

Marriage (Same Sex Couples) (Northern Ireland) (No. 2) Bill

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A
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TO

Make provision for the marriage of same sex couples in Northern Ireland; to make provision in the law of Northern Ireland for the conversion of civil partnerships to marriages and for the review of civil partnership; to make provision for the legal recognition of the marriage of armed forces personnel overseas and of other marriages solemnised outside Northern Ireland; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

MARRIAGE OF SAME SEX COUPLES IN NORTHERN IRELAND

Extension of marriage

1 Extension of marriage to same sex couples

- (1) Marriage of same sex couples is lawful. 5
- (2) Article 13(1)(e) of the 1978 Order is repealed.
- (3) The marriage of a same sex couple may be solemnised—
 - (a) by a person appointed under Article 31 of the 2003 Order, and
 - (b) in accordance with Articles 18, 19, 20 and 21 of the 2003 Order.
- (4) Any duty of a member of the clergy to solemnise marriages (and any corresponding right of persons to have their marriages solemnised by members of the clergy) is not extended by this Act to marriages of same sex couples. 10
- (5) A “member of the clergy” includes—
 - (a) a clerk in Holy Orders of the Church of Ireland, or 15
 - (b) a priest in the Roman Catholic Church.

Religious protection

2 Religious protections

- (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 conduct a relevant marriage, or 5
- (b) to be present at, carry out, or otherwise participate in, a relevant marriage where the reason for the person not doing that thing is that the relevant marriage is the marriage of a same sex couple.
- (2) The Registrar General shall ensure there are sufficient persons authorised under Article 31 of the 2003 Order to perform relevant marriages in Northern Ireland. 10
- (3) In the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006, after Regulation 6 insert –
- “6A Exceptions from Regulation 5(1): registrars**
- (1) A person, A, does not contravene Regulation 5(1) if A – 15
- (a) does not conduct a relevant marriage,
- (b) is not present at, does not carry out, or does not otherwise participate in, a relevant marriage,
- for the reason that the marriage is the marriage of a same sex couple.
- (2) Paragraph (1) applies to A only if A is a – 20
- (a) registrar of marriages, or
- (b) deputy registrar of marriages,
- appointed under Article 31 of Marriage (Northern Ireland) Order 2003.
- (3) For the purposes of this regulation a “relevant marriage” means the marriage of a same sex couple.” 25

PART 2

MARRIAGE (NORTHERN IRELAND) ORDER 2003

3 Civil marriage

For Article 6 of the 2003 Order substitute –

- “6 Objections** 30
- (1) Any person may at any time before the solemnisation of a marriage in Northern Ireland make an objection in writing to the registrar.
- (2) If the registrar is satisfied that the objection relates to no more than a misdescription or inaccuracy in the marriage notice, the registrar must – 35
- (a) notify the parties to the intended marriage;
- (b) make such inquiries as the registrar thinks fit; and
- (c) subject to the approval of the Registrar General, make any necessary correction to any document relating to the marriage.
- (3) In any other case the registrar must – 40

- (a) notify the Registrar General of the objection;
 - (b) pending consideration of the objection by the Registrar General, suspend the issue of the marriage schedule (if it has not been issued);
 - (c) in the case of a religious marriage, if the marriage schedule has already been issued and it is practicable to do so –
 - (i) notify the officiant of the objection, and
 - (ii) advise the officiant not to solemnise the marriage pending consideration of the objection by the Registrar General.
- (4) If the Registrar General is satisfied that there is a legal impediment to the marriage, the Registrar General must direct the registrar to –
- (a) notify the parties; and
 - (b) take all reasonable steps to ensure that the marriage does not take place.
- (5) If paragraph (4) does not apply, the Registrar General must direct the registrar to proceed under Article 7.
- (6) For the purposes of this Article and Article 7 there is a legal impediment to a marriage if –
- (a) that marriage would be void by virtue of Article 18 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 (NI 14) (prohibited degrees of relationship);
 - (b) one of the parties is, or both are, already married or a civil partner;
 - (c) one or both of the parties will be under the age of 16 on the date of solemnisation of the intended marriage; or
 - (d) one or both of the parties is or are incapable of understanding the nature of a marriage ceremony or of consenting to marriage.
- (7) An objection on the ground mentioned in paragraph (6)(d) must be accompanied by a supporting certificate signed by a medical practitioner.
- (8) A person who has submitted an objection may withdraw it at any time, but the Registrar General may have regard to an objection which has been withdrawn.”

