

Annex A

Draft Regulations laid before Parliament under section 44D(8) of the Marriage Act 1949, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

REGISTRATION OF BIRTHS, DEATHS, MARRIAGES, ETC., ENGLAND AND WALES

MARRIAGE OF SAME SEX COUPLES, ENGLAND AND WALES

The Marriage of Same Sex Couples (Registration of Shared Buildings) Regulations 2014

Made - - - - *******

Draft laid before Parliament *******

Coming into force in accordance with Regulation 1

A draft of these Regulations was laid before and approved by a resolution of each House of Parliament in accordance with section 44D(8) of the Marriage Act 1949(a).

The Secretary of State, in exercise of the powers conferred by sections 44A(10), 44B(7), 44C(1) and (2), and 44D(2) to 44D(7) of the Marriage Act 1949(b), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Marriage of Same Sex Couples (Registration of Shared Buildings) Regulations 2014 and shall come into force on [].

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires:—

“the 1949 Act” means the Marriage Act 1949;

“the 1969 Act” means the Sharing of Church Buildings Act 1969(c)

“consent to marriages of same sex couples” means consent given, under section 26A(3) of the

(a) 1949 c.76; section 44D(8) was inserted by section 4(2) of, and paragraph 3 of Schedule 1, to the Marriage (Same Sex Couples) Act 2013 (c.30)

(b) 1949 c.76; sections 44A to 44D were inserted by section 4(2) of and paragraph 3 of Schedule 1 to the Marriage (Same Sex Couples) Act 2013 (c.30).

(c) 1969 c.38

1949 Act, by a relevant governing authority of a sharing church;
“registration” means registration of a building under section 43A of the 1949 Act;
“sharing church” means one of the sharing churches;

- (2) In these Regulations, unless the context otherwise requires—
- (a) any reference to a numbered regulation or Schedule is a reference to the regulation or Schedule bearing that number in these Regulations; and
 - (b) any reference in a regulation to a numbered paragraph is a reference to the paragraph in that regulation bearing that number.

General provisions relating to the registration of shared buildings

3.[INSERT WORDING CONSISTENT WITH APPROACH THAT GRO TAKE FOR THEIR REGS UNDER SECTION 43D]

Buildings subject to the 1969 Act: cancellation application process

4.—(1) This Regulation supplements the requirements of section 44B of the 1949 Act.

(2) In cases where the cancellation application is to be made by the relevant governing authority of any of the sharing churches—

- (a) the sharing church, whose relevant governing authority is to make the application, must have been party to the sharing agreement or used the building as mentioned in section 6(4) of the 1969 Act for a period of not less than two years prior to the date when the application is made; and
- (b) paragraphs (3) and (4) apply.

(3) In addition to the matters provided for in section 44B(6) of the 1949 Act—

- (a) the relevant governing authority must, not less than three months prior to the date when it intends to make a cancellation application, send a written notice to the proprietor or trustee—
 - (i) stating that intention and when it is proposed to make the application; and
 - (ii) providing a copy of the proposed application;
- (b) the application may not be made if—
 - (i) the relevant governing authority has not sent a notice to the proprietor or trustee as required by paragraph (3)(a); or
 - (ii) the proprietor or trustee has sent a notice under paragraph (4) objecting to the application;
- (c) the certificate accompanying the application must certify that—
 - (i) the notice mentioned at paragraph (3)(a) was sent to the proprietor or trustee not less than three months prior to the date of the certificate; and
 - (ii) the proprietor or trustee has not sent a notice under paragraph (4) objecting to the application;
- (d) the application must be accompanied by a copy of the notice mentioned in paragraph (3)(a);
- (e) a copy of the application (and the accompanying certificate and notice) must be sent to the proprietor or trustee when the application is sent to the superintendent registrar; and
- (f) the superintendent registrar must (in addition to forwarding the application in accordance with section 43C(3) of the 1949 Act) send a copy of the notice mentioned in paragraph (3)(a) to the Registrar General.

(4) Upon receipt of a notice sent under paragraph (3)(a) a proprietor or trustee of the building may, within 3 months, send a written notice to the applicants that it objects to the cancellation application because it disputes that the applicants are—

- (a) the relevant governing authority of a sharing church; or
 - (b) able, by virtue of paragraph (2)(a), to make the cancellation application.
- (5) The Registrar General must not cancel the registration—
- (a) earlier than nine months from the date on which the cancellation application is received by the superintendent registrar;
 - (b) and in a case where the application is made by a relevant governing authority, unless and until the requirements of paragraph (3)(e) have been complied with.

