

2020 No. 742

CIVIL PARTNERSHIP, NORTHERN IRELAND

MARRIAGE, NORTHERN IRELAND

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

<i>Made</i> - - - -	<i>15th July 2020</i>
<i>Laid before Parliament</i>	<i>16th July 2020</i>
<i>Coming into force</i> - -	<i>1st September 2020</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 8 and 11 of the Northern Ireland (Executive Formation etc) Act 2019(a).

PART 1

Introductory Provision

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Marriage and Civil Partnership (Northern Ireland) Regulations 2020.

(2) These Regulations come into force on 1st September 2020.

(3) These Regulations extend to Northern Ireland only, subject to paragraph (4).

(4) This Part, and regulations 3(2) and (4), 10(2)(a) and (b)(ii) and 13(2), extend also to England and Wales, and Scotland.

Interpretation

2. In these Regulations—

“the 2019 Regulations” means the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019(b);

“the Marriage Order” means the Marriage (Northern Ireland) Order 2003(c).

(a) 2019 c. 22.
(b) S.I. 2019/1514.
(c) S.I. 2003/413 (N.I. 3).

PART 2

Religious Marriage of Same-sex Couples

Removal of prohibition on religious marriage of same-sex couples

3.—(1) In Article 9(a) 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(b) (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;

(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.

”.

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

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

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^(a) (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^(b), 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—
 - (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).

PART 3

Protection from Compulsion

Religious marriages of same-sex couples: protection from compulsion

11. After Article 17 of the Marriage Order (but before the heading “Civil marriages”) insert—

“Marriages of same-sex couples: protection from compulsion

17A.—(1) A person may not be compelled to take any action in relation to the person—

- (a) becoming registered under Article 11 as empowered to solemnise marriages between parties of the same sex,
- (b) becoming authorised under Article 14(1)(a) to solemnise one or more particular marriages between parties of the same sex, or
- (c) becoming authorised under Article 14(1)(b) to solemnise marriages between parties of the same sex during a particular period,

where the reason for not taking the action is that the marriages concerned would be between parties of the same sex.

^(a) S.R. 2003/468. Regulation 6 was amended by S.I. 2015/395.

^(b) 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.

(2) A person may not be compelled to refrain from requesting cancellation, under Article 12(1)(a) or (b), of a person’s registration under Article 11 for marriages of parties who are of the same sex.

(3) A religious body’s governing authority may not be compelled to give, or to refrain from withdrawing, consent for the purposes of Article 10 or 14 where the reason for not giving consent, or for withdrawing consent, is that the marriages concerned would be between parties who are of the same sex.

(4) A religious body, or a person acting on behalf of or under the auspices of a religious body, may not be compelled—

- (a) to apply under Article 10 for a member of the body to be registered under Article 11 as empowered to solemnise marriages of parties who are of the same sex,
- (b) to allow religious premises to be used as the place at which a marriage is solemnised between parties who are of the same sex,
- (c) to solemnise a marriage between parties who are of the same sex,
- (d) to facilitate, arrange, participate in or be present at the solemnisation of a marriage between parties who are of the same sex,
- (e) to allow religious premises to be used as the place at which a ceremony or event is held to mark the solemnisation of a marriage between parties who are of the same sex, or
- (f) to provide, facilitate, arrange, participate in or be present at a ceremony or event to mark the solemnisation of a marriage between parties who are of the same sex,

where the reason for not doing that thing is that the marriage concerned would be, or is, between parties who are of the same sex.

(5) For the purposes of paragraph (4)(b) to (f) “person acting on behalf of or under the auspices of a religious body” includes any person registered under Article 11 or temporarily authorised under Article 14.

(6) In this Article—

“compelled” means compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement);

“religious premises” means premises which—

- (a) are owned, or controlled, by a religious body or a person acting on behalf of or under the auspices of a religious body, and
- (b) are not premises where the sole or main purpose for which they are used is commercial.”.

Ceremonies and events to mark civil partnerships: protection from compulsion

12. In the Civil Partnership Act 2004(a), in Part 4 (civil partnership: Northern Ireland), after section 204 insert—

“Ceremonies and events to mark civil partnerships: protection from compulsion

204A.—(1) A religious body, or a person acting on behalf of or under the auspices of a religious body, may not be compelled—

- (a) to provide, arrange or facilitate a ceremony or event to mark the formation of a civil partnership,
- (b) to allow religious premises to be used as the place at which such a ceremony or event is held, or

(a) 2004 c. 33.

