



Isle of Man

Ellan Vannin

AT 12 of 2016

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



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**Isle of Man***Ellan Vannin*

MARRIAGE AND CIVIL PARTNERSHIP (AMENDMENT) ACT 2016

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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.
- (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 Section 1 amended – marriage within prohibited degrees etc

In section 1 omit subsection (1)(a).

6 Section 3 amended – consent to marriage

P2013/30/Sch. 7 para 3

In section 3(1) for “a widow or widower” substitute **“a surviving spouse or civil partner”**.

7 Section 4A inserted – same sex marriage lawful

After section 4 insert –

“4A Extension of marriage to same sex couples

P2013/30/1(1) and (2), (4) and (5)

- (1) Marriage of same sex couples is lawful.
- (2) The marriage of a same sex couple may only be solemnized in accordance with Part III or Part IV.
- (3) Any duty of a member of the clergy to solemnize marriages (and any corresponding right of persons to have their marriages solemnized by members of the clergy) is not extended to same sex couples, despite the amendments made to this Act by the *Marriage and Civil Partnership (Amendment) Act 2016*.

For the purposes of this subsection “a member of the clergy” is a clerk in Holy Orders of the Church of England. **”**

8 Section 4B inserted – recognition of overseas same sex marriages

After section 4A insert—

4B Recognition of overseas same sex marriages

P2013/30/10(1) and (2)

- (1) A marriage under the law of any country or territory outside the Island is not prevented from being recognised under the law of the Island only because it is the marriage of a same sex couple.
- (2) For the purposes of this section it is irrelevant whether the law of a particular country or territory outside the Island —
 - (a) already provides for marriage of same sex couples at the time that this section comes into operation; or
 - (b) provides for marriage of same sex couples from a later time. **22**.

9 Section 4C inserted — marriage according to religious rites: no compulsion to solemnize

P2013/30/2

After section 4B insert —

4C Marriage according to religious rites: no compulsion to solemnize etc

P2013/30/2

- (1) A person may not be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement) —
 - (a) to undertake an opt-in activity, or
 - (b) to refrain from undertaking an opt-out activity.
- (2) A person may not be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement)—
 - (a) to conduct a relevant marriage,
 - (b) to be present at, carry out, or otherwise participate in, a relevant marriage, or
 - (c) to consent to a relevant marriage being conducted,
 where the reason for the person not doing that thing is that the relevant marriage concerns a same sex couple.
- (3) In this section —

“**opt-in activity**” means an activity of the kind specified in an entry in the first column of the following table which falls to be undertaken for the purposes of any provision of this Act specified in the corresponding entry in the second column;

“**opt-out activity**” means an activity which reverses, or otherwise modifies, the effect of an opt-in activity.

Activity	Provision
Giving consent	Section 19A(3) Section 19B(2)
Applying for the registration of a building	Section 29A
Giving a certificate or giving a copy of a consent	Section 29A(3) Section 29D(7).

(4) In this section —

“**person**” —

- (a) includes a religious organisation;
- (b) does not include a registrar or the Chief Registrar;

“**relevant marriage**” means a marriage of a same sex couple solemnized in accordance with sections 19A and 19B (marriage in a place of worship or in another place according to religious rites or usages), including any ceremony forming part of, or connected with, the solemnization of such a marriage. **22**.

10 Section 5 amended

Drafting

In section 5(b) (which concerns the authorisation of a marriage by a special licence) omit “time or”.

11 Section 17 substituted — void marriages

For section 17 substitute—

17 Void marriages

P1949/76/25 as amended by P2013/30/Sch7 para 4

- (1) A marriage is void in any of the following cases.
- (2) Case A is where any persons knowingly and wilfully intermarry according to the rites of the Church of England (otherwise than by a special licence)—
 - (a) in any place other than a church or other building in which banns may be published;
 - (b) without banns having been duly published, a common licence having been obtained or certificates having been duly issued by a registrar to whom due notice of marriage has been given; or
 - (c) on the authority of—
 - (i) a publication of banns which is void by virtue of section 3(7) or section 11(2),

- (ii) a common licence which is void by virtue of section 13(4);
 - (ii) a registrar's certificate which is void by virtue of section 26(2);
- (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 knowingly and wilfully consent to or acquiesce in a Church of England marriage between them.
 - (5) In this section "Church of England marriage" means a marriage according to the rites of the Church of England. **22**.

