

LORDS AMENDMENTS TO THE
MARRIAGE (SAME SEX COUPLES) BILL

[The page and line references are to HL Bill 29, the bill as first printed for the Lords.]

Clause 2

- 1** Page 2, line 6, after “compelled” insert “by any means (including by the enforcement of a contract or a statutory or other legal requirement)”
- 2** Page 2, line 9, after “compelled” insert “by any means (including by the enforcement of a contract or a statutory or other legal requirement)”

Clause 5

- 3** Page 6, line 18, leave out from “purpose” to end of line 25 and insert “the meaning of “relevant governing authority” is to be determined in accordance with this table—

<i>The “relevant governing authority” is...</i>	<i>...if the marriage falls to be registered by...</i>
the Chief Rabbi of the United Hebrew Congregations of the Commonwealth	the secretary of a synagogue certified under paragraph (a) of the relevant definition (certification by the President of the Board of Deputies)

<i>The “relevant governing authority” is...</i>	<i>...if the marriage falls to be registered by...</i>
<p>the person or persons duly recognised by the members of –</p> <p>(i) the West London Synagogue of British Jews (“the West London Synagogue”), and</p> <p>(ii) the other synagogues that are constituents of or affiliated to the Movement for Reform Judaism</p>	<p>– either the secretary of the West London Synagogue, as certified under paragraph (b) of the relevant definition</p> <p>– or the secretary of another synagogue in a case where:</p> <p>(i) the secretary is certified under paragraph (d) of the relevant definition by the secretary of the West London Synagogue, and</p> <p>(ii) the synagogue is one of those which are constituents of or affiliated to the Movement for Reform Judaism</p>
<p>the person or persons duly recognised by the members of –</p> <p>(i) the Liberal Jewish Synagogue, St. John’s Wood (“the St. John’s Wood Synagogue”), and</p> <p>(ii) the other synagogues that are constituents of or affiliated to Liberal Judaism</p>	<p>– either the secretary of the St. John’s Wood Synagogue, as certified under paragraph (c) of the relevant definition</p> <p>– or the secretary of another synagogue in a case where:</p> <p>(i) the secretary is certified under paragraph (d) of the relevant definition by the secretary of the St. John’s Wood Synagogue, and</p> <p>(ii) the synagogue is one of those which are constituents of or affiliated to Liberal Judaism</p>
<p>the person or persons duly recognised by the members of the synagogue by whose secretary the marriage falls to be registered</p>	<p>the secretary of a synagogue certified under paragraph (d) of the relevant definition (certification by the secretary of the West London Synagogue or the secretary of the St. John’s Wood Synagogue) in a case where the synagogue is not one of those which are constituents of or affiliated to:</p> <p>(i) the Movement for Reform Judaism, or</p> <p>(ii) Liberal Judaism</p>

In that table –

- (a) “relevant definition” means the definition of “secretary of a synagogue” in section 67;
- (b) a reference to a person or persons being duly recognised is a reference to the person or persons being recognised for the purpose of giving consent for the purposes of this section.”

Clause 9

- 4 Page 9, line 13, leave out “Registrar General” and insert “Secretary of State”
- 5 Page 9, line 33, leave out from beginning to “provision” in line 37
- 6 Page 9, line 44, leave out “(e) or”

7 Page 10, line 1, leave out “(e) or”

8 Page 10, line 7, leave out subsection (6)

Clause 11

9 Page 11, line 9, at end insert –

“(4A) For provision about limitations on the effects of subsections (1) and (2) and Schedule 3, see Part 7 of Schedule 4.”

After Clause 13

10 Insert the following new Clause –

“Marriage according to the usages of belief organisations

- (1) The Secretary of State must arrange for a review of –
 - (a) whether an order under subsection (4) should be made permitting marriages according to the usages of belief organisations to be solemnized on the authority of certificates of a superintendent registrar, and
 - (b) if so, what provision should be included in the order.
- (2) The arrangements made by the Secretary of State under subsection (1) must provide for the review to include a full public consultation.
- (3) The Secretary of State must arrange for a report on the outcome of the review to be produced and published before 1 January 2015.
- (4) The Secretary of State may by order make provision for and in connection with permitting marriages according to the usages of belief organisations to be solemnized on the authority of certificates of a superintendent registrar.
- (5) An order under subsection (4) may –
 - (a) amend any England and Wales legislation;
 - (b) make provision for the charging of fees.
- (6) An order under subsection (4) must provide that no religious service may be used at a marriage which is solemnized in pursuance of the order.
- (7) In this section “belief organisation” means an organisation whose principal or sole purpose is the advancement of a system of non-religious beliefs which relate to morality or ethics.”