PART 3

OTHER PROVISIONS RELATING TO MARRIAGES OF SAME SEX COUPLES

4 Conversion of civil partnership into marriage

- (1) The parties to an Northern Ireland civil partnership may convert their civil partnership into a marriage under a procedure established by regulations made by a statutory rule by the Department.
- (2) The parties to a civil partnership within subsection (5) may convert their civil partnership into a marriage under a procedure established by regulations made by a statutory rule by the Department.

- (3) The Department must within six months, beginning with the day on which this Act is passed, lay a statutory rule containing regulations under subsections (1) and (2) before the Northern Ireland Assembly.
- (4) Regulations made under subsections (1) and (2) are subject to negative resolution within the meaning given by section 41(6) of the Interpretation Act (Northern Ireland) 1954. 5
- (5) A civil partnership is within this subsection if –
- (a) it was formed within the United Kingdom in accordance with –
 - (i) Part 2 of the Civil Partnership Act 2004 in England or Wales; or
 - (ii) Part 3 of the Civil Partnership Act 2004 in Scotland, or 10
 - (b) it was formed outside the United Kingdom under an Order in Council made under Chapter 1 of Part 5 of the Civil Partnership Act 2004 (registration outside UK under Order in Council), and the part of the United Kingdom that was relevant for the purposes of section 210(2)(b) or (as the case may be) section 211(2)(b) of that Act was Northern Ireland. 15
- (6) Regulations under this section may in particular make –
- (a) provision about the making by the parties to a civil partnership of an application to convert their civil partnership into a marriage;
 - (b) provision about the information to be provided in support of an application to convert; 20
 - (c) provision about the making of declarations in support of an application to convert;
 - (d) provision for persons who have made an application to convert to appear before any person or attend at any place; 25
 - (e) provision conferring functions in connection with applications to convert on relevant officials, relevant armed forces personnel, the Department, or any other persons;
 - (f) provision for fees, of such amounts as are specified in or determined in accordance with the regulations, to be payable in respect of – 30
 - (i) the making of an application to convert;
 - (ii) the exercise of any function conferred by virtue of paragraph (e).
- (7) Functions conferred by virtue of paragraph (e) of subsection (4) may include functions relating to – 35
- (a) the recording of information on the conversion of civil partnerships;
 - (b) the issuing of certified copies of any information recorded;
 - (c) 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); 40
 - (d) the conducting of services or ceremonies (other than religious services or ceremonies) following the conversion of a civil partnership.
- (8) Where 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. 45
- (9) For the purpose of this section, in any period when there is no Executive, references to –

- (a) “statutory rule” shall be read as “statutory instrument”,
 - (b) “Department” shall be read as “Secretary of State”,
 - (c) “negative resolution within the meaning given by section 41(6) of the Interpretation Act (Northern Ireland) 1954” shall be read as “annulment in pursuance of a resolution of either House of Parliament”, and 5
 - (d) “the Northern Ireland Assembly” shall be read as “Parliament”.
- (10) The power of the Secretary of State to make regulations under this section ceases on any occasion after the passing of this Act on which all of the Ministerial offices are filled (but this does not affect the continuing validity of regulations made and not revoked before that time). 10
- (11) In this section –
- “Northern Ireland civil partnership” means a civil partnership which is formed by two people registering as civil partners of each other in Northern Ireland (see Part 4 of the Civil Partnership Act 2004); 15
 - “relevant armed forces personnel” means
 - (a) a member of Her Majesty’s forces;
 - (b) civilian subject to service discipline (within the meaning of the Armed Forces Act 2006);and for this purpose “Her Majesty’s forces” has the same meaning as in the Armed Forces Act 2006; 20
 - “relevant official” means –
 - (a) the Registrar General;
 - (b) a registrar;
 - (c) a consular officer in the service of Her Majesty’s government in the United Kingdom; 25
 - (d) a person authorised by the Secretary of State in respect of the solemnization of marriages or formation of civil partnerships in a country or territory in which Her Majesty’s government in the United Kingdom has for the time being no consular representative. 30

5 Effect of extension of marriage

- (1) In the law of Northern Ireland, marriage has the same effect in relation to same sex couples as it has in relation to opposite sex couples.
- (2) The law of Northern Ireland (including all Northern Ireland legislation whenever passed or made) has effect in accordance with subsection (1). 35
- (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 6 of Schedule 2. 40
- (6) In Schedules 1 and 2 –
 - “existing Northern Ireland legislation” means –
 - (a) in the case of Northern Ireland legislation that is primary legislation, legislation passed before the end of the Session in which this Act is passed (excluding this Act), or 45

- (b) in the case of England and Wales 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 Northern Ireland legislation” means –
- (a) in the case of Northern Ireland legislation that is primary legislation, legislation passed after the end of the Session in which this Act is passed, or 5
- (b) in the case of Northern Ireland legislation that is subordinate legislation, legislation made after the day on which this Act is passed. 10