- (c) to participate in, or be present at, such a ceremony or event,

where the reason for not doing that thing is that the body or person does not wish to do things of that sort in relation to civil partnerships generally, in relation to civil partnerships between parties who are of the same sex or in relation to civil partnerships between parties who are not of the same sex.

- (2) In this section—

“compelled” means compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement);

“religious body” means an organised group of people meeting regularly for common religious worship;

“religious premises” means premises which—

- (a) are owned, or controlled, by a religious body or a person acting on behalf of or under the auspices of a religious body, and
- (b) are not premises where the sole or main purpose for which they are used is commercial.”.

Armed forces marriages overseas: protection from compulsion

13.—(1) Section 2(1) to (4) of the Marriage (Same Sex Couples) Act 2013(a), so far as relating to Orders in Council under Part 3 of Schedule 6 to that Act (armed forces marriages overseas), extends also to Northern Ireland.

(2) Accordingly, in section 20 of that Act (extent), in subsection (3) (provisions which extend to Northern Ireland), before paragraph (a) insert—

“(za) in Part 1, section 2(1) to (4) so far as relating to Orders in Council under Part 3 of Schedule 6;”.

PART 4

Other Amendments of Legislation

Discrimination on grounds of sexual orientation

14.—(1) In the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006(b), in regulation 16 (exceptions from liability: organisations relating to religion or belief)—

- (a) in paragraph (5) (purposes for which restrictions may be imposed), before the “or” at the end of sub-paragraph (b) insert—

“(ba) in connection with the solemnisation of a marriage;”, and

- (b) in paragraph (5A)(a) (acts which would be unlawful but for paragraph (5)(c)), for “(5)(c)” substitute “(5)(ba) or (c)”.

(2) In the Sex Discrimination (Northern Ireland) Order 1976(c)—

- (a) in Article 21(3) (requirements which can be imposed in relation to employment for religious purposes without being unlawful sex discrimination), omit sub-paragraphs (ca) and (cb) (requirements related to sexual orientation of employee), and
- (b) omit Article 35A (religious organisation, or person acting on its behalf, not liable for unlawful sex discrimination where event to mark formation of a relationship is not provided because of the sex of either or each of the parties).

(a) 2013 c. 30.

(b) S.R. 2006/439. Regulation 16 was amended by regulation 5 of S.R. 2007/261 and by regulation 163 of S.I. 2019/1514.

(c) S.I. 1976/1042 (N.I. 15). Articles 21(3)(ca) and (cb) and 35A were inserted by regulation 133 of S.I. 2019/1514.

(3) In consequence of paragraph (2), omit regulation 133 of the 2019 Regulations.

Form of marriage notices

15. In Schedule 1 to the Marriage Regulations (Northern Ireland) 2003(a) (form of marriage notice)—

- (a) in paragraph 32(ii) (declaration of intention to be married on date entered in Part A), for “and by the officiant named at Part E” substitute “/* and by the officiant/celebrant named at Part E or Part F”, and
- (b) after the Note (about supplying false information etc) which follows paragraph 32, insert (as a footnote)—

“* delete as appropriate”.

Minor amendment

16.—(1) In regulation 2(1) of the Regulation and Improvement Authority (Registration) Regulations (Northern Ireland) 2005(b) (interpretation), in the definition of “relative”—

- (a) in paragraph (c), after “spouse” insert “or civil partner”, and
- (b) for the words from “references” to the end substitute “references to “spouse or civil partner”, in relation to any person, include a former spouse or former civil partner and a person who is living with the person as if they were spouses of each other;”.

(2) In consequence of paragraph (1)(b), omit regulation 159(2)(c) of the 2019 Regulations.

15th July 2020

Robin Walker
Minister of State
Northern Ireland Office

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.

(a) S.R.2003/468. Schedule 1 was substituted by S.R. 2005/532, and amended by S.R. 2014/296 and S.I. 2019/1514. In particular, paragraph 32 (formerly paragraph 30) was re-numbered and amended by regulation 15(2) of S.I. 2019/1514.

(b) S.R. 2005/99. In regulation 2(1), the definition of “relative” was amended by regulation 159 of S.I. 2019/1514.

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.

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