



Isle of Man

Ellan Vannin

AT 12 of 2016

**MARRIAGE AND CIVIL PARTNERSHIP
(AMENDMENT) ACT 2016**



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MARRIAGE AND CIVIL PARTNERSHIP (AMENDMENT) ACT 2016

Signed in Tynwald: 21 June 2016

Received Royal Assent: 13 July 2016

Announced to Tynwald: 19 July 2016

AN ACT to make provision for the marriage of same sex couples, for civil partnerships of opposite sex couples, for permitting marriages according to the usages of belief organisations to be solemnized on the authority of a registrar's certificate; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 – INTRODUCTORY

1 Short title

The short title of this Act is the Marriage and Civil Partnership (Amendment) Act 2016.

2 Commencement

- (1) This Act other than section 1 and this section comes into operation on such day or days as the Council of Ministers may by order appoint.¹
- (2) Any order under subsection (1) may include provision under section 3.

3 Supplementary provision

- (1) The Council of Ministers may, by order, make such incidental, supplemental, transitional and transitory provision as the Council of Ministers considers appropriate in connection with the coming into operation of any provision of this Act.

- (2) The Council of Ministers may, by order, make such provision as the Council of Ministers considers appropriate in consequence of this Act.
- (3) The provision that may be made by an order under subsection (1) or (2) includes provision amending an Act of Tynwald.

PART 2 – AMENDMENT OF THE MARRIAGE ACT 1984

4 Marriage Act 1984 amended

The *Marriage Act 1984* is amended as follows.

- 5 [Amends section 1]
- 6 [Amends section 3]
- 7 [Inserts section 4A]
- 8 [Inserts section 4B]
- 9 [Inserts section 4C]
- 10 [Amends section 5]
- 11 [Substitutes section 17]
- 12 [Substitutes section 19]
- 13 [Inserts section 19A]
- 14 [Inserts section 19B]
- 15 [Amends section 21A]
- 16 [Inserts section 21B]
- 17 [Amends section 29]
- 18 [Inserts sections 29A to 29E]
- 19 [Amends section 30]
- 20 [Amends section 31]
- 21 [Inserts section 34A]
- 22 [Amends section 36]
- 23 [Amends section 39]
- 24 [Amends section 40]

25 [Amends section 55]

PART 3 – CLOSING PROVISIONS**26 Effect of extension of marriage**

P2013/30/11 and drafting

- (1) In the law of the Island, marriage has the same effect in relation to same sex couples as it has in relation to opposite sex couples.
- (2) Manx legislation (whenever passed or made) has effect in accordance with subsection (1).
- (3) Schedule 1 (interpretation of legislation) has effect.
- (4) Schedule 2 (effect of extension of marriage: further provision) has effect.
- (5) For provision about limitations on the effects of subsections (1) and (2) and Schedule 1, see Part 4 of Schedule 2.
- (6) Subsections (1) and (2) and Schedule 1 do not have any effect in relation to—
 - (a) Measures and Canons of the Church of England (whenever passed or made);
 - (b) Measures of the Diocesan Synod (whenever passed or made);
 - (c) subordinate legislation (whenever made) made under a Measure or Canon of the Church of England or a Measure of the Diocesan Synod; or
 - (d) other ecclesiastical law (whether or not contained in Manx legislation, and, if contained in Manx legislation, whenever passed or made).
- (7) In Schedules 1 and 2 —

“existing Manx legislation” means—

- (a) in the case of Manx legislation that is primary legislation, legislation passed before the end of the Session in which this Act is passed (excluding this Act), or
- (b) in the case of Manx legislation that is subordinate legislation, legislation made on or before the day on which this Act is passed (excluding legislation made under this Act);

“new Manx legislation” means—

- (a) in the case of Manx legislation that is primary legislation, legislation passed after the end of the Session in which this Act is passed, or
- (b) in the case of Manx legislation that is subordinate legislation, legislation made after the day on which this Act is passed.

27 Consequential amendments

Schedule 3 (consequential amendments) has effect.

28 Repeals

- (1) [Repeals the entry “Parent of former spouse” in Part 2 of Schedule 1 to the *Marriage Act 1984*]
- (2) [Repeals sections 12(1)(c) and 21A(4) of the *Matrimonial Proceedings Act 2003*]
- (3) [Amends the table comprised in Schedule 11 to the *Civil Partnership Act 2011*]

Schedule 1**INTERPRETATION OF LEGISLATION**

[Section 26(3)]

PART 1 – EXISTING MANX LEGISLATION**1 Construction of references to marriages, etc**

- (1) In existing Manx legislation –
 - (a) a reference to marriage is to be read as including a reference to marriage of a same sex couple;
 - (b) a reference to a married couple is to be read as including a reference to a married same sex couple; and
 - (c) a reference to a person who is married is to be read as including a reference to a person who is married to a person of the same sex.
- (2) If sub-paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a marriage that has ended, or a reference to a person whose marriage has ended) is to be read accordingly.
- (3) For the purposes of sub-paragraphs (1) and (2) it does not matter how a reference is expressed.

2 Construction of references to couples and persons who are not married but living together as if they were

- (1) In existing Manx legislation –
 - (a) a reference to persons who are not married but are living together as a married couple is to be read as including a reference to a same sex couple who are not married but are living together as a married couple;
 - (b) a reference to a person who is living with another person as if they were married is to be read as including a reference to a person who is living with another person of the same sex as if they were married.
- (2) If sub-paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to persons formerly living together as a married couple) is to be read accordingly.
- (3) For the purposes of sub-paragraphs (1) and (2) it does not matter how a reference is expressed.

