
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enable same-sex religious marriage in Northern Ireland and provide protections for religious bodies, and persons acting on behalf of or under the auspices of such bodies, who do not wish to facilitate religious marriages between parties who are of the same sex, or ceremonies or events to mark the solemnisation of a same-sex marriage or formation of a civil partnership. The Regulations also make provision in relation to same-sex armed forces marriages overseas, and make minor amendments to the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514).

Part 2 removes the current legal impediments to same-sex religious marriage in Northern Ireland and to same-sex marriage solemnised by armed forces chaplains overseas. It amends the Marriage (Northern Ireland) Order 2003 (S.I. 2003/413 (N.I. 3)) (“the Marriage Order”) to introduce new requirements for the appointment of religious officiants to solemnise same-sex marriages in Northern Ireland. Such officiants may not be registered under Article 11 of the Marriage Order, or temporarily authorised under Article 14, unless the Registrar General for Northern Ireland has received consent in writing from the governing authority of the religious body of which they are a member. Similar consent requirements applicable to same-sex armed forces religious marriages overseas are extended to the law of Northern Ireland.

Part 3 amends the Marriage Order to provide protections for religious bodies and persons acting on behalf of, or under the auspices of such bodies, against being compelled to undertake various actions in connection with the solemnisation of same-sex marriages, where the reason for not taking the action is because the marriages concerned would be between parties who are of the same sex. It also amends the Civil Partnership Act 2004 (c. 33) to protect religious bodies from compulsion in relation to ceremonies or events to mark the formation of a civil partnership. It extends the non-compulsion protection in section 2 of the Marriage (Same Sex Couples) Act 2013 (c. 30) to the law of Northern Ireland so far as it relates to Orders in Council under Part 3 of Schedule 6 to that Act (armed forces marriages overseas).

Part 4 amends other legislation. It amends an existing exception in the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 (S.R. 2006/439) to provide that it is not unlawful discrimination for organisations relating to religion or belief to impose sexual orientation restrictions in connection with the solemnisation of marriage. It also corrects three errors made in the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514). In particular, amendments made by those Regulations to the Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15)) are revoked because they were unnecessary: discrimination because the parties to a marriage or civil partnership are of the same sex is properly to be treated as discrimination on grounds of sexual orientation rather than sex.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.