Act 1837 (c. 26) to provide that the conversion of a civil partnership into a marriage under the law of England and Wales does not revoke any existing will or affect any disposition in such a will and also ensures that where section 18B(2) to (6) applies to any will or disposition in a will, that the conversion does not affect that previous application. It also makes provision for references in a will to a civil partnership or civil partners to be read as referring to a marriage or married couple if the civil partnership is converted into a marriage, subject to any contrary intention appearing from the will. These changes to the law of England and Wales on

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(48) 2007 c. 18; subsection (2) was amended in relation to England and Wales by S.I. 2014/560. There are other amendments to section 42 not relevant to this Order.

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wills will also apply to a marriage resulting from the change of a civil partnership under the law of Scotland.

Paragraphs 2 and 10 amend respectively the Perjury Act 1911 (c. 6) and the Forgery and Counterfeiting Act 1981 (c. 45) so as to ensure offences relating to official registers also apply to the register of conversions which will be kept following the coming into force of section 9 of the Act.

Paragraph 3 amends the Marriage Act 1949 (c. 76). The amendment to section 45 reflects the fact that the Act inserted sections 44A to 44D into the Marriage Act 1949 and clarifies a cross reference in section 45. The amendments to section 46 have been made as a consequence of it becoming possible to convert a civil partnership into a marriage.

Paragraph 4 amends the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (c. 58) to ensure that sections 1 and 3 apply appropriately to marriages resulting from conversions. Section 3(2) has also been amended to insert a reference to civil partnerships.

Paragraph 5 amends the Public Libraries and Museums Act 1964 (c. 75) to ensure that Schedule 1 to that Act extends as appropriate to all surviving spouses and civil partners.

Paragraph 6 amends provisions in the Matrimonial Causes Act 1973 (c. 18) which concern the circumstances in which a marriage is held to be void or voidable and makes provision for marriages which result from a conversion.

Paragraph 7 amends the Domicile and Matrimonial Proceedings Act 1973 (c. 45) to ensure Schedule 1 to that Act covers marriages which result from a conversion.

Paragraph 8 amends section 59 of the Social Security Pensions Act 1975 (c. 60) to make provision for married couples where one or both have acquired a new legal gender. In certain circumstances such couples will be treated as if the change of legal gender had not occurred.

Paragraph 9 amends the Legitimacy Act 1976 (c. 31) so as to ensure that section 1 applies as appropriate to the children of void marriages which result from a purported conversion.

Paragraph 11 amends the Social Security Contributions and Benefits Act 1992 (c. 4) to make further provision for the case where a female pensioner's spouse has died. The amendment applies where her dead spouse had changed legal gender from male to female during the course of the marriage. The widow will be treated for the purpose of inheriting the dead spouse's deferred retirement pension under Schedule 5 to this Act as if the change of legal gender had not occurred.

Paragraph 12 amends the Social Security Administration Act 1992 (c. 5) to make provision about records of marriage resulting from conversions.

Paragraph 13 amends the Statistics and Registration Service Act 2007 (c. 18) to allow for personal information concerning conversions to be made available and shared by the relevant authorities.

Section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to the Act provide that references in existing England and Wales legislation to marriage or to married persons are to be read as including marriages between same sex couples and persons married to someone of the same sex. Article 3 disapplies the effect of this statutory gloss from specific provisions of the Reserve Forces Non Regular Permanent Staff (Pension and Attributable Benefits Schemes) Regulations 2011.

Article 4 of the Order revokes article 5 of the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 (S.I. 2014/560). The revocation will take effect from 16th December 2014 which is when section 4(1) of the Marriage and Civil Partnership (Scotland) Act 2014 comes into force. That section will allow couples married under the law of England and Wales to have their marriages recognised under the law of Scotland, and so article 5, which provided for couples married under the law of England and Wales to be treated as civil partners under the law of Scotland, will no longer be needed. Article 5 of this Order makes transitional and saving provision in relation to the revocation.

This Order extends to England and Wales only, save as identified in article 6, which provides certain provisions extend also to Scotland.

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A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen over and above that identified in the Impact Assessment published when the Act received Royal Assent on 17th July 2013.