12 Section 19 substituted — marriage for which no opt-in necessary

P2013/30/3

In Part III for section 19 substitute —

19 Marriage of a man and a woman; marriage of same sex couples for which no opt-in necessary

P1949/76/26 (as substituted by P2013/30/3) and 1984/13/19 Sch 1, para 8(2)

- (1) The following marriages may be solemnized on the authority of a certificate of a registrar—
 - (a) a marriage of a man and a woman, in a registered building, according to such form and ceremony as the persons to be married see fit to adopt;
 - (b) a marriage of any couple in the office of a registrar;
 - (c) a marriage of any couple in an approved place;
 - (d) a marriage of any couple in any other place in the Island but only with the consent of the owner of the place;
 - (e) a marriage of any couple in (or over) the Island or its territorial waters aboard an approved aircraft, vehicle or vessel;
 - (f) a marriage of any couple in (or over) the Island or its territorial waters aboard an aircraft, vehicle or vessel which is not approved, but only with the consent of the owner of the aircraft, vehicle or vessel; or
 - (g) a qualifying residential marriage.
- (2) A marriage may only take place in accordance with paragraphs (c) to (f) of subsection (1) with the consent of the Chief Registrar which must be given or withheld in accordance with guidance under subsection (3).

- (3) The Clerk of the Rolls must issue guidance about the factors and circumstances to be taken into account by the Chief Registrar in determining whether —
- (a) to approve a place, aircraft, vehicle or vessel under subsection (1); or
 - (b) to give consent under subsection (2).
- (4) The guidance must be framed so as to secure that the Chief Registrar’s approval or consent is not unreasonably withheld, and shall be laid before Tynwald as soon as practicable after it is made.
- (5) The Chief Registrar must secure that the guidance issued under subsection (3) is available to members of the public.
- (6) An appeal lies to the High Bailiff against any refusal by the Chief Registrar —
- (a) to approve a place, an aircraft, vehicle or a vessel under subsection (1); or
 - (b) to give consent under subsection (2) to the manner in which it is proposed a marriage ceremony should take place.
- (7) The High Bailiff’s decision under subsection (6) is final.
- (8) In this section —

“**approved**” means approved by the Chief Registrar;

“**qualifying residential marriage**” means —

- (a) the marriage of a man and a woman one or each of whom is house-bound or a detained person, at the usual place of residence of the house-bound or detained person or persons, or
- (b) the marriage of a same sex couple (other than a marriage according to the rites of the Church of England or other religious rites or usages), one or each of whom is house-bound or a detained person, at the usual place of residence of the house-bound or detained person or persons.

Note: Section 20A and 20B make further provision about qualifying residential marriages. **22**.

13 Section 19A inserted — opting-in and marriage of same sex couples in places of worship

P2013/30/4

After section 19 (as inserted by section 12 above) insert —

19A Opt-in to marriage of same sex couples: places of worship

P1949/76/26A

- (1) A marriage of a same sex couple in an appropriately registered building according to such form and ceremony as the persons to be married see fit to adopt may be solemnized on the authority of a certificate of a registrar.
- (2) For the purposes of this section “**appropriately registered building**” means a building which has been registered under section 29A.
- (3) An application for registration of a building under section 29A may not be made unless the relevant governing authority has given written consent to marriages of same sex couples.
- (4) For that purpose, in relation to a building—

“**relevant governing authority**” means 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;

“**relevant religious organisation**” means the religious organisation for whose religious purposes the building is used.
- (5) Nothing in this section is to be taken to relate or have any reference to marriages solemnized according to the rites of the Church of England.
- (6) This section is subject (in particular) to sections 29D and 29E (which modify this Act in relation to the registration of shared buildings within the meaning of the Sharing of Church Buildings Act 1969 (of Parliament) as it applies in the Island) and to regulations made under section 29C as they apply to such buildings. **22**.

14 Section 19B inserted — opt-in for other religious ceremonies

P2013/30/5

After section 19A (inserted by section 13 above) insert —

19B Opt-in to marriage of same sex couples: other religious ceremonies

P1949/76/26B (1), (6) and(7)

- (1) A marriage may be solemnized on the authority of a registrar’s certificate in the circumstances set out in subsection (2).
- (2) The circumstances are that—

- (a) the marriage is of a same sex couple according to religious rites or usages (other than the rites of the Church of England),
- (b) one or each of the couple is house-bound or a detained person,
- (c) the marriage is at the usual place of residence of the house-bound or detained person or persons, and
- (d) the relevant governing authority has given written consent to marriages of same sex couples according to those religious rites or usages.

(3) For that purpose—

“**relevant governing authority**” means 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;

“**relevant religious organisation**” means the religious organisation according to whose rites or usages the marriage is to be solemnized. **22**.

15 Section 21A amended — power to require evidence

(1) Section 21A is amended as follows.

(2) After subsection (1) insert —

23 (1A) In the case of an intended marriage to which section 19B would apply, the registrar to whom notice of the marriage is given may require the relevant governing authority to produce evidence relating to the consent mentioned in section 19B(2)(d). **22**.

16 Section 21B inserted — additional evidence required

P1983/32/1(7) and P2013/30/Sch. 7, para 5

After section 21A (power to require evidence) insert —

23 21B Additional evidence required in certain cases

P1949/76/27A

- (1) This section applies in relation to any marriage intended to be solemnized at a person’s residence in pursuance of section 19(1)(g) or 19B(2) of this Act, and in the following provisions of this section that person is referred to as “**the relevant person**”.
- (2) Where the relevant person is not a detained person, each notice of marriage required by section 20 must be accompanied by a medical statement relating to that person made not more than fourteen days before the date on which the notice is given.

(3) Where the relevant person is a detained person, each notice of marriage required by section 20 of this Act must be accompanied by a statement made in the prescribed form by the responsible authority not more than twenty-one days before the date on which notice of the marriage is given under section 20—

- (a) identifying the establishment where the person is detained; and
- (b) stating that the responsible authority has no objection to that establishment being specified in the notice of marriage as the place where that marriage is to be solemnized.

(4) Each person who gives notice of the marriage to the registrar in accordance with section 20 must give the registrar the prescribed particulars, in the prescribed form, of the person by or before whom the marriage is intended to be solemnized.

(5) The fact that a registrar has received a statement under subsection (2) or (as the case may be) (3) of this section must be entered in the marriage notice book together with the particulars given in the notice of marriage and any such statement together with the form received under subsection (4) of this section must be filed and kept with the records of the registrar's office.

(6) In this section—

"medical statement", in relation to any person, means a statement made in the prescribed form by a registered medical practitioner that in that practitioner's opinion at the time the statement is made—

- (a) by reason of illness or disability, he or she ought not to move or be moved from the place where he or she is at that time, and
- (b) it is likely that it will be the case for at least the following three months that by reason of the illness or disability he or she ought not to move or be moved from that place; and

"responsible authority" means—

- (a) if the person is detained in a hospital (within the meaning of Part II of the *Mental Health Act 1998*), the managers of that hospital (within the meaning of section 138(1) of that Act); or
- (b) if the person is detained in an institution or other place to which the *Custody Act 1995* applies, the governor or other officer for the time being in charge of that institution or other place. **22**.

17 Section 29 amended — registration of buildings: marriage of a man and a woman

P2013/30/Sch. 7, para 8(2)

- (1) Section 29 is amended as follows.
- (2) After subsection (1) insert —
 - █ (1A) A reference in this section to the solemnization of marriage is a reference to the solemnization of marriage of a man and a woman. █.
- (3) In consequence of the amendment made by subsection (2) for the heading to the section substitute —

█ **29 Registration of buildings: marriage of a man and a woman** █.

18 Sections 29A to 29E inserted — registration, etc., of buildings for same sex marriages

P2013/30/Sch. 1, para 2

After section 29 (registration of buildings) insert —

█ **29A Registration of buildings: marriage of same sex couples**

P1949/76/43A

- (1) Any proprietor or trustee of a building used as a place of religious worship may apply to the Chief Registrar for the building to be registered under this section for the solemnization of marriages of same sex couples.
- (2) Any application for registration of a building under this section is to be made —
 - (a) by a proprietor or trustee of the building;
 - (b) to the Chief Registrar.
- (3) An application for registration of a building under this section must be accompanied by —
 - (a) a certificate, given by the applicant and dated not earlier than one month before the making of the application, that the persons who are the relevant governing authority in relation to the building have given written consent to marriages of same sex couples as mentioned in section 19A(3),
 - (b) a copy of that consent, and
 - (c) the prescribed fee.
- (4) If the building is already registered under section 29, the application must be accompanied by the Chief Registrar's

certificate under section 29(3), and if it is not so registered the application must be accompanied by the signed certificate mentioned in section 29(2).

- (5) If satisfied by the evidence furnished under subsections (3) and (4) that it is proper to do so, the Chief Registrar must—
- (a) give a certificate of the registration signed by the Chief Registrar to the person who made the application under subsection (1); and
 - (b) give public notice of the registration of the building by advertisement in some newspaper published and circulating in the Island.
- (6) A building may be registered for the solemnization of marriages under this section whether it is a separate building or forms part of another building.

29B Cancellation of registration under section 29A

P1949/76/43C

- (1) The registration of a building under section 29A may be cancelled under this section.
- (2) Any application under this section is to be made—
- (a) by a proprietor or trustee of the building;
 - (b) to the Chief Registrar;
- (3) An application under this section must be accompanied by the prescribed fee.
- (4) If subsections (2) and (3) are satisfied, the Chief Registrar must cancel the registration of the building.
- (4) This section is subject (in particular) to sections 29D and 29E (registration of shared buildings for marriage of same sex couples).

29C Regulations about section 29 to 29B

P1949/76/43D

- (1) The Clerk of the Rolls may make regulations about the procedures to be followed —
- (a) on registration applications; and
 - (b) on cancellation applications.
- (2) The Clerk of the Rolls may make —
- (a) regulations modifying the application of section 29 in relation to buildings that are already registered under section 29A;

(b) regulations about cases where a person makes applications under sections 29 and 29A, or gives or certifies authorisations under section 29A, 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) In this section—

“**cancellation application**” means an application under section 29B for the cancellation of the registration of a building;

“**registration application**” means an application under section 29A for the registration of a building.

Registration of shared buildings for marriages of same sex couples

29D Registration of church buildings subject to sharing agreements for same sex marriages

P1949/76/44A

- (1) This section applies to a registration application relating to a building that is subject to a sharing agreement, within the meaning of the Sharing of Church Buildings Act 1969 (of Parliament) as that Act applies in the Island by virtue of the *Sharing of Church Buildings Act 1986*.
- (2) The registration application must be made in accordance with 29A (as read with section 19A(3)).
- (3) But those provisions have effect subject to the following provisions of this section.
- (4) Each of the sharing Churches is a relevant religious organisation for the purposes of section 19A(3).
- (5) A consent given under section 19A(3) (a “**consent to marriages of same sex couples**”) by the relevant governing authority of any of the sharing Churches is therefore sufficient for the registration application to be made in compliance with section 19A (and references to the consent of the relevant governing authority in section 29A are to be read accordingly).
- (6) But the registration application may not be made unless the relevant governing authorities of each of the sharing churches (other than those which have given consents to marriages of same sex couples) have given a separate written consent to the use of the shared building for the solemnization of marriages of same sex couples (a “consent to use”).
- (7) The registration application must also be accompanied by —

- (a) a certificate, given by the applicant and dated not more than one month before the making of the application, that the relevant governing authorities mentioned in subsection (6) have given written consents to use, and
 - (b) copies of those consents.
- (8) The Chief Registrar must not register the shared building unless and until the requirements of section 29A have been complied with.
- (9) In this section and in section 29E —
- (a) “**the 1969 Act**” means the Sharing of Church Buildings Act 1969 (of Parliament) as that Act applies in the Island by virtue of the *Sharing of Church Buildings Act 1986*, and
 - (b) terms defined in the 1969 Act have the same meaning as they have in that Act.
- (10) The Clerk of the Rolls may make regulations containing such provision supplementing this section as the Clerk of the Rolls thinks appropriate.

29E Church buildings subject to sharing agreements: cancellation of registration under section 29A

P1949/76/44B

- (1) This section applies to a cancellation application relating to a building that is subject to a sharing agreement.
- (2) The cancellation application must be made in accordance with section 29B.
- (3) But section 29B has effect subject to the following provisions of this section.
- (4) The cancellation application may be made either —
 - (a) by a proprietor or trustee of the building, or
 - (b) by the relevant governing authority of any of the sharing Churches.
- (5) For that purpose, in relation to a sharing Church, “**relevant governing authority**” means the person or persons recognised by the members of the sharing Church as competent for the purpose of making an application under section 29B in the circumstances to which this section applies.
- (6) In a case where the cancellation application is made by a relevant governing authority in accordance with subsection (4)(b) the application must be accompanied by a certificate, given by persons making the application, that they are the relevant governing authority of one of the sharing Churches.

- (7) The Clerk of the Rolls may make regulations containing such provision supplementing this section as the Clerk of the Rolls thinks appropriate. **22**.

19 Section 30 amended – cancellation of registration and substitution of another building

- (1) Section 30 is amended as follows.
- (2) In subsection (3) for “section 29” substitute **23** this Part **22**.
- (3) For subsection (6) substitute –
- 23** (6) If the Chief Registrar is satisfied as to the matters stated in the certificate under subsection (5) he must take the steps –
- (a) mentioned in section 29(3) in relation to an application under section 29(1); or
- (b) mentioned in section 29A(5) in relation to an application under section 29A(1). **22**

20 Section 31 amended – solemnization of marriage in registered building

In section 31(2)(c) after “section 29” insert **23** or section 29A **22**.

