

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

4,287 of 15th August, 2016

B. 20/16

BILL

FOR

AN ACT to make provision for the marriage of same sex couples; and for connected purposes.

ENACTED by the Legislature of Gibraltar.

Short title and commencement.

1. This Act may be cited as the Civil Marriage Amendment Act 2016 and shall come into operation on the day appointed by the Minister.

Amendments to the Marriage Act.

2.(1) The Marriage Act is amended in accordance with the provisions of this section.

(2) In section 2–

(a) after the definition of “minister” insert–

““parties” includes opposite sex and same sex couples;” ;

(b) in the definition of “Registrar” substitute “.” with “;” ; and

(c) after the definition of “Registrar” insert–

““relevant marriage” means a marriage of a same sex couple.” .

(3) In section 6(a) before “in a place of worship–” insert “subject to section 6A,” .

(4) After section 6 insert–

“Marriage of same sex couples in a place of worship.

6A.(1) A minister in a place of worship may not be compelled by any means (including the enforcement of a contract or a statutory or other legal requirement) to–

- (a) conduct a relevant marriage;
- (b) be present at, carry out, or otherwise participate in, a relevant marriage; or
- (c) consent to a relevant marriage being conducted,

where the reason for the minister not doing so is that the relevant marriage concerns a same sex couple.

(2) A religious organisation may not be compelled by any means to allow the use of premises owned or controlled by it for the purposes of a relevant marriage where the reason for not doing so is that the relevant marriage concerns a same sex couple.

Provision to opt-out.

6B. A Deputy Registrar may not be compelled by any means to conduct a relevant marriage where the reason for not doing so is that the relevant marriage concerns a same sex couple and in those circumstances the Marriage Registrar shall assign an alternative Deputy Registrar for the purpose of that relevant marriage.”.

(5) After section 40 insert–

“Conversion of civil partnership into marriage.

40A.(1) Civil partners who have formed a civil partnership pursuant to the Civil Partnership Act 2014 may convert their civil partnership into a marriage.

(2) The procedure to convert a civil partnership into a marriage shall be established by rules made by the Minister responsible for personal status.

- (3) Rules under this section may in particular make provision—
- (a) about the making by the parties to a civil partnership of an application to convert their civil partnership into a marriage;
 - (b) about the information to be provided in support of an application to convert;
 - (c) about the making of declarations in support of an application to convert;
 - (d) for persons who have made an application to convert to appear before any person or attend at any place;
 - (e) conferring functions in connection with applications to convert on the Registrar;
 - (f) for fees, of such amounts as are specified in or determined in accordance with the rules, to be payable in respect of the—
 - (i) making of an application to convert;
 - (ii) exercise of any function conferred by virtue of paragraph (e);
 - (g) to make any such other transitional or consequential amendments (including any amendments to the Civil Partnership Act 2014) for the purposes of converting civil partnerships to marriage under the Act.
- (4) Functions conferred by virtue of subsection (3)(e) may include functions relating to—
- (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);
 - (d) the conducting of services or ceremonies (other than religious services or ceremonies) following the conversion of a civil partnership.
- (5) When a civil partnership is converted into a marriage under this section–
- (a) the civil partnership ends on conversion; and
 - (b) the resulting marriage is to be treated as having subsisted since the date the civil partnership was formed.”.

Amendments to the Matrimonial Causes Act.

3.(1) The Matrimonial Causes Act is amended in accordance with this section.

(2) In section 16(2)(a)–

- (a) delete “, sodomy”; and
- (b) after “, or” insert; “, where the marriage is between a man and a woman, the respondent”.

(3) In section 17 after subsection (6) insert–

“(6A) For the purposes of subsection (6) in relation to a marriage of a same sex couple, a reference to a husband and wife shall be read as a reference to a husband and a husband or a wife and a wife, as applicable, and parties to a marriage shall be construed accordingly.”

(4) In section 25(1) insert “or” after paragraph (b) and delete paragraph (c).

(5) In section 25A–

- (a) renumber the current text as subsection (1); and

- (b) insert the following subsection after the newly renumbered subsection (1)–

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

Power to make by subsidiary legislation.

4. The Government may by regulations amend any Act or subsidiary legislation in order to make further provision for the marriage of same sex couples and generally in order to make such consequential, transitional and saving provisions as it deems necessary for the purpose of giving effect to this Act.

EXPLANATORY MEMORANDUM

This Bill makes provision for the marriage of same sex couples in civil ceremonies whilst respecting and protecting religious freedom and enables civil partners to convert their civil partnership into marriage if they so wish.

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