After Clause 14

11 Insert the following new Clause –

“Survivor benefits under occupational pension schemes

- (1) The Secretary of State must arrange for a review of the following matters relating to occupational pension schemes –
 - (a) relevant differences in survivor benefits;

- (b) the costs, and other effects, of securing that relevant differences in survivor benefits are eliminated by the equalisation of survivor benefits.
- (2) For the purposes of this section, each of the following are relevant differences in survivor benefits –
 - (a) differences between –
 - (i) same sex survivor benefits, and
 - (ii) opposite sex survivor benefits provided to widows;
 - (b) differences between –
 - (i) same sex survivor benefits, and
 - (ii) opposite sex survivor benefits provided to widowers;
 - (c) differences between –
 - (i) opposite sex survivor benefits provided to widows, and
 - (ii) opposite sex survivor benefits provided to widowers.
- (3) The review must, in particular, consider these issues –
 - (a) the extent to which same sex survivor benefits are provided in reliance on paragraph 18 of Schedule 9 to the Equality Act 2010;
 - (b) the extent to which –
 - (i) same sex survivor benefits, and
 - (ii) opposite sex survivor benefits,are calculated by reference to different periods of pensionable service.
- (4) The arrangements made by the Secretary of State must provide for the person or persons conducting the review to consult such other persons as the Secretary of State considers appropriate.
- (5) The Secretary of State must arrange for a report on the outcome of the review to be produced and published before 1 July 2014.
- (6) If the Secretary of State, having considered the outcome of the review, thinks that the law of England and Wales and Scotland should be changed for the purpose of eliminating or reducing relevant differences in survivor benefits, the Secretary of State may, by order, make such provision as the Secretary of State considers appropriate for that purpose.
- (7) An order under subsection (6) may amend –
 - (a) England and Wales legislation;
 - (b) Scottish legislation.
- (8) In this section –
 - “occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993 (see section 1 of that Act);
 - “opposite sex survivor benefits” means survivor benefits provided to surviving spouses of marriages of opposite sex couples;
 - “same sex survivor benefits” means survivor benefits provided to –
 - (a) surviving civil partners, and
 - (b) surviving spouses of marriages of same sex couples;
 - “survivor benefits” means survivor benefits provided under occupational pension schemes.”

Clause 16

- 12 Page 12, line 25, leave out “or Registrar General”
- 13 Page 12, line 28, after “made” insert “by the Secretary of State or Lord Chancellor”
- 14 Page 12, line 31, at end insert –
 “(aa) the first regulations under section 9(1);
 (ab) the first regulations under section 9(2);”
- 15 Page 12, line 31, at end insert –
 “() an order under section (*Marriage according to the usages of belief organisations*);”
- 16 Page 12, line 31, at end insert –
 “() an order under section (*Survivor benefits under occupational pension schemes*);”
- 17 Page 12, line 33, leave out from “2” to end of line 34
- 18 Page 12, line 34, at end insert –
 “(d) an order under paragraph 2 of Schedule 2;
 (e) an order under paragraph 27 of Schedule 4.”
- 19 Page 12, line 34, at end insert –
 “(f) an order under paragraph 9(4) of Schedule 6.”
- 20 Page 12, line 35, after “legislation” insert “made by the Secretary of State or Lord Chancellor”
- 21 Page 12, line 36, at end insert –
 “(za) regulations under section 9(1) (except for the first such regulations);
 (zb) regulations under section 9(2) (except for the first such regulations);”
- 22 Page 12, line 37, leave out paragraph (a)
- 23 Page 12, line 40, leave out paragraphs (c) to (e)
- 24 Page 13, line 5, at end insert –
 “(4A) The provision that the Secretary of State may make in any relevant instrument includes provision enabling the Registrar General to make regulations by statutory instrument (with or without the consent of a minister of the Crown).
 (4B) But the Secretary of State –
 (a) may not make enabling provision which gives the Registrar General power to require a fee to be paid or power to set the amount of a fee; and
 (b) may not make other enabling provision unless the Secretary of State is satisfied that the provision is necessary in connection with administrative matters relating to functions of the Registrar General or functions of superintendent registrars or registrars.
 (4C) Regulations made by the Registrar General under any enabling provision are subject to annulment in pursuance of a resolution of either House of Parliament.