21 Section 34A inserted – void same sex marriages

P2013/30/Sch. 7, para 15

After section 34 insert –

23 34A Void marriages – additional provision about same sex couples

P1949/76/49A

- (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 19A(3), in a case where section 19A applies to the marriage but section 29D does not;
- (b) section 19A(3) and section 29D(6), in a case where section 19A and section 29D apply to the marriage;
- (c) section 19A(3) and under any regulations made under section 29D(10) that require the consent to use of a building for the solemnization of marriages of same sex couples, in a case where section 19A and section 29D apply to the marriage;

- (d) section 19B(2)(d), in a case where that section applies to the marriage.

22 Section 36 amended – opt-in: death-bed marriages

P2013/30/7

- (1) Section 36 (marriages solemnized on authority of Deemster’s licence) is amended as follows.
- (2) In subsection (1), after “certificate of a registrar” insert—
- ☐, other than marriage between a man and a woman according to the rites and ceremonies of the Church of England, ☐.
- (3) Insert at the end —
- ☐ (3) A marriage of a same sex couple according to religious rites or usages may not be solemnized in accordance with this Part of this Act unless the relevant governing authority has given written consent to marriages of same sex couples according to those religious rites or usages.
- (4) For that purpose—
- “**relevant governing authority**” means 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;
- “**relevant religious organisation**” means the religious organisation according to whose rites or usages the marriage is to be solemnized. ☐.

23 Section 39 amended – validity of marriages

P2013/30/Sch. 7, para 25

- (1) In section 39 after subsection (2) insert —
- ☐ (2A) If a same sex couple knowingly and wilfully intermarries under the provisions of this Part in the absence of the required consent, the marriage shall be void.
- Here “required consent” means the consent referred to in section 36(3). ☐.

24 Section 40 amended – persons by whom marriages are to be registered

In section 40(c) for “paragraphs (b) to (f)” substitute ☐ paragraphs (b) to (g) ☐.

25 Section 55 amended – interpretation etc

- (1) Section 55 is amended as follows.
- (2) Renumber the existing text as subsection (1).

- (3) In subsection (1), in the definition of “registered building” at the end insert **63** or 29A **62**.
- (4) After subsection (1) insert —
 - 63** (2) 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 the relevant governing authority. **62**.
- (5) In consequence for the section heading substitute — **63** **Interpretation etc** **62**.

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) In Part 2 of Schedule 1 to the *Marriage Act 1984* (which specifies circumstances in which marriages between people in certain relationships may be void) the entry “Parent of former spouse” is repealed.
- (2) In the *Matrimonial Proceedings Act 2003* the following are repealed—
- (a) section 12(1)(c); and
- (b) section 21A(4).
- (3) In the table comprised in Schedule 11 to the *Civil Partnership Act 2011* (overseas relationships which are treated as corresponding to civil partnership) omit the entries in the Table below.

Belgium	marriage
Brazil	marriage
Canada	marriage
Denmark	marriage
Iceland	marriage
Mexico: Mexico City Federal District	marriage
Netherlands	marriage
Norway	marriage
Portugal	marriage
South Africa	marriage
Spain	marriage
Sweden	marriage
United Kingdom	marriage
United States of America:	marriage

California	
United States of America: Connecticut	marriage
United States of America: District of Columbia	marriage
United States of America: Iowa	marriage
United States of America: Massachusetts	marriage
United States of America: New Hampshire	marriage
United States of America: New York	marriage
United States of America: Vermont	marriage

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 Divorce on breakdown of marriage — s. 2 amended

P2013/30/Sch 4, para 3

In section 2 at the end insert —

- ☐ (5) Only conduct between the respondent and a person of the opposite sex can constitute adultery for the purposes of this section. ☐.

5 Grounds on which a marriage is voidable — s. 13 amended

P2013/30/Sch4, para 4

(1) Section 13 is amended as follows.

(2) Renumber the text of the existing provision as subsection (1).

(3) After subsection (1) insert —

- ☐ (2) Paragraphs (a) and (b) of subsection (1) do not apply to the marriage of a same sex couple. ☐.

6 Jurisdiction: further provisions — s. 21 amended

P2013/30/Sch4, para 6

(1) Section 21 is amended as follows.