3 Differential treatment of heterosexual couples and same sex couples

- (1) This paragraph applies to existing Manx legislation which deals differently with —
 - (a) a man and a woman living together as if married, and
 - (b) two men, or two women, living together as if civil partners.
- (2) If two men, or two women, are living together as if married, that legislation applies to them in the way that it would apply to them if they were living together as civil partners.

4 Relationship with general rules of construction in section 26

This Part of this Schedule does not limit section 26(1) or (2).

PART 2 — NEW MANX LEGISLATION

5 Construction of new Manx legislation

- (1) This paragraph applies to provision made by —
 - (a) this Act and any subordinate legislation made under it, or
 - (b) new Manx legislation,including any such provision which amends existing Manx legislation.
- (2) In the provision mentioned in subparagraph (1) the following expressions have the meanings given —
 - (a) “**husband**” includes a man who is married to another man;
 - (b) “**wife**” includes a woman who is married to another woman;
 - (c) “**widower**” includes a man whose marriage to another man ended with the other man’s death;
 - (d) “**widow**” includes a woman whose marriage to another woman ended with the other woman’s death;and related expressions are to be construed accordingly.
- (3) A reference to marriage of same sex couples is a reference to —
 - (a) marriage between two men, and
 - (b) marriage between two women.
- (4) A reference to a marriage of a same sex couple is a reference to —
 - (a) a marriage between two men, or
 - (b) a marriage between two women.
- (5) A reference to a same sex couple who are not married but are living together as a married couple is a reference to—

- (a) two men who are not married but are living together as a married couple, or
 - (b) two women who are not married but are living together as a married couple.
- (6) This Part of this Schedule does not limit section 26(1) or (2).

Schedule 2**EFFECT OF EXTENSION OF MARRIAGE – FURTHER PROVISION**

[Section 26(4)]

PART 1 – PRIVATE LEGAL INSTRUMENTS**1 Existing instruments**

P2013/30/Sch 4, para 1

- (1) Section 26 does not alter the effect of any private legal instrument made before that section comes into force.
- (2) In this paragraph “private legal instrument” includes –
 - (a) a will,
 - (b) an instrument (including a private Act) which settles property,
 - (c) an instrument (including a private Act) which provides for the use, disposal or devolution of property, and
 - (d) an instrument (including a private Act) which –
 - (i) establishes a body, or
 - (ii) regulates the purposes and administration of a body, (whether the body is incorporated or not and whether it is charitable or not);

but (with the exception of the kinds of private Act mentioned above) it does not include legislation.

PART 2 – PRESUMPTION OF PARENTAGE OF CHILD BORN TO A MARRIED WOMAN**2 Common law presumption**

P2013/30/Sch 4, para 2

- (1) For the sake of clarity, section 26 does not extend the common law presumption that a child born to a woman during her marriage is also the child of her husband.
- (2) Accordingly, where a child is born to a woman during her marriage to another woman, that presumption is of no relevance in ascertaining the child’s parentage.

PART 3 — DIVORCE AND ANNULMENT OF MARRIAGE

P2013/30/Sch4 Pt 3

3 Matrimonial Proceedings Act 2003 amended

Drafting

The *Matrimonial Proceedings Act 2003* is amended in accordance with this Part of this Schedule.

4 [Amends section 2]**5 [Amends section 13]****6 [Amends section 21]****7 [Inserts Schedule A1]****8 [Amends Schedule 1]****PART 4 — PROVISIONS WHICH LIMIT EQUIVALENCE OF ALL MARRIAGES ETC****9 Contrary provision**

P2013/30/Sch4, para 27

- (1) In this paragraph “the relevant provisions” are —
 - (a) section 26(1) and (2) and Schedule 1 (equivalence of all marriages in law); and
 - (b) section 27A of the *Civil Partnership Act 2011*.
- (2) The relevant provisions are subject to —
 - (a) the preceding provisions of this Schedule,
 - (b) any order under section 1 of the *Pension Schemes Act 1995* or section 1 of the *Social Security Act 2000* making provision corresponding to Part 5 or Part 6 of Schedule 4 to the Marriage (Same Sex Couples) Act 2013 (of Parliament) (c.30) or regulations under a provision applied by an order making such provision; and
 - (c) any order under sub-paragraph (4).
- (3) The relevant provisions are subject to any other contrary provision made by —
 - (a) the other provisions of this Act,
 - (b) any other subordinate legislation made under this Act, and

- (c) any new Manx legislation,
including any such contrary provision contained in amendments of existing Manx legislation.
- (4) The Council of Ministers may by order –
 - (a) provide that a relevant provision has effect subject to provision made by the order, or
 - (b) specify cases in which a relevant provision does not apply.
- (5) An order under sub-paragraph (4) has effect only if approved by Tynwald.

Schedule 3

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

[Section 27]

1 Sharing of Church Buildings Act 1986 amended

Drafting

The *Sharing of Church Buildings Act 1986* (“the 1986 Act”) is amended as follows.

2 [Amends Schedule 1 to the Sharing of Church Buildings Act 1986]²

3 [Amends Schedule 2 to the Sharing of Church Buildings Act 1986]

4 [Amends Disability Discrimination Act 2006]

5 [Amends Civil Partnership Act 2011]

ENDNOTES

Table of Endnote References

¹ ADO - Whole Act in operation 19/07/2016 for the purposes of making subordinate legislation and 22/07/2016 for all other purposes [SD2016/0193].

² Para 2 amended by Statute Law Revision Act 2017 s 42. [Editorial Note: Amendment to be treated as having come into operation on 22 July 2016 immediately before the Marriage and Civil Partnership (Amendment) Act 2016 came into operation.]