(4D) But that is subject to any provision in a relevant instrument about the kind of Parliamentary scrutiny, if any, to which the regulations are to be subject.

(4E) In subsections (4A) to (4D) –

“enabling provision” means provision made under subsection (4A) enabling the Registrar General to make regulations;

“relevant instrument” means –

(a) regulations under section 9(1) or (2), or

(b) an order under section (*Marriage according to the usages of belief organisations*)(4).”

Clause 17

25 Page 14, line 14, at end insert –

““superintendent registrar” means a superintendent registrar of births, deaths and marriages.”

Clause 18

26 Page 14, line 21, leave out “section” and insert “sections (*Marriage according to the usages of belief organisations*) and”

27 Page 14, line 25, leave out “section 14” and insert “sections (*Marriage according to the usages of belief organisations*) to (*Survivor benefits under occupational pension schemes*)”

28 Page 14, line 25, at end insert “and paragraphs 4, 5, 10 and 11 of Schedule 6”

29 Page 14, line 27, leave out from “(3)” to end and insert “do not apply to an amendment or repeal or revocation made by this Act”

30 Page 14, line 29, at end insert –

“(5A) Subsection (5) is subject to subsections (6) to (8).”

31 Page 14, line 30, leave out “But”

32 Page 14, line 34, at end insert –

“(7) The repeal of the Foreign Marriage Act 1892 made by section 13(2) does not extend to Northern Ireland.”

33 Page 14, line 34, at end insert –

“(8) Any amendment made by Part 2 of Schedule 5 does not extend to Northern Ireland.”

Clause 19

34 Page 14, line 37, after “14” insert “and (*Survivor benefits under occupational pension schemes*)”

Schedule 1

35 Page 18, line 11, leave out from beginning to end of line 32 and insert –

“(1) The Secretary of State may by statutory instrument make regulations about the procedures to be followed and the fees payable –

(a) on registration applications;

- (b) in relation to section 43B authorisations;
 - (c) on cancellation applications.
- (2) The Secretary of State may by statutory instrument make –
- (a) regulations modifying the application of section 41 or 43 in relation to buildings that are already registered under section 43A;
 - (b) regulations about cases where a person makes applications under sections 41 and 43A, or gives or certifies authorisations under sections 43 and 43B, in respect of the same building at the same time (including provision modifying any requirement imposed by any of those sections or by regulations under subsection (1) of this section).
- (3) A statutory instrument containing regulations made under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section –
- “cancellation application” means an application under section 43C for the cancellation of the registration of a building;
 - “registration application” means an application under section 43A for the registration of a building;
 - “section 43B authorisation” means the authorisation of a person under section 43B to be present at the solemnization of marriages in a building registered under section 43A.”

36 Page 20, line 14, leave out from “**shared**” to end of line 24 and insert “**places of worship: registration and cancellation**”

- (1) The Secretary of State may by statutory instrument make regulations about –
- (a) registration applications relating to other shared places of worship;
 - (b) cancellation applications relating to other shared places of worship;
 - (c) the sharing churches’ use of other shared places of worship (in cases where those places are registered under section 43A) for the solemnization of marriages of same sex couples.
- (2) The provision that may be made under subsection (1)(a) or (b) includes provision about the procedures to be followed on registration applications or cancellation applications.
- (3) In this section “other shared place of worship” means a shared building –
- (a) which has been certified as required by law as a place of religious worship, but
 - (b) to which sections 44A and 44B do not apply because the building is neither –
 - (i) subject to a sharing agreement, nor
 - (ii) used as mentioned in section 6(4) of the 1969 Act.”