(2) Before subsection (1) insert —

- ☐ (A1) Subsections (1) to (5A) have effect, subject to regulations under section 21A, with respect to the Court's jurisdiction to entertain proceedings for divorce, judicial separation or nullity in relation to the marriage of a man and a woman. ☐.

(3) After subsection (5A) insert —

- ☐ (5B) Schedule A1 (jurisdiction in relation to the marriage of same sex couples) has effect. ☐.

(4) In subsection (6) after “the Island” insert —

- ☐ (whether the proceedings are in respect of the marriage of a man and a woman or the marriage of a same sex couple) ☐.

7 Insertion of Schedule A1

P2013/30/Sch4 para 8

Before Schedule 1 insert —

SCHEDULE A1**JURISDICTION IN RELATION TO MARRIAGE OF SAME SEX COUPLES**

[Section 21(5B)]

1 Introduction

This Schedule has effect, with respect to the jurisdiction of the court to entertain any of the following proceedings in relation to a marriage of a same sex couple —

- (a) proceedings for divorce, judicial separation or nullity of marriage;
- (b) proceedings for death to be presumed and a marriage to be dissolved on the ground that one of the couple is dead; and
- (c) proceedings for a declaration of validity.

2 Divorce, judicial separation or annulment

(1) The Court has jurisdiction to entertain proceedings for divorce or judicial separation if (and only if) —

- (a) the Court has jurisdiction under regulations under paragraph 5,
- (b) no court has, or is recognised as having, jurisdiction under regulations under paragraph 5 and either of the married same sex couple is domiciled in the Island on the date when the proceedings are begun, or
- (c) the following conditions are met —
 - (i) the two people concerned married each other under the law of the Island,
 - (ii) no court has, or is recognised as having, jurisdiction under regulations under paragraph 5, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.

(2) The Court has jurisdiction to entertain proceedings for nullity of marriage if (and only if) —

- (a) the Court has jurisdiction under regulations under paragraph 5,

- (b) no court has, or is recognised as having, jurisdiction under regulations under paragraph 5 and either of the married same sex couple —
 - (i) is domiciled in the Island on the date when the proceedings are begun, or
 - (ii) died before that date and either was at death domiciled in the Island or had been habitually resident in the Island throughout the period of 1 year ending with the date of death, or
- (c) the following conditions are met —
 - (i) the two people concerned married each other under the law of the Island,
 - (ii) no court has, or is recognised as having, jurisdiction under regulations under paragraph 5, and
 - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.

- (3) At any time when proceedings are pending in respect of which the court has jurisdiction by virtue of subparagraph (1) or (2) (or this subparagraph), the court also has jurisdiction to entertain other proceedings, in respect of the same marriage, for divorce, judicial separation or nullity of marriage, even though that jurisdiction would not be exercisable under subsection (1) or (2).

3 **Presumption of death and dissolution of marriage**

The court has jurisdiction to entertain proceedings for death to be presumed and a marriage to be dissolved if (and only if) —

- (a) the applicant is domiciled in the Island on the date when the proceedings are begun,
- (b) the applicant was habitually resident in the Island throughout the period of 1 year ending with that date, or
- (c) the two people concerned married each other under the law of the Island and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

4 **Declaration of validity**

The Court has jurisdiction to entertain an application for a declaration of validity if (and only if) —

- (a) either of the parties to the marriage to which the application relates—

- (i) is domiciled in the Island on the date of the application,
 - (ii) has been habitually resident in the Island throughout the period of 1 year ending with that date, or
 - (iii) died before that date and either was at death domiciled in the Island or had been habitually resident in the Island throughout the period of 1 year ending with the date of death, or
- (b) the two people concerned married each other under the law of the Island and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

5 Power to make provision corresponding to EC Regulation 2201/2003

- (1) The Council of Ministers may by regulations make provision —
- (a) as to the jurisdiction of the Court in proceedings for the divorce of, or annulment of the marriage of, a same sex couple or for judicial separation of a married same sex couple where one of the couple —
 - (i) is or has been habitually resident in the Island or a member State,
 - (ii) is a national of a member State, or
 - (iii) is domiciled in the Island, and
 - (b) as to the recognition in the Island of any judgment of a court of a member State which orders the divorce of, or annulment of a marriage of, a same sex couple or the judicial separation of a married same sex couple.
- (2) The regulations may in particular make provision corresponding to that made for the European Union by Council Regulation (EC) No 2201/2003 of 27th November 2003¹ in relation to jurisdiction and the recognition and enforcement of judgments in matrimonial matters.
- (3) The regulations may make provision under sub-paragraph (1)(b) which applies even if the date of the divorce, annulment or judicial separation is earlier than the date on which this paragraph comes into operation.
- (4) Regulations under this paragraph may come into operation only if approved by Tynwald.

¹ OJ L 338/1, 23.12.2003.

6 Interpretation

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 the Island in respect of a marriage. **22**.

8 Schedule 1 amended

P2013/30/Sch 4, para 9

- (1) Schedule 1 (staying matrimonial proceedings) is amended as follows.
- (2) In paragraph 1(1) in the definition of “matrimonial proceedings” after “kinds” insert **23** (whether relating to a marriage of a man and a woman or a marriage of a same sex couple) **24**.

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 Schedule 1 amended

Drafting

- (1) Schedule 1 (which specifies exemptions, adaptations and modifications and adaptations subject to which the Sharing of Church Buildings Act 1969 (of Parliament) applies in the Island) is amended as follows.
- (2) In paragraph 5 —
 - (a) in subparagraph (1) in the substituted section 6(1) —
 - (i) after “(an Act of Tynwald)” insert **“the 1984 Act”**; and
 - (ii) after “registration of buildings” insert **“for the solemnization of a marriage between a man and a woman”**.
 - (b) after that subparagraph insert —

“(1A) After section 6(1) insert —	“(1A) Sections 29A to 29E of the 1984 Act make provision about the registration of buildings for same sex marriages: see in particular section 29D in connection with such marriages in buildings subject to sharing agreements.”
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 - (c) in subparagraph (2) —
 - (i) in the opening words for “the said Act of 1984” substitute **“the 1984 Act”**; and
 - (ii) in paragraph (b) for “the said Act” substitute **“the 1984 Act”**.
- (3) For paragraph 13(a) substitute —

“(a) in the heading —	“(i) for “1949” substitute “1984 (an Act of Tynwald)” ; and “(ii) after “registration of buildings” insert “for the solemnization of marriage between a man and a woman” .
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3 Schedule 2 amended

Drafting

- (1) Schedule 2 (the text of the 1969 Act as it applies in the Island) is amended as follows.
- (2) In the text of section 6 of the 1969 Act as applied to the Island (solemnization of marriages in shared buildings) —
 - (a) in subsection (1) —
 - (i) after “(an Act of Tynwald)” insert **“the 1984 Act”**; and
 - (ii) after “registration of buildings” insert **“for the solemnization of a marriage between a man and a woman”**;
 - (b) after subsection (1) insert—

“(1A) Sections 29A to 29E of the 1984 Act make provision about the registration of buildings for same sex marriages: see in particular section 29D in connection with such marriages in buildings subject to sharing agreements.”
 - (c) in subsection (2) —
 - (i) in the opening words for “the said Act of 1984” substitute **“the 1984 Act”**; and
 - (ii) in paragraph (b) for “the said Act” substitute **“the 1984 Act”**.
- (3) In the heading to Schedule 1 to the 1969 Act as applied to the Island—
 - (a) for “1949” substitute **“1984 (an Act of Tynwald)”**; and
 - (b) after “registration of buildings” insert **“for the solemnization of marriage between a man and a woman”**.

4 Disability Discrimination Act 2006 amended

For the definition of “partner” in section 8(7) (exemption for small dwellings) substitute —

“ “partner” means the other member of a couple comprising two persons who are neither married to each other, nor civil partners of each other, but who are living together as if they were married to each other;”.

5 Civil Partnership Act 2011 amended

P2013/30/9 and P2013/30/Sch. 2, para 5

- (1) The *Civil Partnership Act 2011* is amended as follows.
- (2) In section 1(1) omit “of the same sex”.

- (3) In section 2(3) in the Index of defined terms after the definition of “acquired gender” insert —

““adultery”	section 42(6)	Chapter 2 of Part 2”
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- (4) Section 4(1)(a) is repealed.
- (5) After section 27 (and before the cross-heading preceding section 28) insert —

CONVERSION OF ISLE OF MAN CIVIL PARTNERSHIPS TO MARRIAGES

27A Conversion of civil partnership into marriage

- (1) The parties to an Isle of Man civil partnership may convert their civil partnership into a marriage under a procedure established by regulations made by the Clerk of the Rolls.
- (2) Regulations under this section may in particular make—
- provision about the making by the parties to a civil partnership of an application to convert their civil partnership into a marriage;
 - provision about the information to be provided in support of an application to convert;
 - provision about the making of declarations in support of an application to convert;
 - provision for persons who have made an application to convert to appear before any person or attend at any place;
 - provision conferring functions in connection with applications to convert on relevant officials, the Clerk of the Rolls, or any other persons.
- (3) Functions conferred by virtue of paragraph (e) of subsection (2) may include functions relating to—
- the recording of information on the conversion of civil partnerships;
 - the issuing of certified copies of any information recorded;
 - the carrying out, on request, of searches of any information recorded and the provision, on request, of records of any information recorded (otherwise than in the form of certified copies);
 - the conducting of services or ceremonies (other than religious services or ceremonies) following the conversion of a civil partnership.
- (4) If a civil partnership is converted into a marriage under this section—

- (a) the civil partnership ends on the conversion, and
 - (b) the resulting marriage is to be treated as having subsisted since the date the civil partnership was formed.
- (5) In this section—
- "Isle of Man civil partnership"** means a civil partnership which is formed by two people registering as civil partners of each other in the Island in accordance with this Part;
- "relevant official"** means—
- (a) the Chief Registrar;
 - (b) a registrar. **22**.
- (6) Renumber the existing text of section 33 as subsection (1) of that section and after that subsection insert —
- 23** (2) The Treasury may by order make provision for fees, of such amounts as are specified in or determined in accordance with the order, to be payable in respect of—
- (a) the making of an application to convert a civil partnership to a marriage;
 - (b) the exercise of any function conferred by virtue of section 27A(2)(e). **22**
- (7) In section 42 —
- (a) in subsection (3) after "subsection (5)" insert "(za),";
 - (b) in subsection (5) immediately before paragraph (a) insert —
 - "(za) that the respondent has committed adultery and the applicant finds it intolerable to live with the respondent,";
 - (c) at the end insert —
 - "(6) For the purposes of this Chapter only conduct between the respondent and a person of the opposite sex can constitute adultery for the purposes of this Act."
- (8) In section 43 at the beginning insert —
- "(A1)** One party to a civil partnership (P) is not entitled to rely for the purposes of section 42(5)(za) on adultery committed by the other if, after it became known to P that the other had committed that adultery, the parties have lived with each other for a period exceeding, or periods together exceeding, 6 months.
- (B1)** If the civil partners have lived with each other after it became known to one civil partner that the other had committed adultery, but subsection (A1) does not apply, in any proceedings for dissolution in which the applicant relies on that adultery, the fact that the civil partners have lived with each other after that time is to be disregarded in determining for the purposes of section

- 42(5)(za) whether the applicant finds it intolerable to live with the respondent.”.
- (9) In section 44(3)(a) after “of any” insert “adultery,”.
- (10) In section 48(1) after paragraph (c) insert —
- “(ca) in the case of a civil partnership between persons of the opposite sex, it has not been consummated owing to the incapacity of either party to consummate it;
 - (cb) in the case of a civil partnership between persons of the opposite sex, it has not been consummated owing to the wilful refusal of the respondent to consummate it;
 - (cc) at the time the parties became civil partners the respondent was suffering from venereal disease in a communicable form;”.
- (11) In section 62 at the beginning insert —
- “(A1) If, in an application for a dissolution order or separation order, or in any other pleading applying for either order, one party to a civil partnership alleges that the other has committed adultery, he or she must make the person alleged to have committed adultery with the other party to the civil partnership a party to proceedings unless excused by the Court on special grounds from doing so.
 - (B1) Rules of court may, either generally or in such cases as may be prescribed by the rules, exclude the application of subsection (1) where the person alleged to have committed adultery with the other party to the civil partnership is not named in the application or other pleading.
 - (C1) If, in an application under subsection (1), a person is made a party to proceedings for a dissolution order or separation order, the Court may, if, after the close of the evidence on the part of the person making the allegation of adultery, it is of the opinion that there is not sufficient evidence against the person so made a party, dismiss him or her from the proceedings.”.
- (12) For section 79(2)(a) substitute —
- “(a) who under the relevant law are recognised as capable of registering such a relationship at the time that they do so,”.
- (13) In section 81 after subsection (1) insert —
- “(1A) Marriage is not a specified relationship.”.
- (14) Section 84 (the same-sex requirement) is repealed.
- (15) In section 96(2)(b) for subparagraph (ii) substitute —
- “(ii) any case where two persons (A and B) are civil partners and A is domiciled in a country or territory

whose law does not recognise a legal relationship as being capable of subsisting between A and B;”.

(16) In Schedule 14, for paragraph 121(3) substitute—

“(3) For the definition of “partner” substitute —

“ “partner” means the other member of a couple comprising two persons who are neither married to each other, nor civil partners of each other, but who are living together as if they were married to each other;”.