Other shared places of worship: registration application process

5.—(1) This Regulation applies to registration applications relating to other shared places of worship.

(2) Such a registration application must be made in accordance with section 43A of the 1949 Act (as read with section 26A(3) of the 1949 Act).

(3) But those provisions have effect subject to the following provisions of these Regulations.

(4) Each of the sharing churches is a relevant religious organisation for the purposes of section 26A(3) of the 1949 Act.

(5) Consent to marriages of same sex couples given 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 26A(3) of the 1949 Act (and references to the consent of the relevant governing authority in section 43A of the 1949 Act are to be read accordingly).

(6) But the registration application may not be made unless the relevant governing authorities of each of the qualifying 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 other shared place of worship 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 paragraph (6) have given written consents to use, and
- (b) copies of the consents to marriages of same sex couples and consents to use.

(8) The superintendent registrar must also send to the Registrar General—

- (a) the certificate, and
- (b) the copies of those consents

which accompany the application in accordance with paragraph (7).

(9) The Registrar General must not register the other shared place of worship unless and until paragraph 8 and the requirements of section 43A of the 1949 Act have been complied with.

(10) A qualifying sharing church for the purposes of paragraph (6) is a sharing church—

- (a) on whose behalf the trustee holds the other shared place of worship on trust; or
- (b) that has used the other shared place of worship for [public] religious worship on two or more occasions (each of which has lasted for not less than 30 minutes) in—
 - (i) each calendar month of the six calendar month period ending immediately prior to the month in which the certificate mentioned at paragraph (7)(a) is dated; or
 - (ii) nine of the 12 calendar months ending immediately prior to the month in which the certificate mentioned at paragraph (7)(a) is dated.

Other shared places of worship: cancellation application process

6.—(1) This regulation applies to cancellation applications relating to other shared places of worship registered under section 43A of the 1949 Act.

(2) Such a cancellation application must be made in accordance with section 43C of the 1949 Act.

(3) But section 43C of the 1949 Act has effect subject to the following provisions of these Regulations.

(4) The cancellation application may be made either—

- (a) by a proprietor or trustee of the other shared place of worship, or
- (b) by the relevant governing authority of any of the qualifying sharing churches sharing use of the other shared place of worship.

(5) For that purpose, in relation to a qualifying sharing church and subject to regulation 7, “relevant governing authority” means the person or persons recognised by the members of the qualifying sharing churches as competent for the purpose of making an application under section 43C in the circumstances to which that section applies.

(6) In a case where the cancellation application is made by a relevant governing authority in accordance with paragraph (4)(b)—

- (a) the relevant governing authority must, not less than three months prior to the date when it intends to make a cancellation application, send a written notice to the proprietor or trustee—
 - (i) stating that intention and when it is proposed to make the application; and
 - (ii) providing a copy of the proposed application;
- (b) the application may not be made if—
 - (i) the relevant governing authority has not sent a notice to the proprietor or trustee as required by paragraph (6)(a); or
 - (ii) the proprietor or trustee has sent a notice under paragraph (7) objecting to the application;
- (c) the application must be accompanied by a certificate, given by the persons making the application, that—
 - (i) they are the relevant governing authority of one of the qualifying sharing churches;
 - (ii) the notice mentioned at paragraph (6)(a) was sent to the proprietor or trustee not less than three months prior to the date of the certificate; and
 - (iii) the proprietor or trustee has not sent a notice under paragraph (7) objecting to the application;
- (d) the application must be accompanied by a copy of the notice mentioned in paragraph (6)(a);
- (e) a copy of the application (and the accompanying certificate and notice) must be sent to the proprietor or trustee when the application is sent to the superintendent registrar; and
- (f) the superintendent registrar must (in addition to forwarding the application in accordance with section 43C(3) of the 1949 Act) send a copy of the certificate mentioned in paragraph (6)(c) and the notice mentioned in paragraph (6)(a) to the Registrar General.

(7) Upon receipt of a notice sent under paragraph (6)(a) a proprietor or trustee of the other shared place of worship may, within three months, send a written notice to the applicants that it objects to the cancellation application because it disputes that the applicants are the relevant governing authority of a qualifying sharing church.

(8) The Registrar General must not cancel the registration—

- (a) earlier than nine months from the date of on which the cancellation application is received by the superintendent registrar;
- (b) in a case where the application is made by a relevant governing authority, unless and until the requirements of paragraph (6)(f) have been complied with.

(9) A qualifying sharing church for the purposes of this regulation is a sharing church—

- (a) on whose behalf the trustee holds the other shared place of worship on trust; or

- (b) that has used the other shared place of worship for [public] religious worship—
 - (i) for a period of not less than two years prior to the date on which the application is made; and
 - (ii) on two or more occasions (each of which has lasted for not less than 30 minutes) in—
 - (aa) each calendar month of the six calendar month period ending immediately prior to the month in which the notice mentioned at paragraphs (6)(a) is sent to the proprietor or trustee; or
 - (bb) nine of the 12 calendar months ending immediately prior to the month in which the notice mentioned at paragraphs (6)(a) is sent to the proprietor or trustee.

Relevant governing authority for the Society of Friends [*and persons professing the Jewish religion*]

7.—(1) This Regulation applies to the provision of consent under section 44A of the 1949 Act and Regulation 5 in cases where the sharing church whose consent is so required is the Society of Friends (commonly called the Quakers).

(2) In such a case, the relevant governing authority for the Society of Friends is the recording clerk for the time being of the Society of Friends in London.

(3) [*insert any provisions relevant to the Jews*]

Sharing churches' use of shared buildings registered for the marriage of same sex couples

8.—(1) This regulation applies to shared buildings registered under section 43A of the 1949 Act.

(2) Subject to paragraph (3) and (5) below, a sharing church may only use a shared building for the solemnization of marriages of same sex couples if consent to marriages of same sex couples from the persons who are the relevant governing authority of that church accompanied the registration application for that building.

(3) If the process set out in paragraph (4) is completed a sharing church may also use a shared building (registered under section 43A of the 1949 Act) for the solemnization of marriages of same sex couples.

(4) The process referred to in paragraph (3) is that—

- (a) a sharing church may send written notice to the proprietor or trustee of the shared building that it wishes to solemnize marriages of same sex couples in that building;
- (b) in that event, the sharing church's written notice to the proprietor or trustee must be accompanied by the consent to marriages of same sex couples from the persons who are the relevant governing authority of that church;
- (c) on receipt of the consent provided under paragraph (4)(b) the proprietor or trustee may send a copy of it to the superintendent registrar;
- (d) the superintendent registrar must send a copy of the consent to the Registrar General;
- (e) the Registrar General must record, in relation to the registration of the building, the consent to marriages of same sex couples provided by the relevant governing authority of the sharing church and, having done so, notify the proprietor or trustee of this; and
- (f) the proprietor or trustee must send a written notice to the relevant governing authority of the sharing church that its consent to marriage of same sex couples in the building has been recorded by the Registrar General.

(5) Paragraph (2) does not apply to the solemnization of—

- (a) marriages of same sex couples according to the usages of the Society of Friends (commonly called Quakers); or

- (b) marriages of same sex couples professing the Jewish religion according to the usages of the Jews.

Registered buildings that become shared

9.—(1) This Regulation applies to a building registered under section 43A of the 1949 Act which, after it has been so registered, becomes a shared building that is used for religious worship by another religious organisation (whether Christian or of another faith).

(2) The building will remain registered under section 43A (but as a shared building) for the solemnization of marriages of same sex couples.

Registered buildings that cease to be shared

10.—(1) This Regulation applies to a shared building registered under section 43A of the 1949 Act which ceases to be used for religious worship by more than one religious organisation (whether Christian or of another faith).

(2) As from the date when the building ceases to be so used—

- (a) it will remain registered under section 43A of the 1949 Act for the solemnization of marriages of same sex couples,
- (b) but it may only be used for the solemnization of marriages of same sex couples (under sections 26A and 43A of the 1949 Act) by a religious organisation if—
 - (i) that organisation’s relevant governing authority gave consent to marriages of same sex couples for the purpose of the registration application for the building; or
 - (ii) that organisation was, immediately prior to the building ceasing to be shared, able to solemnize the marriages of same sex couples in the building under the process mentioned at Regulation 8(3).