Schedule 3

- 37 Page 25, line 23, leave out “Paragraphs 1 and 2 do” and insert “This Part of this Schedule does”

Schedule 4

- 38 Page 28, line 13, leave out “as to the validity of a marriage” and insert “of validity”
 39 Page 29, line 29, leave out “as to the validity of a marriage” and insert “of validity”
 40 Page 30, line 34, at end insert –

“Interpretation

- 6 In this Schedule “declaration of validity” means –
 (a) a declaration as to the validity of a marriage,
 (b) a declaration as to the subsistence of a marriage, or
 (c) a declaration as to the validity of a divorce, annulment or judicial separation obtained outside England and Wales in respect of a marriage.”

Schedule 5

- 41 Page 39, line 4, after “with” insert “this Part of”
 42 Page 39, line 15, leave out from “declaration” to end and insert “by the applicant’s spouse that the spouse consents to the marriage continuing after the issue of a full gender recognition certificate (“a statutory declaration of consent”)
 43 Page 45, line 7, leave out from “consent” to end of line 13 and insert “has the meaning given by section 3(6B)(a),”
 44 Page 45, line 13, at end insert –

“PART 2

ALTERNATIVE GROUNDS FOR GRANTING APPLICATIONS FOR GENDER RECOGNITION
 CERTIFICATES

Introduction

- 15 The Gender Recognition Act 2004 is amended in accordance with this Part of this Schedule.

Alternative grounds for granting applications

- 16 Section 2 (determination of applications): after subsection (3) insert –
 “(3A) This section does not apply to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3A.”
 17 After section 3 insert –

“3A Alternative grounds for granting applications

- (1) This section applies to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with this section.
- (2) The Panel must grant the application if satisfied that the applicant complies with the requirements imposed by and under section 3B and meets the conditions in subsections (3) to (6).
- (3) The first condition is that the applicant was a party to a protected marriage or a protected civil partnership on or before the date the application was made.
- (4) The second condition is that the applicant –
 - (a) was living in the acquired gender six years before the commencement of section 12 of the Marriage (Same Sex Couples) Act 2013,
 - (b) continued to live in the acquired gender until the date the application was made, and
 - (c) intends to continue to live in the acquired gender until death.
- (5) The third condition is that the applicant –
 - (a) has or has had gender dysphoria, or
 - (b) has undergone surgical treatment for the purpose of modifying sexual characteristics.
- (6) The fourth condition is that the applicant is ordinarily resident in England, Wales or Scotland.
- (7) The Panel must reject the application if not required by subsection (2) to grant it.”

Evidence for granting applications on alternative grounds

18 Section 3 (evidence): after subsection (8) insert –

“(9) This section does not apply to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3A.”

19 After section 3A (inserted by paragraph 17) insert –

“3B Evidence for granting applications on alternative grounds

- (1) This section applies to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3A.
- (2) The application must include either –
 - (a) a report made by a registered medical practitioner, or
 - (b) a report made by a registered psychologist practising in the field of gender dysphoria.
- (3) If the application is based on the applicant having or having had gender dysphoria –

- (a) the reference in subsection (2) to a registered medical practitioner is to one practising in the field of gender dysphoria, and
 - (b) that subsection is not complied with unless the report includes details of the diagnosis of the applicant's gender dysphoria.
- (4) Subsection (2) is not complied with in a case where—
- (a) the applicant has undergone or is undergoing treatment for the purpose of modifying sexual characteristics, or
 - (b) treatment for that purpose has been prescribed or planned for the applicant,
- unless the report required by that subsection includes details of it.
- (5) The application must also include a statutory declaration by the applicant that the applicant meets the conditions in section 3A(3) and (4).
- (6) The application must include—
- (a) a statutory declaration as to whether or not the applicant is married or a civil partner,
 - (b) any other information or evidence required by an order made by the Secretary of State, and
 - (c) any other information or evidence which the Panel which is to determine the application may require,
- and may include any other information or evidence which the applicant wishes to include.
- (7) If the applicant is married, the application must include a statutory declaration as to whether the marriage is a marriage under the law of England and Wales, of Scotland, of Northern Ireland, or of a country or territory outside the United Kingdom.
- (8) If the applicant is married, and the marriage is a protected marriage, the application must also include—
- (a) a statutory declaration of consent by the applicant's spouse (if the spouse has made such a declaration), or
 - (b) a statutory declaration by the applicant that the applicant's spouse has not made a statutory declaration of consent (if that is the case).
- (9) If the application includes a statutory declaration of consent by the applicant's spouse, the Panel must give the spouse notice that the application has been made.
- (10) If the Panel which is to determine the application requires information or evidence under subsection (6)(c) it must give reasons for doing so.”.