6 Review of civil partnership

- (1) The Department must arrange –
- (a) for the operation and future of the Civil Partnership Act 2004 in Northern Ireland to be reviewed, and
- (b) for a report on the outcome of the review to be produced and published. 15
- (2) Subsection (1) does not prevent the review from also dealing with other matters relating to civil partnership.
- (3) The arrangements made by the Department must provide for the review to commence not sooner than twelve months following commencement of this section and include a full public consultation. 20
- (4) In the case where within ten months of the commencement of this section there is no Executive, references to “Department” shall be read as “Secretary of State”, subject to the following condition.
- (5) The condition is that if, after the Secretary of State has arranged a review under this section and before that review is published, all of the Ministerial offices are filled, then the Secretary of State must consult the First Minister and deputy First Minister and have regard to their views before the report is published. 25

PART 4

EXTRA-TERRITORIAL MATTERS 30

7 Consular marriages

- (1) Where two people marry in accordance with an Order in Council made in pursuance of paragraph 1 of Schedule 6 to the 2013 Act and the relevant part of the United Kingdom is Northern Ireland, they must be treated as if they had married in Northern Ireland. 35
- (2) A marriage solemnised in accordance with an Order in Council made in pursuance of paragraph 1 of Schedule 6 to the 2013 Act where the relevant part of the United Kingdom is Northern Ireland is valid in law as if the marriage had been solemnised in Northern Ireland with a due observance of all forms required by the law of Northern Ireland. 40
- (3) For the purposes of this section “relevant part of the United Kingdom” has the meaning assigned to it by paragraph 6 of Schedule 6 to the 2013 Act.

8 Marriage of armed forces personnel under Northern Ireland law

- (1) Where two people marry in accordance with an Order in Council made in pursuance of paragraph 8 of Schedule 6 to the 2013 Act and the relevant part of the United Kingdom is Northern Ireland, they must be treated as if they had married in Northern Ireland. 5
- (2) A marriage solemnised in accordance with an Order in Council made in pursuance of paragraph 8 of Schedule 6 to the 2013 Act where the relevant part of the United Kingdom is Northern Ireland is valid in law as if the marriage had been solemnised in Northern Ireland with a due observance of all forms required by the law of Northern Ireland. 10
- (3) For the purposes of this section “relevant part of the United Kingdom” has the meaning assigned to it by paragraph 12 of Schedule 6 to the 2013 Act.

9 Marriage in England and Wales

- (1) Under the law of Northern Ireland, a marriage of a same sex couple under the law of England and Wales is to be treated as a marriage formed under the law of England and Wales (and accordingly, the spouses are to be treated as spouses). 15
- (2) Paragraphs 2 and 3 of Schedule 2 to the 2013 Act are repealed in so far as they extend to Northern Ireland.

10 Marriage in Scotland 20

- (1) Under the law of Northern Ireland, a marriage of a same sex couple under the law of Scotland is to be treated as a marriage formed under the law of Scotland (and accordingly, the spouses are to be treated as spouses).
- (2) Article 6 of the Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 is revoked. 25

11 Marriage in the Republic of Ireland

- (1) Under the law of Northern Ireland, a marriage of a same sex couple under the law of the Republic of Ireland is to be treated as a marriage formed under the law of the Republic of Ireland (and accordingly, the spouses are to be treated as spouses). 30
- (2) Section 215 of the Civil Partnership Act 2004 does not apply to same sex marriages solemnised under the law of the Republic of Ireland.

12 Foreign marriages – general provision

- (1) A marriage under the law of any country or territory outside the United Kingdom is not prevented from being recognised under the law of Northern Ireland only because it is the marriage of a same sex couple. 35
- (2) For the purposes of this section it is irrelevant whether the law of a particular country or territory outside the United Kingdom –
 - (a) already provides for marriage of same sex couples at the time when this section comes into force, or 40

- (b) provides for marriage of same sex couples from a later time.
- (3) The Foreign Marriage Act 1892 is repealed.

13 Transitional provision

- (1) Where a court is determining the validity of a same sex marriage solemnised prior to the commencement of this Act and in accordance with— 5
 - (a) an Order in Council made in pursuance of paragraph 1 of Schedule 6 to the 2013 Act (consular marriages),
 - (b) an Order in Council made in pursuance of paragraph 8 of Schedule 6 to the 2013 Act (forces marriages),
 - (c) the law of England and Wales, 10
 - (d) the law of Scotland, or
 - (e) the law of the Republic of Ireland.

the Court must be satisfied that the marriage was at its inception valid in Northern Ireland law.
- (2) Where, prior to commencement of this Act, a court has, in relation to a marriage within subsection (1)— 15
 - (a) determined the validity of the marriage; and
 - (b) dissolved a deemed civil partnership for the marriage

nothing in subsection (1) shall affect that determination or dissolution or any order of that court. 20

PART 5

FINAL PROVISIONS

14 Transitional and consequential provision

- (1) The Department may by order make such supplementary, incidental, consequential, transitional, transitory or saving provision as it considers appropriate— 25
 - (a) for the purposes of, or in consequence of, or for giving full effect to, this Act or any provision of it,
 - (b) in connection with the coming into operation of any provision of this Act. 30
- (2) An order under subsection (1) may amend, repeal, revoke or otherwise modify any statutory provision (including this Act).
- (3) In subsection (2), “modify” includes the making of additions, omissions and exceptions.
- (4) Except as mentioned in subsection (5), an order made under this section is subject to negative resolution within the meaning given by section 41(6) of the Interpretation Act (Northern Ireland) 1954. 35
- (5) An order under subsection (1) containing provision, which adds to, replaces, repeals or omits any part of the text of Northern Ireland legislation or an Act of Parliament is not to be made unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly. 40

- (6) For the purpose of this section, in any period when there is no Executive, references to –
- (a) “order” shall be read as “regulations made by statutory instrument”,
 - (b) “Department” shall be read as “Secretary of State”,
 - (c) “negative resolution within the meaning given by section 41(6) of the Interpretation Act (Northern Ireland) 1954” shall be read as “annulment in pursuance of a resolution of either House of Parliament”, and 5
 - (d) “the Northern Ireland Assembly” shall be read as “each House of Parliament”. 10
- (7) The power of the Secretary of State to make regulations under this section ceases on any occasion after the passing of this Act on which all of the Ministerial offices are filled (but this does not affect the continuing validity of a regulation made and not revoked before that time).

15 Interpretation 15

- (1) In this Act –
- “the 1978 Order” means the Matrimonial Causes (Northern Ireland) Order 1978 (N.I. 15);
 - “the 2003 Order” means the Marriage (Northern Ireland) Order 2003 (N.I. 3); 20
 - “the 2013 Act” means the Marriage (Same Sex Couples) Act 2013;
 - “the Department” means the Department of Finance in Northern Ireland;
 - “the Ministerial offices” means –
 - (a) the offices of First Minister and deputy First Minister, and
 - (b) the Ministerial offices to be held by Northern Ireland Ministers (within the meaning of the Northern Ireland Act 1998); 25
 - “existing Northern Ireland legislation” has the meaning given in section 5;
 - “new Northern Ireland legislation” has the meaning given in section 5;
 - “Northern Ireland legislation” means primary legislation and subordinate legislation which forms part of the law of Northern Ireland (whether or not it also forms part of the law of another jurisdiction); 30
 - “period when there is no Executive” means –
 - (a) the period beginning when this Act is passed and ending on the next occasion when all of the Ministerial offices are filled, and
 - (b) any later period beginning when the duty in section 32(3) of the Northern Ireland Act 1998 arises and ending on the next following occasion when all of the Ministerial offices are filled; 35
 - “registrar” means a registrar of births, deaths and marriages;
 - “Registrar General” means the Registrar General of Northern Ireland;
 - “relevant marriage” means the marriage of a same sex couple. 40
- (2) For further interpretation provision relating to this Act, see Schedule 1.

16 Further transitional and consequential provision

- (1) Schedule 3, which makes further transitional and consequential provision, has effect.

17 Extent, commencement and short title

- (1) This Act extends to Northern Ireland only.
- (2) The following provisions of this Act come into operation on the day on which this Act is passed—
 - (a) Part 3, 5
 - (b) Part 4,
 - (c) sections 14, 15 and this section.
- (3) The remaining provisions of this Act come into force after the period of three months beginning with the day on which this Act is passed.
- (4) This Act may be cited as the Marriage (Same Sex Couples) (Northern Ireland) Act 2018. 10

SCHEDULES

SCHEDULE 1

Section 5

INTERPRETATION OF LEGISLATION

PART 1

EXISTING NORTHERN IRELAND LEGISLATION

5

Interpretation of existing Northern Ireland legislation

- 1 (1) In existing Northern Ireland 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 10
 - (c) a reference to man and wife is to be read as including a reference to a married same sex couple; and
 - (d) 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. 15
- (2) Where 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. 20

Interpretation of legislation about couples living together as if married

- 2 (1) In existing Northern Ireland 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; 25
 - (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) Where 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. 30
- (3) For the purposes of sub-paragraphs (1) and (2) it does not matter how a reference is expressed.

- 3 (1) This paragraph applies to existing Northern Ireland 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. 5

General

- 4 This Part of this Schedule does not limit section 5(1) or (2).

PART 2

10

NEW NORTHERN IRELAND LEGISLATION

- 5 (1) This paragraph applies to provision made by—
- (a) this Act and any subordinate legislation made under it, or
 - (b) any new Northern Ireland legislation,
- including any such provision which amends existing Northern Ireland legislation. 15
- (2) 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; 20
 - (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— 25
- (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. 30
- (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. 35
- (6) This Part of this Schedule does not limit section 5(1) or (2).

SCHEDULE 2

Section 5

EFFECT OF EXTENSION OF MARRIAGE: FURTHER PROVISION

PART 1

PRIVATE LEGAL INSTRUMENTS

Existing instruments 5

- 1 (1) Section 5 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, 10
 - (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, 15
(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 Northern Ireland legislation.

PART 2 20

PRESUMPTION ON BIRTH OF CHILD TO MARRIED WOMAN

Common law presumption

- 2 (1) Section 5 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 to the question of who the child’s parents are. 25

PART 3

DIVORCE AND ANNULMENT OF MARRIAGE

Divorce 30

- 3 (1) Article 3 of the Matrimonial Causes (Northern Ireland) Order 1978 (divorce on breakdown of marriage) is amended as follows.
- (2) After paragraph (6) insert –
- “(7) Only conduct between the respondent and a person of the opposite sex may constitute adultery for the purposes of this section.”. 35

Annulment of marriage

- 4 (1) Article 14 of the Matrimonial Causes (Northern Ireland) Order 1978 (grounds on which a marriage is voidable) is amended as follows.
- (2) The existing provision of Article 14 becomes paragraph (1) of that Article.
- (3) After that paragraph (1) insert— 5
- “(2) Sub-paragraphs (a) and (b) of paragraph (1) do not apply to the marriage of a same sex couple.”.

PART 4

STATE PENSIONS

Category B retirement pension for married person 10

- 5 (1) Section 48A of the 1992 Act (Category B retirement pension for married person) does not confer a right to a Category B retirement pension on a person by reason of the person being married to a person of the same sex who was born before 6th April 1950.
- (2) But that does not prevent section 48A from conferring a right to such a pension on a woman by reason of her marriage to another woman (“the spouse”) if— 15
- (a) the spouse is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and 20
- (b) the marriage subsisted before the time when that certificate was issued.
- (3) In section 48A of the 1992 Act—
- (a) in subsection (2ZA)— 25
- (i) in paragraph (a) for “married man who” substitute “man married to a woman and the spouse”;
- (ii) after paragraph (b) insert— 30
- “(c) in a case where the spouse is a woman born before 6th April 1945 who is married to a woman and subsection (2ZB) applies, the conditions specified in Schedule 3, Part 1, paragraph 5;
- (d) in a case where the spouse is a woman born on or after 6th April 1945 but before 6th April 1950 who is married to a woman and subsection (2ZB) applies, the condition specified in Schedule 3, Part 1, paragraph 5A.”; 35
- (b) after subsection (2ZA) insert— 40
- “(2ZB) This subsection applies where—
- (a) the spouse is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and

- (b) the marriage subsisted before the time when that certificate was issued.”
- (4) In paragraph 5A of Schedule 3 to the 1992 Act, at the end of sub-paragraph (1)(b) insert “or in a case of the kind mentioned in subsection (2ZA)(d) of that section”. 5
- (5) In this paragraph “the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Category B retirement pension for widows and widowers

- 6 (1) Section 48B of the 1992 Act (Category B retirement pension for widows and widowers) does not confer a right to a Category B retirement pension on a woman who attained pensionable age before 6th April 2010 by reason of her marriage to another woman. 10
- (2) But that does not prevent section 48B from conferring a right to such a pension on a woman by reason of her marriage to another woman (“the spouse”) if— 15
 - (a) the spouse was, at the time of her death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
 - (b) the marriage subsisted before the time when that certificate was issued. 20
- (3) In section 48B of the 1992 Act—
 - (a) in subsection (1ZA), in paragraph (a)(ii) after “date” (in the second place where it appears) insert “and the case does not fall within paragraph (c)”;
 - (b) in subsection (1ZA), after paragraph (b) insert— 25
 - “(c) in a case where—
 - (i) the spouse died on or after 6th April 2010,
 - (ii) the spouse was born on or after 6th April 1945 but before 6th April 1950,
 - (iii) the spouse was, at the time of her death, a woman and the pensioner in question is a woman, and 30
 - (iv) subsection (1ZB) applies, the condition specified in Schedule 3, Part 1, paragraph 5A.”; 35
 - (c) after subsection (1ZA) insert—
 - “(1ZB) This subsection applies where—
 - (a) the spouse was, at the time of her death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and 40
 - (b) the marriage subsisted before the time when that certificate was issued.”
 - (4) In paragraph 5A of Schedule 3 to the 1992 Act, at the end of sub-paragraph (1)(c) insert “or in a case of the kind mentioned in subsection (1ZA)(c) of that section”. 45

- (5) In this paragraph “the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Category B retirement pension for widowers

- 7 (1) Section 51 of the 1992 Act (Category B retirement pension for widowers) is amended in accordance with sub-paragraphs (2) to (4). 5
- (2) After subsection (1) insert –
- “(1ZA) A party to a marriage of a same sex couple shall be entitled to a Category B retirement pension if –
- (a) the other party has died and they were married to each other at the time of that death, 10
- (b) they were both over pensionable age at the time of that death, and
- (c) before that death the deceased party satisfied the contribution conditions for a Category A retirement pension in Schedule 3, Part 1, paragraph 5.”. 15
- (3) Subsection (2): after “wife” insert “, husband”.
- (4) Subsection (3): after “2002” insert “, surviving party to a same sex marriage”.
- (5) Section 51(1ZA) of the 1992 Act does not confer a right to a Category B retirement pension on a person if the person attains pensionable age on or after 6th April 2010. 20
- (6) Section 51(1ZA) of the 1992 Act does not confer a right to a Category B retirement pension on a woman by reason of her marriage to another woman (“the spouse”) if –
- (a) the spouse was, at the time of her death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and 25
- (b) the marriage subsisted before the time when that certificate was issued.
- (7) In this paragraph “the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992. 30

Graduated retirement benefit

- 8 (1) Section 62 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (graduated retirement benefit) is amended as follows.
- (2) Subsection (1): after paragraph (ac) insert –
- “(ad) for extending section 37 of that Act (increase of woman’s retirement pension by reference to her late husband’s graduated retirement benefit) to – 35
- (i) men and their late husbands, and
- (ii) women and their late wives,
- and for that section (except subsection (5)) so to apply as it applies to women and their late husbands; 40
- (ae) for extending section 37 of that Act (increase of woman’s retirement pension by reference to her late husband’s graduated retirement benefit) to –

- (i) men and their late husbands, and
 - (ii) women and their late wives,
- who attained pensionable age before 6th April 2010 and for that section (except subsection (5)) so to apply as it applies to men and their late wives;” 5
- (3) After subsection (2) insert –
 - “(3) In relevant gender change cases, women and their late wives are to be treated for the purposes of sections 36 and 37 of the National Insurance Act 1965 in the same way as women and their late husbands. 10
 - (4) For that purpose “relevant gender change case”, in relation to a woman (“the pensioner”) and her late wife, means a case where –
 - (a) the late wife was, at the time of her death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and 15
 - (b) the marriage of the pensioner and her late wife subsisted before the time when the certificate was issued.”

Adult dependency increases

- 9 (1) In a case where a full gender recognition certificate is issued to a person under the Gender Recognition Act 2004 – 20
 - (a) section 83 of the 1992 Act (pension increase (wife)) does not cease to apply by virtue of the change of gender; and
 - (b) in the continued application of section 83 in such a case, references to a pension payable to a man, or references to his wife, are to be construed accordingly. 25
- (2) In a case where a full gender recognition certificate is issued to a person under the Gender Recognition Act 2004 –
 - (a) section 84 of the 1992 Act (pension increase (husband)) does not cease to apply by virtue of the change of gender; and
 - (b) in the continued application of section 84 in such a case, references to a pension payable to a woman, or references to her husband, are to be construed accordingly. 30
- (3) In this paragraph “the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Converted civil partnerships

- 10 (1) This paragraph applies where a civil partnership is converted into a marriage under section 4. 35
- (2) For the purposes of section 48A of, and paragraph 5A(1)(b) of Schedule 3 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 –
 - (a) the civil partnership is to be treated as having subsisted during the period that begins with the day when it was formed and ends with the day before the conversion day, and 40
 - (b) the marriage is to be treated as subsisting only from the conversion day.

- (3) In this paragraph “conversion day” means the day when the civil partnership is converted into a marriage.

PART 5

PENSION SCHEMES ACT (NORTHERN IRELAND) 1993

- | | | |
|----|--|----|
| 11 | The Pension Schemes (Northern Ireland) Act 1993 is amended in accordance with paragraphs 12 to 18. | 5 |
| 12 | In section 4(2) (meaning of certain terms), in the definition of “guaranteed minimum pension”, after “widower’s” insert “, surviving same sex spouse’s”. | |
| 13 | (1) Section 13 (minimum pensions for widows and widowers) is amended as follows. | 10 |
| | (2) Subsection (2) – | |
| | (a) paragraph (a): after “man” insert “, or a woman in a relevant gender change case,”; | |
| | (b) after paragraph (c) insert – | 15 |
| | “(d) if the earner is a man who has a guaranteed minimum under that section, the weekly rate of the widower’s pension will not be less than the surviving same sex spouse’s guaranteed minimum; | |
| | (e) if the earner is a woman (other than in a relevant gender change case) who has a guaranteed minimum under that section, the weekly rate of the widow’s pension will not be less than the surviving same sex spouse’s guaranteed minimum.”. | 20 |
| | (3) Subsection (4): after “partner’s” insert “or surviving same sex spouse’s”. | 25 |
| | (4) Subsection (5): at the beginning insert “In the case of a woman who is the widow of a man,”. | |
| | (5) Subsection (6) – | |
| | (a) at the beginning insert “In any other case,”; | |
| | (b) after “widower’s” insert “, widow’s”. | 30 |
| | (6) After subsection (9) insert – | |
| | “(10) In relation to an earner who is a woman, a reference in this section to a relevant gender change case is a reference to a case where – | |
| | (a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and | 35 |
| | (b) the marriage of the earner and her widow (that ends with the earner’s death) subsisted before the time when the certificate was issued. | |
| | (11) This section is subject to regulations under section 38A.”. | 40 |
| 14 | (1) Section 20D (survivors’ benefits) is amended as follows. | |

- (2) Subsection (2): after “earner” insert “is a man married to a woman or a woman married to a woman in a relevant gender change case, and the earner”.
- (3) Subsection (3) –
- (a) after “earner” insert “is a married woman (other than in a relevant gender change case), a man married to a man, or a civil partner, and the earner”; 5
 - (b) after “widower” insert “, widow”.
- (4) After subsection (3) insert –
- “(4) In relation to an earner who is a woman, a reference in this section to a relevant gender change case is a reference to a case where –
- (a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and 10
 - (b) the marriage of the earner and her widow (that ends with the earner’s death) subsisted before the time when the certificate was issued. 15
- (5) This section is subject to regulations under section 38A.”.
- 15 Before section 35 insert –
- “34A Regulations about relevant gender change cases 20**
- (1) The Department may, by regulations, make provision for –
 - (a) section 13,
 - (b) section 20D, or
 - (c) section 34,to have its special effect in relevant gender change cases only if conditions prescribed in the regulations are met. 25
 - (2) Regulations under subsection (1) may, in particular, prescribe conditions that relate to the provision of information by –
 - (a) one or both of the members of married same sex couples, or
 - (b) the survivors of such couples. 30
 - (3) The Department may, by regulations, make further provision about cases where (because of regulations under sub-section (1)) –
 - (a) section 13,
 - (b) section 20D, or
 - (c) section 34, 35does not have its special effect in relevant gender change cases.
 - (4) Regulations under subsection (3) may, in particular, provide for the section in question to have its ordinary effect in relevant gender change cases.
 - (5) Regulations under subsection (1) or (3) may, in particular, modify or disapply any enactment that concerns information relating to –
 - (a) the gender or sex of a person, or
 - (b) the change of gender or sex of a person, 40including any enactment that concerns requests for, or disclosure of, such information. 45

- (6) In this section, in relation to section 13, 20D or 34 –
- (a) “relevant gender change case” has the same meaning as in that section;
 - (b) “special effect” means the effect which the section has (if regulations under subsection (1) of this section are ignored) in relation to relevant gender change cases, insofar as that effect is different from the section’s ordinary effect; 5
 - (c) “ordinary effect” means the effect which the section has in relation to same sex married couples in cases that are not relevant gender change cases.”. 10
- 16 In section 43 (further provisions about effect of entitlement to guaranteed minimum pension on payment of social security benefits), in subsection (1) after “widower” insert “, surviving same sex spouse”.
- 17 In section 80 (basis of revaluation), in subsection (5), after “widower” insert “, surviving same sex spouse”. 15
- 18 In Schedule 2 (methods of revaluing accrued pension benefits), in paragraph 1(1)(a), after “widower” insert “, surviving same sex spouse”.

PART 6

PROVISIONS WHICH LIMIT EQUIVALENCE OF ALL MARRIAGES ETC.

- Contrary provision* 20
- 19 (1) The relevant enactments are subject to –
- (a) the preceding provisions of this Schedule, and
 - (b) any order under sub-paragraph (3).
- (2) The relevant enactments are subject to any other contrary provision made by – 25
- (a) the other provisions of this Act,
 - (b) any other subordinate legislation made under this Act, and
 - (c) any new Northern Ireland legislation,
- including any such contrary provision contained in amendments of existing Northern Ireland legislation. 30
- (3) The relevant Northern Ireland Department may by order –
- (a) provide that a relevant enactment has effect subject to provision made by the order, or
 - (b) specify cases in which a relevant enactment does not apply.
- (4) In this paragraph “relevant enactment” means – 35
- (a) section 4(8)(b) (marriage arising from conversion of civil partnership treated as having subsisted from formation of civil partnership), or
 - (b) section 5(1) and (2) and Schedule 2 (equivalence of all marriages in law).

SCHEDULE 3

Section 16

TRANSITIONAL AND CONSEQUENTIAL PROVISION ETC.

PART 1

MINOR AND CONSEQUENTIAL AMENDMENTS

<i>Matrimonial Causes (Northern Ireland) Order 1978</i>	5
1 The Matrimonial Causes (Northern Ireland) Order 1978 is amended as follows.	
2 After Article 13 insert –	
“13A Void marriages: additional provision about same sex couples	
(1) If a same sex couple knowingly and willfully intermarries, in Northern Ireland, otherwise than –	10
(a) by a person appointed under Article 31 of the Marriage (Northern Ireland) Order 2003 (N.I. 3) and in accordance with Articles 18, 19, 20 and 21 of that Order; or	
(b) by a person temporarily authorised under Article 14 of the Marriage (Northern Ireland) Order 2003 (N.I. 3) and in accordance with their authorisation under that Article	15
the marriage shall be void.”	
<i>Social Security Contributions and Benefits (Northern Ireland) Act 1992</i>	20
3 The Social Security Contributions and Benefits (Northern Ireland) Act 1992 is amended as follows.	
4 Section 48 (use of former spouse’s or civil partner’s contributions): after subsection (4) insert –	
“(5) For the purposes of this section, a civil partnership is not to be treated as having terminated by reason of its having been converted into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013.”	25
<i>Pension Schemes (Northern Ireland) Act 1993</i>	
5 The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.	30
6 Section 95 (trustees’ duties after exercise of option), subsection (3)(b): for “his widow” substitute “his or her surviving spouse or civil partner”.	
7 The Marriage (Northern Ireland) Order 2003 (N. I. 3) is amended as follows.	
8 (1) Article 9 (persons who may solemnise marriage) is amended as follows.	
(2) The existing provision of Article 9 becomes paragraph (1) of that Article.	35
(3) Paragraph (1) after “marriage” insert “, subject to paragraph (2),”	

- (4) After paragraph (1) insert –
- “(2) A marriage of a same sex couple may be solemnised only by –
- (a) a person temporarily authorised under Article 14,
- (b) a person appointed under Article 31.”
- 9 In Article 14 of the 2003 Order after paragraph (3) insert – 5
- “(4) An authorisation under paragraph (1) may authorise the solemnisation of one or more specified same sex marriages or same sex marriages within a specified period.
- (5) Where an authorisation is granted for a specified period under paragraph (1)(b) the Registrar General must specify whether the solemnisation of same sex marriages is authorised. 10
- (6) Where an authorisation is granted under this Article for the solemnisation of a same sex marriage or same sex marriages within a specified period the Registrar General must specify the terms of the appropriate declaration to be made by the parties.” 15
- 10 In Article 15 of the 2003 Order after paragraph (2) insert –
- “(3) Paragraph (2) does not apply to a same sex marriage solemnised pursuant to a temporary authorisation granted under Article 14 of this Order.”

Marriage (Same Sex Couples) (Northern Ireland) (No. 2) Bill

A

B I L L

To make provision for the marriage of same sex couples in Northern Ireland; to make provision in the law of Northern Ireland for the conversion of civil partnerships to marriages and for the review of civil partnership; to make provision for the legal recognition of the marriage of armed forces personnel overseas and of other marriages solemnised outside Northern Ireland; and for connected purposes.

*Ordered to be brought in by Conor McGinn,
Wes Streeting, Karin Smyth,
Ged Killen, Yvette Cooper,
Owen Smith, Layla Moran,
Caroline Lucas, Nicky Morgan,
Justine Greening, Nick Herbert
and Ms Angela Eagle.*

*Ordered by the House of Commons, to be
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