(3) The proprietor or trustee of the building must, within 14 days of the building ceasing to be shared, give written notice to the superintendent registrar that the building ceases to be a shared building and stating—

- (a) the identity of the religious organisation that continues to be able (as mentioned at paragraph (2)(b)) to use the building for the solemnization of marriages of same sex couples; or
- (b) that no religious organisation continues to be able to use the building for the solemnization of marriages of same sex couples.

(4) The superintendent registrar must send a copy of the written notice mentioned in paragraph (3) to the Registrar General.

(5) (a) If paragraph (3)(a) applies, the Registrar General must record in relation to the building the remaining religious organisation who may use the building for the solemnization of marriages of same sex couples and notify the proprietor or trustee accordingly.

- (b) If paragraph (3)(b) applies, the Registrar General must cancel the registration and notify the proprietor or trustee accordingly.

Registered buildings where the sharing churches change

11.—(1) This Regulation applies where a shared building has been registered under section 43A of the 1949 Act and there is a change in the identity of the sharing churches that use the building for religious worship.

(2) The building will remain registered under section 43A of the 1949 Act for the solemnization of marriages of same sex couples.

(3) The proprietor or trustee of the building must, within 14 days of the change in identity of the sharing churches, give written notice to the superintendent registrar—

- (a) confirming whether—

- (i) the relevant governing authority of a sharing church that continues to use the building had given consent to marriages of same sex couples for the purpose of the registration application for the building; or
 - (ii) a sharing church that continues to use the building was, prior to the change, able to solemnize the marriages of same sex couples in the building as provided in Regulation 8(3); and
- (b) if either is confirmed, identifying such church.
- (4) The superintendent registrar must send a copy of the written notice mentioned in paragraph (3) to the Registrar General.
- (5) The Registrar General must—
- (a) either—
 - (i) record, in relation to the building, the identity of any sharing church as mentioned at paragraph (3) above; or
 - (ii) in the event of there being no sharing church identified in the notice, cancel the registration of the building; and
 - (b) notify the proprietor or trustee accordingly.

Address for service of notices served under these Regulations

12. Where these Regulations provide for the sending of a written notice to a proprietor or trustee by a relevant governing authority or to a relevant governing authority by a proprietor or trustee then such notice must be sent to those persons at—

- (a) the building in relation to which that notice relates, or
- (b) such other address as the proprietor or trustee or the relevant governing authority may have specified by a written notice sent to that building.

Void marriages: additional provision

13.—(1) Section 49A(a) of the 1949 Act (which provides that marriages of same sex couples may be void in the absence of the required consent) is amended as set out in paragraph (2).

(2) After section 49A(2)(b) of the 1949 Act insert—

“(ba) section 26A(3) and under any regulations made under section 44C that require the consent to use of a building for the solemnization of marriages of same sex couples, in a case where section 26A and section 44C apply to the marriage;”.

Signatory text

<p>Address</p> <p>Date</p>	<p><i>Name</i></p> <p>Parliamentary Under Secretary of State</p> <p>Department</p>
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(a) 1949 c.76; section 49A was inserted in the 1949 Act by section 17 and paragraph 15 of Schedule 7 to the Marriage (Same Sex Couples) Act 2013 (c.30).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the procedure for the registration under section 43A of the Marriage Act 1949 (“the 1949 Act”) as amended by the Marriage (Same Sex Couples) Act 2013 and cancellation of buildings which shared by more than one religious organisation for the solemnization of marriages of same sex couples.

Regulation 4 supplements sections 44A and 44B of the 1949 Act which set out the procedure for registration and cancellation of shared buildings subject to the Sharing of Church Buildings Act 1969 (“the 1969 Act”).

Regulations 5 and 6 set out the registration and cancellation procedure for buildings which are shared by more than one religious organisation other than under the 1969 Act.

Regulation 7 sets out the relevant governing authority for the Society of Friends [and for person professing the Jewish religion] for the purposes of giving consent to use of a building that is shared with them (they are not require under the 1949 Act to register buildings to solemnize marriages).

Regulation 8 specifies which sharing churches may use the registered building for the solemnization of marriages of same sex couple and the process for notification of the Registrar General.

Regulations 9 to 11 set out the various processes for when a building that is registered under section 43A of the 1949 becomes shared, buildings that cease to be shared or buildings where the sharers change.

Regulation 12 sets out the address for services of the notices required under these regulations.

Regulation 13 amends the definition of “required consents” in section 49A of the 1949 Act to include the consents required under these regulations. If a same sex couple knowingly and wilfully marry in the absence of the required consents their marriage will be void.