Membership of Panels determining applications on alternative grounds

- 20 Schedule 1 (Gender Recognition Panels), paragraph 4: after subparagraph (2) insert—

“(3) But a Panel need not include a medical member when determining an application under section 1(1)(a) for a certificate to be granted in accordance with section 3A.””

Schedule 6

45 Page 47, line 33, leave out sub-paragraph (2) and insert—

- “(2) An Order in Council may, in particular, make provision—
- (a) prohibiting the solemnization of such marriages according to particular religious rites or usages; or
 - (b) permitting the solemnization of such marriages according to particular religious rites or usages.
- (2A) Sub-paragraph (2)(b) is subject to sub-paragraphs (2B) and (2C).
- (2B) An Order in Council may not make provision allowing the solemnization of forces marriages of same sex couples according to the rites of the Church of England or Church in Wales.
- (2C) If an Order in Council makes provision allowing the solemnization of forces marriages of same sex couples according to particular religious rites or usages (other than those of the Church of England or Church in Wales), the Order in Council must also make provision to secure that such a marriage may not be solemnized according to those rites or usages unless the relevant governing authority has given written consent to marriages of same sex couples.
- (2D) The person or persons who are the relevant governing body for that purpose are to be determined in accordance with provision made by an Order in Council under this Part of this Schedule.”

46 Page 47, line 41, at end insert—

- “(4) If section 8 applies, the Lord Chancellor may, by order, make such relevant amending provision as the Lord Chancellor considers appropriate to allow for the solemnization of forces marriages of same sex couples according to the rites of the Church in Wales.
- (5) For that purpose “relevant amending provision” means—
- (a) provision amending sub-paragraphs (2B) and (2C) by omitting the words “or Church in Wales”;
 - (b) provision amending any Order in Council made under this Part of this Schedule;
 - (c) provision amending any other UK legislation (including legislation contained in this Part of this Schedule).
- (6) In making an order under sub-paragraph (4), the Lord Chancellor must have regard to the terms of the resolution of the Governing Body of the Church in Wales referred to in section 8(1).”

47 Page 49, line 8, leave out sub-paragraph (3)

Schedule 7

48 Page 50, line 23, at end insert—

- “(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.”.

49 Page 53, line 10, at end insert –

“ After section 49 insert –

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

- (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.”.

50 Page 53, line 43, at end insert –

“(ab) after the definition of “ecclesiastical district” insert –

““England and Wales legislation” has the same meaning as in the Marriage (Same Sex Couples) Act 2013;”.

51 Page 53, line 45, at end insert –

“() 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.”.

52 Page 54, line 19, at end insert –

“ After section 13 insert –

“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).”.

53 Page 54, line 22, at end insert –

“Public Order Act 1986 (c. 64)

- (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.”.

In the Title

54 Line 4, leave out first “and” and insert “for permitting marriages according to the usages of belief organisations to be solemnized on the authority of certificates of a superintendent registrar,”

55 Line 4, after “partnership” insert “, for the review of survivor benefits under occupational pension schemes”

LORDS AMENDMENTS TO THE
MARRIAGE (SAME SEX COUPLES)
BILL

*Ordered, by The House of Commons,
to be Printed, 15 July 2013.*

© Parliamentary copyright 2013

*This publication may be reproduced under the terms of the Open Parliament Licence, which is published at
www.parliament.uk/site-information/copyright.*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx