

STATES OF JERSEY



DRAFT MARRIAGE AND CIVIL STATUS (AMENDMENT No. 4) (JERSEY) LAW 201-

Lodged au Greffe on 3rd October 2017
by the Chief Minister

STATES GREFFE



Jersey

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European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Deputy Chief Minister has made the following statement –

In the view of the Deputy Chief Minister, the provisions of the Draft Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator A.K.F. Green, M.B.E.**

Deputy Chief Minister

Dated: 29th September 2017

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Chapter 1: Introduction

SECTION A: BACKGROUND

In July 2015 the States of Jersey agreed, in principle, that the Marriage and Civil Status (Jersey) Law 2001 (the “2001 Law”) should be amended to allow for the solemnisation of marriages in the open air including in public spaces (see [P.65/2015](#)).

In September 2015, the Assembly further agreed that, in principle, the 2001 Law should be amended to allow for same-sex couples to get married in Jersey, and for people in civil partnerships to convert their civil partnerships into marriage (marriage by conversion), whilst ensuring that religious officials and organisation should not be compelled to solemnize same-sex marriage (see [P.77/2015](#)).

In reviewing the 2001 Law in relation to same-sex marriage and open-air marriage, it become clear that a range of further, significant amendments were required in order to ensure Jersey’s marriage legislation is fit-for-purpose. The further amendments which are detailed in the report below make provision for a number of improvements including –

- streamlining the processes associated with giving notice to marry and the registration of marriage
- introducing additional requirements, in relation to certificates of no-impediment and processes for verifying people’s identity, to better help better protect against sham or forced marriage
- allowing couples greater choice over the content of their wedding ceremonies
- making better provision in relation to marriage in emergency or special circumstances.

The Draft Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201- (“the draft Law”) provides for the above. It also sets out consequential amendments to other legislation necessitated by the introduction of same-sex marriage. This does not include –

- enhanced provisions for same-sex parents, vis-à-vis extension of parental responsibility, step-parenting agreements, parental leave for surrogate parents, etc. Some of these changes will be brought forward as part of the wholesale review of the Children (Jersey) Law 2002, necessitated by the findings of the

Independent Jersey Care Inquiry, and others will flow from the work undertaken by the Employment Forum to review family-friendly employment rights.

- full reform of Jersey's divorce legislation, including the potential requirement to access and use mediation services, as per the States debate in relation to [P.77/2015](#). This work is scheduled to take place during 2018/2019.
- changes to the Civil Partnership (Jersey) Law 2012 to ensure that the processes set out in that Law mirror those of the amended Marriage and Civil Status (Jersey) Law 2001. This will be done further to the States Assembly adopting the changes to the 2001 Law.

SECTION B: PROTECTION FOR RELIGIOUS ORGANISATIONS AND OFFICIALS

In accordance with the in-principle decision taken by the States Assembly in relation to P.77/2015, the amended Law provides protections for religious organisations and officials who do not consent to the solemnization of same-sex marriage. Those protections¹, which mirror those of the UK's quadruple lock, include –

Consent/no compulsion to consent

Religious officials and religious organisations will be required to consent to all matters relating to same-sex marriage, and they cannot be compelled to consent by any means to –

- solemnize a same-sex marriage – Article 7
- consent to the solemnization of a same-sex marriage – Article 7
- consent to a place of public religious worship being authorised for the solemnization of same-sex marriage – Article 23 (nor can a civil celebrant, who must by law, solemnize same-sex marriage, but is authorized to solemnize any marriage in a place of public religious worship – Article 23)
- be present at, or participate in, the solemnization of a same-sex marriage – Article 7
- apply for authorisation for a person to solemnize a same-sex marriage – Article 7
- give consent, or certify any matters relating to a same-sex marriage – Article 7.

Furthermore, a religious official cannot be compelled to consent to solemnize a same-sex marriage, or participate in any way in the solemnization of a same-sex marriage, even where their religious organisation had consented – Article 7.

The amended Law also provides that, whilst a religious organisation or official cannot be compelled to take any action with regard to same-sex marriage, the Law does not prevent them from doing so in the event that they choose to.

Safeguards

A marriage can only be solemnized if the Superintendent Registrar has issued a marriage schedule. The Law prohibits the Superintendent Registrar from issuing a marriage schedule, unless any authorised religious official named on that schedule has consented to that marriage – Article 15.

A marriage can only take place at a location which has been approved by the Connétable of the Parish. Approval in relation to same-sex marriage cannot be given –

¹ Those protections relate to both the solemnization of same-sex marriage or of the marriage of a person believed to be of acquired gender.

- for a place of public religious worship according to the rites of the Anglican Church – Article 24.
- for certified place of public religious worship of any religious organisation, unless both the governing authority of that religious organisation and the owner/trustee of the place of worship have given their consent to same-sex marriage – Article 24.

A marriage can only be solemnized by an authorised civil celebrant or an authorised religious official. A civil celebrant has a duty to solemnize same-sex marriage, but this duty does not extend to authorized religious officials. The Superintendent Registrar is prohibited from authorizing a person to act as both a civil celebrant and a religious official, thereby the duty to solemnize same-sex marriage cannot be extended to religious official acting in the capacity of a civil celebrant – Article 6.

Anglican common law duty

Article 7(5) provides that any duty on a member of the clergy to solemnize marriage, or any right of a person to have their marriage solemnized by a member of the clergy does not extend to marriages of same-sex couples.

Discrimination

The Discrimination (Jersey) Law 2013 (the “2013 Law”) is amended via consequential amendments, so that a religious organisation or official will not have committed an act of discrimination if they –

- do not solemnize a same-sex marriage
- are not present, or do not participate in a same-sex marriage
- do not consent to a same-sex marriage being solemnized.

Similarly, they will not have committed an act of discrimination in relation to marriage of a person of acquired gender.

SECTION C: CONSCIOUS CLAUSE

P.77/2015 noted that a number of respondents to the *Equal Marriage* consultation, which took place in July 2015, stated that the protection of religious freedoms should be extended beyond religious organisations and religious officials (as set out in Section B above) to any service provider that objected to same-sex marriage on the basis of their religious beliefs.

Protection of this nature is commonly referred to as *conscience clause* and would, if it were to be introduced, exempt any provider of wedding services (for example, hoteliers, registrars, photographers) from prosecution if they refused to provide services to a same-sex couple on the grounds that same-sex marriage was against their religious beliefs.

Matters relating to a conscience clause would be given effect via exemptions in discrimination legislation as opposed to marriage legislation. The amended 2001 Law does not bring forward any such exemptions via consequential amendments. Whilst it is possible to scope such an exemption, there are complexities associated with defining the scope of any such exemption, for example –

- Who would be exempt? A wedding involves a myriad of different service providers (e.g. registrar, hotelier, waiter, caterer, florist, photographer, dressmaker, hairdresser, chauffeur, marquee hire company, wedding gift shop, stationery printer, etc.). Should all be exempt? Or only those immediately involved in the ceremony?

- At what point would the exemption apply? Only at the point of marriage or at any point during that marriage (i.e. can a hotelier refuse to allow their hotel to be used as a venue for the wedding, or can they refuse any same-sex married couple a room at any point²)?
- Would it apply to officials working for public organisations such as Parishes and the States? Could a Connétable refuse to allow a parish facility to be used for a wedding venue, even though the people being married live in that parish? Could the Superintendent Registrar or one of their delegates refuse to marry a same-sex couple, even though it is a civil, not a religious, ceremony?

In addition to the complexities around scope of the clause, consideration would need to be given as to how cases of potential discrimination or permitted discrimination could realistically be determined. What evidence can be provided so that an independent body can realistically determine that a person has acted on their religious beliefs as opposed to being homophobic and discriminatory?

Furthermore, there are very significant difficulties associated in creating a position whereby one person's right to act in such a way as to give expression to their religious beliefs is greater than another person's right to be treated in a non-discriminatory matter. This being different to a person's right to have freedom of belief. Attempts to introduce a conscious clause into the Equality Acts in England and Wales and Scotland failed on the grounds that such a clause would be contrary to the principle of equal treatment³.

In the event that the States Assembly determine that further consideration should be given to a conscious clause, this can be done as a separate piece of work, as it does not required any further amendments to the 2001 Law.

Northern Ireland

In 2015 there was a high-profile court action in relation to a baker (Asher Baking Co. Ltd.) who refused to bake a cake which celebrated a same-sex marriage. The baker in defending his actions argued that to do so was contrary to his beliefs.

Presiding Judge Brownlie said –

“The defendants are not a religious organisation; they are conducting a business for profit and, notwithstanding their genuine religious beliefs, there are no exceptions available (in law)... this is direct discrimination for which there can be no justification.”

Michael Wardlow, Chief Commissioner of the Equality Commission, further stated that –

“In reaching her decision, the judge affirmed the position under the law – that the rights of people to hold religious beliefs is protected, as is the right to manifest them – but that they cannot do so in the commercial sphere in a way which is contrary to the rights of others.”

Further to that judgement, in 2015/2016, a back-bench politician launched a public consultation focused on the potential introduction of a freedom of conscience clause

² Over the last few years there have been a number of cases of service providers who disapprove of a customer's relationship, becoming embroiled in long-running litigation. This can have a very detrimental effect on all the individuals involved.

³ Lady Hale, Deputy President of the Supreme Court, has publicly stated that the law should protect people's rights to refuse to do things that go against their belief, even if those beliefs clashed with equality laws. It still remains the case that, even with high-profile support of the conscious clause issue, a legal mechanism to do so has not been introduced in the UK.

into the relevant legislation, with a view to bringing forward a private member's bill. The findings of that consultation have not been published, nor has the associated bill been tabled. The response of the main political parties in Northern Ireland is that, in the event that a bill is tabled, they will move to block it, as they perceived it to be an attempt to legitimatise discrimination against people who are homosexual.

SECTION D: THE MARRIAGE AND REGISTRATION PROCESS

In reviewing the 2001 Law and associated Orders to allow for the introduction of same-sex marriage and open-air marriage, and in dialogue with staff and other key stakeholders, it become evident that the processes set out in the 2001 Law in relation to the solemnization and registration of marriage are overly bureaucratic and unwieldy, and at the same time, fail to provide sufficient safeguards against sham or forced marriage.

The processes associated with the solemnization and registration of marriage have, therefore, been significantly amended in order to that ensure they are as straightforward as possible, and that they facilitate online bookings and electronic data capture and process management.

The amended Law also provides better safeguards against forced and sham marriage, which is increasingly important, given the changes in UK legislation which are designed to provide increased protection against marriages being formed in order to bypass immigration controls.

Overview of streamlined process

New process	Current process
Couple apply to give notice (online, or in person, or via a representative).	Couple must attend the Superintendent Registrar's office to give notice.
	Couple must book meeting with Parish Registrar.
Couple must go to the Superintendent Registrar's office to sign forms. Superintendent Registrar issues paperwork to person authorized to preside over the solemnization of the marriage.	Couple must go to the Superintendent Registrar's office to sign forms and collect marriage licence.
	Couple must take marriage licence to Parish Registrar's home.
	Person authorized to preside over the solemnization of the marriage must make appointment to collect paperwork from Parish Registrar's home.
	Person authorized to preside over the solemnization of the marriage must collect paperwork from Parish Registrar's home.

Couple get married	Couple get married
<p>Person authorized to preside over the solemnization of the marriage takes paperwork to Superintendent Registrar, who updates copy register and sends paperwork to Parish Registrar.</p> <p>Superintendent Registrar can issue couple certified copies of marriage certificate from this point onwards.</p>	<p>Person authorized to preside over the solemnization of the marriage must return paperwork to Parish Registrar's home.</p>
<p>Parish Registrar updates Parish Register.</p>	<p>Parish Registrar writes in their register.</p>
	<p>Parish Registrar provides register information to Superintendent Register up to 3 months after date of marriage.</p> <p>Superintendent Registrar can only issue couple certified copies of marriage certificate from this point onwards.</p>

Safeguards

The 2001 Law does not provide sufficiently robust controls against sham or forced marriage. The proposed changes under the amended Law include the following –

- The Superintendent Registrar cannot allow a couple to give notice to get married in Jersey until the Superintendent Registrar has received all the necessary immigration information, including a copy of their visa if required.
- Any person who is not resident in Jersey, but who is getting married in Jersey, must provide evidence that the marriage authority in their place of residence knows of no impediment to their marriage. This is known as a certificate of freedom to marry. The Superintendent Registrar, if concerned about an individual's civil status, may also require a certificate of freedom to marry from a person's jurisdiction of nationality as opposed to jurisdiction of residence, and can also require a certificate of freedom to marry in relation to someone who has been resident in Jersey for less than 2 years.
- Any person getting married in Jersey will need to complete a "signature verifier" form in front of the Superintendent Registrar, which will be issued to the person authorized to solemnize the marriage (the celebrant). The content of this form will be prescribed by Order, and is likely to include a requirement for a photograph of each of the parties to the marriage. The celebrant will therefore know that the persons getting married are the same persons who gave notice to be married. As it stands at the moment, it is not known whether the people who give notice are those who are getting married.
- Both parties to the marriage, as opposed to only one party to the marriage, will need to give notice and declare that they are free to marry and present themselves to the Superintendent Registrar, who may interview them if deemed necessary. Under the current Law it is possible – and it does happen – that one

party will organise the marriage without the knowledge of the other party, who will not know anything about it until they arrive at the ceremony. This leaves people vulnerable to coercion.

- Key documents (for example; marriage certificates) will be printed. Printing, as opposed to handwriting –
 - reduces the likelihood of mistakes,
 - ensures that the documents can both be more easily read, and
 - makes them harder to doctor post-issue.

This is essential for fraud prevention purposes and reduces the likelihood of registers needing to be amended post-registration to correct accidental errors such as spelling mistakes, transposing of numbers, etc. As it currently stands, the incidence of mistakes is relatively high, and authorities in other jurisdictions query the content of Jersey certificates with the Superintendent Registrar where they cannot be easily read or where there are concerns that they have been doctored. This change brings Jersey into line with all other major jurisdictions. Marriage certificates and other formal documents will be printed on high-quality watermarked and embossed paper, rather than being handwritten.

Overview of improved safeguards

Safeguards: new	Safeguards: current
Parties to marriage cannot give notice until immigration status confirmed. Both parties must give notice.	Parties to marriage can give notice before immigration status confirmed. Only one party required to give notice.
Couple must provide certificate of freedom to marry if non-Jersey resident (i.e. confirmation from appropriate authority that there is no known impediment to marriage).	
Both parties must make a freedom to marry declaration.	Only one party makes a freedom to marry declaration on behalf of both parties.
Both parties complete signature verifier form alongside providing evidence of identity to Superintendent Registrar.	Parish Registrar issues marriage documents, but cannot verify if issuing to the same people who gave notice, nor provide evidence of identity to the Superintendent Registrar.
Delegate marries couple. Delegate must use signature verifier to verify identity before signing marriage schedule.	Delegate marries couple but cannot verify the identity of the people getting married.

Parish marriage register

These changes set out above have an impact on the Parish Registration service in relation to the registration of marriage, albeit there is no change in relation to the registration of births and deaths. Under the new system, the Parish Registrar –

- remains the custodian of the Parish Register.
- will not prepare the marriage documents. These will be prepared by the Superintendent Registrar who will arrange for them to be collected by the marriage celebrant. The couple getting married will no longer need to attend the Parish Registrar's house. Feedback has indicated that many couples find attendance at the Parish Registrar's house to be an inconvenience, particularly if they are not resident in Jersey. In addition, it presents a number of safeguarding risks.
- will update the Parish registers after the ceremony has taken place. They will not be required to handwrite in those registers, as they will simply include the marriage schedule as signed at the ceremony.
- will be paid by the Superintendent Registrar for the registration of the marriage, as opposed to being paid by the couple. Subject to finalising details in the fees Order, it is envisaged that the fee income to the Parish Registrar will reduce from approximately £60 per wedding to £10 per wedding. Fees in relation to registration of births and deaths will not change.

Appointment of Parish Registrars

The new Law sets out changes to the way in which Parish Registrars are appointed. It is proposed that –

- they are selected by the Connétable, as opposed to being selected by the Parish Assembly itself. This is to allow selection against a role description which is deemed appropriate for a role that is prescribed in law;
- the Connétable can select the Registrar of another Parish, or the Superintendent Registrar to act as the Registrar of their Parish. This to ensure continuity of service in the event of emergencies or vacancies.

More information about the proposed changes to the Parish Registration service is set out in Article 42 (as amended).

Chapter 2: the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201-

The information below sets out the effects of the new Articles and Schedules which are proposed to be substituted in the 2001 Law, as set out within the draft Law. It does not provide details relating to minor changes where, for example, the 2001 Law is amended simply to incorporate reference to marriage by conversion alongside reference to marriage.

SECTION: EFFECTS OF DRAFT MARRIAGE AND CIVIL STATUS (AMENDMENT No. 4) (JERSEY) LAW 201-

Articles 2–4: Right to marry and restrictions on marriage

New Article 2 sets out that it is lawful for same-sex couples to marry and for civil partners to convert their civil partnership to a marriage.

New Article 3 sets out that a marriage will be void if it is between people who are already married or in a civil partnership with someone else, or are related in certain ways, for example, sister, uncle, etc., as set out in new Schedule 1 to the 2001 Law. The Law also provides that neither a man nor a woman can marry –

- their father's or grandfather's former husband or wife
- their mother's or grandmother's former husband or wife

- their former spouse’s sons, daughters, grandsons, granddaughters (or adoptive) unless that child/grandchild was not a child of the family (i.e. a man can marry his former wife’s daughter, but only if that daughter was of such an age that she was not a child of the family of that man and his former wife).

New Article 3 is supported by –

- new Article 10, which sets out that each party to the marriage must sign a declaration, stating they are free to marry, and
- new Article 12, which sets out how a person who believes that there is a lawful reason why a marriage should not take place can issue a caveat, potentially preventing the Superintendent Registrar from providing permission for that marriage to take place.

New Article 4 deals with matters relating to the marriage of a minor (someone aged 16 or 17 years). As per the 2001 Law, the draft Law provides that a person can marry when they are 16 or 17 years old, providing they have the consent of the relevant people. New Schedule 1, Part 2 sets out who must consent to the marriage of a minor.

New Article 4 also provides for the States, by Regulations, to increase the age of marriage. This Regulation-making power has been included in response to the UN’s Committee on the Rights of the Child, who in their fifth periodic review of the UK’s compliance with the Convention on the Rights of the Child in June 2016, recommended that: *“the State party raise the minimum age of marriage to 18 years across all devolved administrations, Overseas Territories and Crown Dependencies”*. The Committee have expressed concerns about systems which potentially allow for the forced marriage of girls and boys aged 16 or 17 years. Whilst forced marriage is not necessarily an issue of immediate concern within Jersey’s resident community, people who do not live in Jersey can get married in the Island, and hence there is a potential for our law to be exploited in relation to forced marriage.

The States may, therefore, prohibit marriage between minors (girls and boys aged 16 or 17 years) at some point in the future, subject to full public consultation.

Article 5: Restrictions on marriage by conversion

The draft Law provides for a civil partnership to be converted to a marriage. New Article 19 deals with matters relating to the conversion application process, with new Article 5 setting out the restrictions of conversion to marriage.

New Article 5 states that a marriage will be void –

- if it was converted from a void civil partnership, or
- if at the time the civil partnership was formed – as opposed to the time the civil partnership was converted – the civil partnership did not comply with the restrictions on marriage as set out in Jersey law (for example, either party to the civil partnership was under 16 years of age). This will be the case even if the civil partnership was legal at the time in the country in which it was formed (for example, some jurisdictions may allow a person aged 16 or 17 years to enter a civil partnership without their parents’ consent).

Article 6: Persons authorized to solemnize marriages in Jersey

New Article 6 sets out who can solemnize a marriage in Jersey, and the protections provided to religious organisations and officials who do not consent to the solemnization of same-sex marriage. Those protections reflect the principles agreed by the States Assembly in relation to P.77/2015.

Under the 2001 Law as amended by the draft Law, marriages and conversions can be solemnized by the following marriage celebrants –

Marriage celebrant	Duty to solemnize marriage/conversion	Authorisation	Oath in Royal Court
Superintendent Registrar and Deputy Superintendent Registrars	<u>Must</u> solemnize different and same-sex marriage and conversion	Authorized via amended Marriage and Civil Law	Must take Oath in Royal Court before solemnizing marriage
Authorized civil celebrant	<u>Must</u> solemnize different and same-sex marriage and conversion	Authorized via amended 2001 Law	Must take Oath in Royal Court before solemnizing marriage
Authorized religious official	Can only solemnize non-Anglican religious weddings; amended 2001 Law allows for them to consent to same-sex marriage and conversions	Authorized via amended 2001 Law	No requirement to take Oath in Royal court, as they have an Oath to their religious authority
Anglican incumbent	Can only solemnize Anglican religious weddings; Law does not, however, prevent Anglican Church from consent to same-sex marriage or conversion	Duty to solemnize marriage flows from Canon Law, not 2001 Law	No Oath in Royal Court

The amended 2001 Law sets out that –

- a person cannot be authorized as both an authorized civil celebrant and an authorized religious official; and that
- any person authorized to solemnize a marriage must carry out their duties in accordance with the Law, which includes upholding the dignity and solemnity of marriage.

The Superintendent Registrar must hold a register of all people, other than Anglican clergy, who are authorized to solemnize marriages in Jersey. That register, which will be publically accessible and available will include all relevant details, including which authorized religious officials are not authorized to solemnize same-sex marriage.

Humanist and non-religious belief weddings

The amended 2001 Law provides for humanist and other non-religious belief celebrants to be authorized to solemnize marriage in Jersey on the same terms as all other civil celebrants. A humanist celebrant would –

- apply to the Superintendent Registrar to be authorized and placed on the register of all approved persons;
- need to undertake the training provided by the Superintendent Registrar to

ensure that they solemnize marriage in accordance with the amended 2001 Law;

- need to be sworn in at the Royal Court;
- contract directly with the couple getting married, as opposed to via the Superintendent Registrar. They can provide wider ‘wedding planning’ services if they wish to do so;
- be required to ensure that, during the course of the ceremony, the couple makes the marriage declaration as set out in the Law and signs the relevant paperwork; however, other than this, they and the couple can agree the format and content of the ceremony (other than the restrictions set out in Article 17 relating to use of religious vows);
- they will be subject to appropriate controls; for example, they can be de-registered if they do not act in the accordance with the Law.

Authorisation process

The amended 2001 Law provides for the Minister, by Order, to prescribe arrangements for the authorisation of civil celebrant and religious officials (this does not include Anglican Clergy). That Order will set out the following –

1. The Superintendent Registrar shall authorize all individuals to solemnize weddings, regardless of whether they are authorized civil celebrants or authorized religious officials.
2. The Superintendent Registrar cannot authorize a person to solemnize a marriage or civil partnership as a “one-off”. This means that a couple who wish to involve a particular person in their wedding because of personal or family reasons (for example their local priest from the UK) can only involve them in the non-legal parts of the ceremony, they cannot solemnize the wedding.
3. Anyone authorized by the Superintendent Registrar is authorized to solemnize marriage in any location approved for marriage in any Parish.
 - (a) a civil celebrant cannot solemnize marriages in a location that is a certified place of public religious worship (see Article 23: Approved Locations)
 - (b) a religious official can only do so in a certified place of public religious worship which accords with their faith (i.e. a Methodist Minister cannot solemnize a marriage in a location authorized just for Jewish worship).
4. This does not preclude religious officials from solemnizing marriage in places other than certified places of public religious worship, providing that both they and their religious organisation consents to them doing so. They can, for example, marry people on a beach if they consent to do so.

Authorization by the Superintendent Registrar

The introduction of open-air marriage necessitates Island-wide authorisation for all celebrants, including religious officials. For example, a Methodist Minister authorized by the Connétable of St. Ouen may, after the amendments to the 2001 Law are brought into force, wish to solemnize a marriage on part of the St. Ouen beach that falls within the Parish of St. Brelade.

5. Any individual who wishes to be authorized as a civil celebrant will need to apply to the Superintendent Registrar. The Superintendent Registrar may arrange for recruitment drives to take place at any point at which the

Superintendent Registrar deems necessary. In the case of religious officials, the Superintendent Registrar will consider applications from religious organisations requesting authorisation. That application form will need to state whether –

- the religious official consents to solemnize same-sex marriage; and
- the religious organisation consents to the official solemnizing same-sex marriage and marriage where one or both of the parties are transgender.

6. A religious organisation and each religious official will need to state on the application form whether they consent to –

- the solemnization of same-sex marriage; and/or
- the solemnization of marriage at a location approved for both opposite-sex and same-sex marriage (for example, a beach).

Both consents must be in place for same-sex marriage to be solemnized by that religious official as per new Article 7(3) (see Chapter 1, Section B above).

7. The Superintendent Registrar can choose not to authorize a person if, in the Superintendent Registrar's view, they should not be authorized. Reasons may include –

- failure to meet personal specification associated with the role;
- failure to demonstrate appropriate skills and experience;
- they are not a 'fit or proper person'.

Where the decision not to authorize relates to a religious official, the Superintendent Registrar must engage the appropriate religious officials/authorities in the process.

8. A civil celebrant will be authorized for a 5-year period. During that period, they may step down or be struck off. At the end of that period, the Superintendent Registrar may re-authorize that individual for additional terms. A religious official will be authorized for an unspecified period of time, although this does not preclude them from stepping down or being struck off at any point.

9. The Superintendent Registrar will investigate any complaints received about authorized persons. Where the complaint is about an authorized religious official, the Superintendent Registrar will engage the appropriate religious officials/authorities in the process. The Superintendent Registrar may cancel an individual's authorisation at any point. This can be with immediate effect, or with a period of notice, depending on the circumstances. There will be a route of appeal to the Minister, who will be able to substitute the decision of the Superintendent Registrar.

10. Grounds for cancellation will include, but not be limited to –

- failure to comply with the Law, including behaving in a discriminatory manner;
- failure to uphold the solemnity and dignity of marriage;
- failure to ensure the arrangements, form, and content of each marriage ceremony are in accordance with the Law;
- failure to take reasonable steps to ensure all standard conditions are complied with;
- failure to provide a good service;
- failure to carry out duties as directed by the Superintendent Registrar;

- failure to attend any training or development sessions as required by the Superintendent Registrar;
- where an individual is incapacitated by illness; or
- where an individual is otherwise unable or unfit to discharge the functions of a celebrant.

11. The Superintendent Registrar and Deputy Registrars are employees of the States of Jersey. Authorized civil celebrants will neither be employees of the States of Jersey, nor have a contract of services. They will operate as “freelancers” who may determine for themselves how much they charge couples and the services they will provide (for example, full “wedding planning” services). They will be paid directly by the couple.

Renewal of vows ceremonies

Some couples want renewal of vows ceremonies. These ceremonies, which can be overseen by any person, have no legal standing and are not mentioned in the draft Law, except that the Minister may, by Order, make provision for charging fees where the Superintendent Registrar is officiating at the renewal ceremony, and/or for the use of the Superintendent Registrar’s premises (new Article 80C: Fees and Charges).

12. The Minister may, by Order, provide for a registration fee to be paid to the Superintendent Registrar by authorized marriage celebrants. The fees will be to cover the costs incurred by the Superintendent Registrar in processing applications, and the associated training and quality assurance. As commercial freelancers, with the ability to generate significant amounts of income, authorized civil celebrants will need to pay fees which are sufficient to cover the costs incurred by the Superintendent Registrar. It is not envisaged that the same level of fees, if any at all, will apply to religious officials who do not generate income.

Transitional arrangements

Civil celebrants

Under the 2001 Law, a number of ‘delegates’ are authorized to solemnize marriage in Jersey. Delegates are paid directly by the Superintendent Registrar, who allocates individual delegates to individual weddings (i.e. the couple do not choose who they want to solemnize their marriage, nor do they have any opportunity to meet with that delegate in advance). By contrast, authorized civil celebrants will be contracted directly by the couple.

In order to manage the transition from the system of “delegates” to “civil celebrants”, existing delegates will be sworn in at the Royal Court as Deputy Superintendent Registrars. They will therefore be able to continue to solemnize marriages as they currently do. It is envisaged that, over a period of time, some of the delegates may choose to take on the role of celebrant, in addition to other individuals being authorized as celebrants.

Religious officials

All authorized persons (i.e. religious officials) can continue to solemnize opposite-sex marriage for 12 months after the amendments to the 2001 Law come into effect. At the end of that period, they will no longer be able to solemnize marriage unless they have become an approved religious official. From a practical perspective, that means that the Superintendent Registrar will need to work with all religious organisations to ensure their places of worship are registered in the first 12 months.

Article 7: Marriage according to religious rites; no compulsion to solemnize marriage etc.

New Article 7 provides for protection for religious organisations and officials. As described in Section B above, it sets out that –

- religious organisations and religious officials must consent to all matters relating to same-sex marriage and that,
- they cannot be compelled by any means to consent.

The Article does not, however, preclude religious organisations and religious officials consenting to solemnize same-sex marriage or consenting to their places of worship being used for same-sex marriage.

Article 8: Application for notice of intended marriage

A couple that wishes to give notice to get married must apply to do so.

- They can apply online, in person, or via a representative such as a wedding planner. This provides significantly more flexibility than under the 2001 Law as it currently stands, particularly for couples who are not Jersey residents.
- They can apply up to 1 year before the proposed date of marriage, as opposed to only 3 months in advance.
- They must complete an application form, which will be prescribed by Order, and provide all the documents that the Superintendent Registrar needs to verify the information provided in that application.

It is envisaged that the Order setting out the application process will require the couple to inform the Superintendent Registrar of the following –

- The first names and surnames of both parties to the wedding as they are to appear on the notice to marriage, the marriage schedule and marriage certificate, and as they appear in their supporting documents.
- The intended date and location of the marriage.
- The intended authorized civil celebrant or authorized religious official, if they have booked one.
- Their gender (this is in order that the Superintendent Registrar can check the proposed location for the wedding to ensure that it is approved for same-sex marriage if the parties to the wedding are of the same sex).
- Their civil status.
- Their nationality and immigration status (i.e. whether they require a visa to get married in Jersey).
- Whether, in the case of non-residents, they will be providing a certificate of freedom to marry (see new Article 14).

They will need to provide the Superintendent Registrar copies of all the required supporting evidence, which must include –

- evidence of name
- evidence of date and place of birth
- evidence of nationality
- evidence of place of residence and period of residency

- evidence of immigration status if either party is not a British citizen or a European Economic Area (EEA) or a Swiss national (At this stage the couple may not have the relevant visas in place to get married, as they may apply for the visa after they have applied to give notice to get married, providing to the relevant visa authority evidence that they have applied to give notice to get married. They must however, have all the relevant visas in place and the Superintendent Registrar must have received formal notification from Customs and Immigration that the couple have the appropriate visas in place to allow them to get married in Jersey, before the Superintendent Registrar can enter the notice into the notice to marry book.)
- if previously married or in a civil partnership, evidence that it has been dissolved or annulled or ended by death
- statement from an appropriate authority in the event of an emergency or special circumstances marriage (see new Article 24: Marriage: special circumstances).

At application stage, the couple will only be required to provide electronic or paper copies of supporting evidence to facilitate online processes, albeit they must have provided originals or certified copies before the Superintendent Registrar can issue a notice of intended marriage.

Rules relating to visa requirements for the purpose of getting married

EEA or Swiss nationals

EEA or Swiss nationals, who are holders of a national passport or a national identity card, do not require a visa to enter Jersey or to get married in Jersey, regardless of whether or not they choose to settle in Jersey.

Non-EEA or Swiss nationals who are Visa nationals

- Visa nationals include nationals from countries such as Thailand and South Africa (www.gov.uk lists all visa national countries or territorial entities).
- Visa nationals can only get married in Jersey if they only hold a visa which confers permission to enter Jersey, and that visa is endorsed with permission to marry.

Non-EEA or Swiss nationals who are Non-Visa nationals

- Includes nationals from countries or territorial entities that are not Visa nationals (e.g. United States of America).
- Do not require a visa to enter Jersey, but do require a visa to get married in Jersey (i.e. could enter Jersey as a visitor without a visa, but could not get married whilst here unless they then apply for a visa endorsed with permission to marry).

Permission to marry

There are two different forms of ‘permission to marry’ visa –

“Marriage visitor” visa

- Issued to Visa nationals and Non-Visa nationals who are coming to Jersey for the purpose of getting married in Jersey, but who are not settling in Jersey.
- A “Marriage visitor” visa can only be applied for up to 3 months before the date of travel to Jersey.

‘Marriage’ visa (also known as a fiancé(e) visa)

- Issued to Visa nationals and Non-Visa nationals who intend to get married in

Jersey to someone who is resident in Jersey, and who intend to settle in Jersey.

- The person who holds this visa must get married within 6 months of the visa being issued and must then apply for permission to remain in Jersey. The person would initially be granted permission to remain for 2.5 years, at which point they could apply for a further 2.5 years; after which they may apply to remain in Jersey for an indefinite period.
- A 'Marriage' visa can only be applied for up to 3 months before the date of travel to Jersey.

Process

It is the responsibility of the parties to the marriage to ensure they have the correct visa to get married in Jersey.

The couple do not have to have the right visa in place to apply to give notice to marry, but must have it in place prior to giving notice. The couple can provide evidence of their application to give notice to marry at a British Diplomatic Post, if that authority requires evidence of their intent to marry in Jersey.

Before the Superintendent Registrar can issue the 'notice to marry' form and enter that notice in the appropriate book –

- the couple must have the right visas in place;
- the Superintendent Registrar must have received from the Jersey Customs and Immigration service formal notification that the couple have the appropriate visas in place to allow them to get married in Jersey (if visas required because the couple do not have the appropriate immigration status).

Note: a marriage will be void if the couple knowingly marry without the correct visas in place.

Article 9: Consideration of application for notice of intended marriage

New Article 9 sets out that the Superintendent Registrar may request additional information or interview the parties to the marriage if the Superintendent Registrar considers it is necessary to do so in order to –

- verify the information and its authenticity
- be satisfied that both parties are capable of consenting to marriage
- consider whether there may be grounds not to issue a notice of intended marriage.

To assist in the process, new Article 24F provides the Superintendent Registrar powers to exchange information with other authorities (e.g. immigration; passport officers, etc.).

New Article 24B requires the Superintendent Registrar to capture and retain electronic copies of the documents provided.

Article 10: Issue of intended marriage and 'freedom to marry' declaration

At the point at which the Superintendent Registrar is satisfied with the information provided and has received the necessary fees, the Superintendent Registrar will issue to the parties a notice of intended marriage and a freedom to marry declaration.

Both parties to the marriage must sign and return both documents. This is an improved safeguard against any incorrect/false declaration, as under the 2001 Law as it currently stands, only one of the parties to the marriage is required to sign.

The Law prohibits the Superintendent Registrar from issuing a notice of intended marriage and a freedom to marry declaration unless the Superintendent Registrar is satisfied that both parties to the marriage have provided the appropriate documentation. This will include that relating to immigration status and visas (although new Article 10(3) does allow the Superintendent Registrar to forego the provision of information where the Superintendent Registrar is otherwise satisfied).

The contents of the notice of intended marriage will be prescribed by Order, but are likely to include the following details –

- a statement by the couple (e.g. We hereby give notice that we intend to marry each other on [date], that date being no more than 12 months from the date on which we signed this notice)
- forenames and surnames of each party
- civil status of each party
- date of birth of each party
- nationality of each party
- usual place and country of residence and period of residence of each party
- date of proposed marriage
- approved location where the marriage must be solemnized⁴
- signature and date signed, by each party.

The contents of the freedom to marry form will be prescribed by Order, but must include a declaration⁵, by each party, that they are free to marry.

This is an enhancement over the 2001 Law as it currently stands, in that a single declaration is made by both parties which incorporates all impediments. Under the current Law, 2 different declarations were required, at 2 different stages in the process, with those declarations being made by one of the parties on behalf of both parties. The proposed changes bring increased rigour.

Article 11: Publication of notice of intended marriage and entry into ‘notices of intended marriage’ book

New Article 11 prohibits the Superintendent Registrar from entering a notice into the notice of intended marriage book until the Superintendent Registrar has received signed copies of the notice and freedom to marry form.

The date on which the marriage is entered into the notice to marry book, and published both at the Superintendent Registrar’s office and online, is the day on which the couple will have been considered to give notice. This may be a different date from the date on which the couple signed the notice to marry form.

⁴ Consideration was given to allowing a couple to list both a primary location and a secondary location on their marriage notice. The thinking was that if the weather was bad, and their primary location was an outdoor location, they could move the wedding from that primary location to the secondary location. Having considered this in more detail, however, it is clear that this would be extremely complex to administer, particularly in relation to registration in the appropriate Parish and ensuring that people who wished to attend the marriage were able to do so (including potential objectors). Couples choosing to get married in an outdoor location will, therefore, just have to accept that potential risk of bad weather.

⁵ Proposed form of declaration: *I, (full name), solemnly declare that I am free to marry (full name of intended spouse) and I know of no legal impediment to our intended marriage, including on grounds of kindred or affinity and at no time have I been a child of the family of my intended spouse.*

If special circumstances apply (see Article 24) and the Superintendent Registrar has not received all the necessary documentation, the Superintendent Registrar may enter the notice to marry in the book, but must annotate the notice accordingly.

The Law requires that the notice must be published at least 25 clear days before the day of the wedding, regardless of whether or not these are working days. The purpose of publishing a notice is to generate awareness of a pending marriage in order that people who might object to that marriage may do so⁶.

Period of notice

In England and Wales, the notice period has just been extended from 16 days to 28 days, with a potential for up to 70 days for non-EEA nationals who are not able to present evidence of settled status, permanent residence or a marriage/civil partnership visa.

The requirement for 28 days' notice is set out in section 31(1) of the Marriage Act 1949. The increase of the notice period to 28 days was made pursuant to the Immigration Act 2014 (Schedule 4(1), paragraph 10(2)(a)).

In Jersey, under the 2001 Law at present, notice of marriage must be given to the Superintendent Registrar only 7 days before the proposed date of marriage. This is felt to be inadequate, particularly given the increased protections introduced in the UK, and the potential for individuals wishing to enter into a sham marriage perceiving Jersey to be a “weak spot” which could be used to circumvent UK migration controls.

The amended Law therefore extends the notice period to 25 clear days. Whilst this is slightly less than in the UK for settled residents, and potentially much lower for non-settled residents, it is important to note that our Law is different from England and Wales in that –

- whilst parties to a marriage can apply to the Superintendent Registrar to give notice without having the right visas in place, they cannot actually give notice (i.e. the Superintendent Registrar cannot enter the notice of marriage into the notice of marriage book) until the parties have demonstrated that they have the appropriate immigration status/visa;
- the extension of up to 70 days for non-EEA nationals is not required in Jersey because our Law will set out that notice cannot be given unless the Superintendent Registrar has confirmed in advance that the parties to the marriage either have the appropriate immigration status or the appropriate visa.

The extension to 25 clear days is not intended to allow the Superintendent Registrar time to check immigration status (as the Superintendent Registrar must have confirmation of immigration or visa status before the Superintendent Registrar can issue the notice to marry form and enter the notice to marry in the notice to marry book), but to allow additional time for any objections, which may be received in relation to sham or forced marriage to be investigated.

Article 12: Caveat against marriage schedule or certificate of no impediment to marriage

New Article 12 mirrors the arrangements already provided under the 2001 Law, in that it allows people who believe there is a lawful reason for a marriage not to take place, to obstruct the Superintendent Registrar in issuing a marriage schedule. It also

⁶ In the event that a person objects to a marriage during the wedding ceremony, the ceremony will proceed, but the celebrant will notify the Superintendent Registrar of the objections. That marriage may need to be declared void.

provides for the Superintendent Registrar to refer any such caveats to the Court for determination. Article 12 extends the provision of the 2001 Law to certificates of no impediment.

It is important to note that a caveat cannot be entered on the grounds that a marriage is between a same-sex couple, as same-sex marriage will be lawful.

Article 13: Forbidding of issue of marriage schedule or certificate of no impediment to marriage

New Article 13 helps give effect to Article 4, in that if a minor (aged 16–17) is getting married, any person whose consent is required (as per Schedule 1, Part 2) may forbid the Superintendent Registrar from issuing a marriage schedule or certificate of no impediment simply by writing “forbidden” on the marriage notice.

Article 14: Marriage in Jersey by non-Jersey resident: certificate of freedom to marry issued by other authority

The 2001 Law as amended will bring in a requirement for any person who is non-Jersey resident but who is getting married in Jersey, to provide a certificate of freedom to marry as an additional control against bigamous or sham marriage. This is in addition to the requirement of both parties to give notice in Jersey, which is a requirement under the current 2001 Law.

The certificate of freedom to marry provides confirmation to the Superintendent Registrar that the competent authority in the jurisdiction where the party to the marriage lives, knows of no impediment under the law of that jurisdiction to the intended marriage (an impediment could, for example, include that the individual is married to someone else or that the individual is wishing to marry in circumstances which would result in the marriage being unlawful in the place of residency – for example, if they were below the legal age of marriage).

The primary purpose of a certificate of freedom to marry is not related to immigration control – albeit it does provide an additional measure – it is instead to help ensure that a non-resident person is free to marry. The requirement for a certificate of freedom to marry therefore applies to all UK and EEA nationals.

Where the jurisdiction in which the party is resident will not provide a certificate of freedom to marry, the Superintendent Registrar can accept equivalent evidence or information, or forgo the requirement. This is necessary because –

- different jurisdictions may not issue in relation to a same-sex couple;
- different jurisdictions have different rules relating to the provision of certificates of freedom to marry and certificates of no impediment (for example whilst Scottish authorities will provide the equivalent of certificate of freedom to marry in relation to any Scottish resident, the English and Welsh authorities will only provide such a certificate in relation to British citizens who are resident in England or Wales).

In addition, the Law provides the Superintendent Registrar powers to require a certificate of freedom to marry from –

- parties who are Jersey resident, where the Superintendent Registrar believes there are valid reasons to do so, for example if the Superintendent Registrar has legitimate concerns that the party may not be free to marry or that the party has been resident in Jersey for less than 2 years; OR
- the jurisdiction of nationality, as opposed to residency, of the non-Jersey resident party in the event that the Superintendent Registrar believes there are valid reasons to do so.

Requirement to give notice in order to get married in Jersey and requirement to provide a certificate of freedom to marry

Different UK jurisdictions have different requirements in relation as to whether a person can, or must, give notice in their place of residency in addition to the place in which they are getting married. As illustrated below, this results in a great deal of complexity: [Note: “CONI” = certificate of no impediment]

Current position in Jersey

- Jersey resident marries England and Wales resident (“E&W”) in Jersey: Both give notice in Jersey. Currently no requirement in Jersey for a certificate of freedom to marry in relation to the non-resident.
- Jersey resident marries E&W resident in E&W: 1 gives notice in Jersey (in order to acquire a CONI which is required in E&W); 1 gives notice in E&W.
- 2 British subjects who are Jersey residents get married in E&W: either both must give notice in E&W or 1 in E&W and 1 in Jersey (in order to acquire a CONI).
- 2 non-British subjects who are Jersey residents get married in E&W: both must give notice in E&W.

Current position in England and Wales

If you live in Scotland and are getting married in E&W, you can give notice in Scotland, providing your partner is giving notice in E&W.

If you both living in Scotland, but are getting married in E&W, 1 party has to give notice in E&W, 1 has to give notice in Scotland in relation to acquiring a CONI.

Current position in Scotland

If you live in E&W and are getting married in Scotland to a person who lives in Scotland or a person who lives in E&W but who has parents living in Scotland, you can give notice in E&W as opposed to in Scotland, providing the person who you marry is giving notice in Scotland

If you both live in E&W but are getting married in Scotland, you have to give notice in Scotland.

This complexity increases even further when UK citizens are getting married outside the UK, or non-UK citizens are getting married in the UK.

In determining how best to manage the issue of giving notice, and any associate requirements in relation to a certificate of freedom to marry, consideration has been given as to –

- how best to balance complexity of administration against potential risk of bigamous or sham marriage;
- whether exceptions should be made in relation to some UK residents as per the Scottish model.

It has been decided that, in order to ensure consistency and clarity, all parties to a marriage in Jersey, regardless of whether or not they are UK resident or British citizens –

1. must give notice in Jersey (in order to simplify the associated processes, the amended Law will allow for both parties to give notice at the same time); and
2. should secure a certificate of freedom to marry from their place of residency (or where they are unable to secure a certificate of freedom to marry must provide a “no trace letter”) if they are not resident in Jersey.

Article 15: Issue of marriage schedule

In order for a marriage to be solemnized in Jersey, the Superintendent Registrar must issue a marriage schedule. The Superintendent Registrar cannot issue this schedule unless –

- notice has been given in accordance with the Law, and all necessary documents and evidence have been reviewed, including a certificate of freedom to marry if required;
- both parties to the marriage have attended the Superintendent Registrar’s office (either separately or together) and signed in front of the Superintendent Registrar a signature verifier form⁷, and the Superintendent Registrar has checked that the signatures on the verifier form match those on the notice to marriage and the freedom to marry declaration;
- the Superintendent Registrar has confirmed that the proposed celebrant to be named on the schedule consents to the solemnization of same-sex marriage, if relevant, and that the location is an approved location.

The Law provides that the Superintendent Registrar may forgo requirements relating to the provision of original documents where the Superintendent Registrar is satisfied that the parties have corroborated the information required via other means (Article 10(3)).

The Law also provides that the Superintendent Registrar may refuse to issue a marriage schedule unless satisfied that –

- both parties to the marriage are capable of consenting to the marriage or are entering into the marriage freely,
- there are no other grounds for not issuing a marriage schedule.

Signature verifier

At present, under the 2001 Law there is no mechanism by which the Parish Registrar or the marriage delegate who solemnizes the wedding can verify the identity of the couple (i.e. the people who give notice to the Superintendent Registrar could be different to the people who attend the Parish Registrar, who could be different again to the people who present themselves as the couple to be married on the day).

Signature verification is a new process under the amended 2001 Law and is designed to help safeguard against sham and forced marriage.

The couple will each sign a signature verifier form in front of the Superintendent Registrar, who will check signatures against the notice to marry and freedom to marry forms. The Superintendent Registrar will then issue the signature verifier to the authorized celebrant solemnizing the marriage. The authorized celebrant is required in law to confirm that the 2 people signing the marriage schedule at the marriage ceremony are the same 2 people.

The Superintendent Registrar will issue to the authorized celebrant –

- 3 marriage certificates (2 to be retained by the couple post-ceremony, one to be returned to the Superintendent Registrar);
- the marriage schedule and signature verifier form;
- a notice including details of the wedding for display at the venue.

⁷ The contents of the signature verifier form will be prescribed by Order. It is envisaged that it will require the form to include a photograph of each of the parties to the marriage.

The Superintendent Registrar will determine what form the marriage schedule and certificates should take, providing that they include all the information prescribed by Order. It is envisaged that this will include –

- details of the Parish in which the marriage is solemnized;
- a statement from the Superintendent Registrar confirming that the parties to the marriage have given notice of their intention to marriage, that the notice has been displayed in accordance with the Law, and that both parties have signed a solemn declaration that there is no impediment to their marriage;
- details for both parties to the marriage –
 - (a) forenames/surnames
 - (b) date of birth and place of birth
 - (c) civil status
 - (d) usual place of residence at the time of the marriage
 - (e) father's/parent's forename(s) and surname(s)
 - (f) mother's/parent's forename(s) and surname(s);
- details of marriage –
 - (g) date and place of marriage
 - (h) 'This marriage was solemnized between us ...' (space for parties to print name, sign and date)
 - (i) 'In the presence of ...' (space for 2 witnesses to print name, sign and date)
 - (j) certification by the authorized celebrant that they celebrated the marriage (space for date, time and signature).

Article 16: Issue of certificate of no impediment by Superintendent Registrar for marriage outside Jersey

The amended 2001 Law will provide for the Superintendent Registrar to issue a certificate of no impediment (“CONI”) for the solemnization of marriage outside of Jersey, where one or both of the parties to the marriage are Jersey resident.

The certificate is a means via which the party to a marriage can demonstrate to the authorities in the jurisdiction in which the marriage is to take place that they have given notice to marry in accordance with Jersey law and that the Superintendent Registrar knows of no impediment to the marriage. A CONI, which only relates to the individual in whose name it is issued – if both parties to the marriage are Jersey residents, both will need to be issued their own CONI – is not equivalent of permission or licence to marry.

There is similar provision in the 2001 Law as it currently stands, but matters relating to the issue of certificates are clarified in the amendments contained within the draft Law, including requirements relating to the provision and authentication of documents and to giving notice in accordance with Jersey law.

Note: Acceptance of certificates in other jurisdictions

Giving notice in Jersey – and acquiring a CONI – does not, necessarily mean that the couple do not need to also give notice in the jurisdiction in which they are getting married. Different jurisdictions have different requirements, and the couple will need to check those requirements and ensure they comply with them.

Some jurisdictions do not require a certificate and others will not accept a CONI

except in limited circumstances as defined in their legislation; others will only accept a certificate issued within a given timeframe (for example, only accept certificates issued 3 months before a wedding).

Where the jurisdiction in which they are getting married does require a CONI (or equivalent) the Superintendent Registrar can only issue the certificate if notice has been given in Jersey, regardless of whether the couple are also required to give notice in the jurisdiction in which they are getting married.

For example, it is a requirement of English and Welsh law that a certificate of no known impediment issued by the Jersey Superintendent Registrar will only be accepted in England and Wales in relation to Jersey residents who are also British subjects.

The Superintendent Registrar will therefore advise Jersey residents who are applying for a CONI to check with the authorities in the jurisdiction in which they are getting married if they will accept a CONI from the Superintendent Registrar in Jersey. It is the responsibility of the person in whose name the certificate is issued to ensure that it is accepted in that jurisdiction.

The couple will also need to check –

- whether the CONI needs to be legalised by the application of an apostille, issued by the legalisation section of Jersey Customs and Immigration (this is not necessary for UK weddings), or
- whether they need to provide a sworn affidavit confirming they are legally able to marry (some countries require both a CONI and a sworn affidavit).

Article 18: Solemnization of marriage

New Article 18 sets out that a marriage must be solemnized –

- at the location named on the schedule
- between 8 a.m. and 7 p.m.
- in the presence of 2 or more witnesses in addition to the marriage celebrant.

Members of the Public must be permitted to freely attend. To facilitate attendance, the wedding celebrant must ensure that a notice setting out the details of the wedding is displayed at the location as least one hour before the wedding.

Each of the parties to the marriage must make a declaration in some part of the ceremony and in the presence of the witnesses and the authorized celebrant, stating that –

“I solemnly declare that I know not of any lawful reason why I, AB, may not be joined in marriage to CD”; and

“I call upon the persons here present to witness that I, AB, take you, CD, to be my lawful wedded wife [or husband] [spouse]”.

That declaration must be used in all marriages except those solemnized in accordance with the rites of the Anglican Church, although Article 82 (as amended) provides that the States may, by Regulations, amend requirements relating to the declaration – for example, in relation to different religious organisation and no-religious belief organisations.

The amended Law provides couples with more choice over the content of their wedding ceremony. It sets out that whilst prayers, religious rituals and symbols can only be used in religious wedding ceremonies (i.e. those solemnized by authorized religious officials), couples being married by civil celebrants can incorporate hymns,

chants, bible readings, candles, ribbons, etc. into their ceremony, providing the civil celebrant has determined that doing so will not replicate acts of religious worship.

The amended Law clarifies that a person is married on the signing of the schedule by both parties to the marriage and the authorized celebrant, as opposed to the speaking of the vows. This is to allow for the authorized celebrant to verify that the parties are the same people as per the signature verifier as issued by the Superintendent Registrar.

Any of these requirements may, however, be varied if a marriage is taking place in special circumstances.

Background to changes on content of civil wedding ceremonies

The 2001 Law currently sets out that: “*No religious service shall be used at the solemnization of a marriage on approved premises*” – Article 20(5)). The draft 2001 Law had, however, originally stated that: “*No religious service and no music or reading that would ordinarily form part of a religious service shall be used at the solemnization of a marriage on approved premises.*”. At the point at which the draft 2001 Law was debated ([P.89/2001](#)), the then Tourism Committee lodged an amendment stating that couples must have the “*freedom to select music or readings of their choice*”. Their amendment was adopted and the words “*and no music or reading that would ordinarily form part of a religious service*” was simply removed, with Article 20(5) being adopted in its present form. In practice, this has been interpreted as meaning there should be no religious content at all in civil weddings, even though this is at odds with what the States originally intended.

The amended Law will allow couples to select music or readings of their choice, including those that are ordinarily associated with religious marriage ceremonies, as well as other popular elements; for example, candle-lighting ceremonies, personal statements of commitment (in addition to the legally prescribed vows), etc. It does not, however, extend to permitting the use of rites associated with religious marriage ceremonies. This better reflects the States’ decision of 2001, plus the position set out in ‘*Humanist and open-air marriages*’ ([P.65/2015](#)), which was the subject of written comments from the Minister for Home Affairs ([P.65/2015 Com.](#)).

Article 82 as amended provides that the States may, by Regulations, vary any matters in Article 17. This could include, for example, varying the requirement in relation to the declaration made during the marriage ceremony.

Article 18: Changes to date, time or venue of intended marriage

The amended 2001 Law sets out that a notice to marriage must be published for 25 clear days immediately before the date of the wedding. The amended Law provides that a couple can change the date or venue of their marriage, as set out on a published note, providing they do so within 25 clear days. Where changes are required within that 25 day period, the provisions of new Article 24 apply.

Articles 19–22: Marriage by conversion

The amended 2001 Law provides for couples to convert their existing civil partnership into a marriage where both partners wish to do so. That marriage will be void however, if the civil partnership does not comply with the restrictions set out in Article 5.

The amended Law allows for conversion via an administrative route or via a conversion ceremony. The administrative route is available for those who do not want a ceremony because they feel that their original civil partnership ceremony was sufficient.

Conversion of partnership formed after same-sex marriage comes into force

It was originally envisaged that conversion of civil partnership would be limited to civil partnerships formed before same-sex marriage legislation comes into force, as it was intended that the conversion should only be available to people previously denied access to marriage (i.e. not couples who enter a civil partnership after the introduction of same-sex marriage and then change their minds about wanting to be married after all).

On reflection however, this creates a number of anomalies which could potentially place Jersey residents at a disadvantage to non-Jersey residents, as illustrated below:

Couple A:

Jersey residents who decide to enter a civil partnership even though same-sex marriage is, by that time, available in Jersey. They later want to convert to a marriage but cannot because the law does not permit it.

Couple B:

Residents of country X entered a civil partnership in country X because same-sex marriage was not an option in that country. They later move to Jersey where, unlike the Jersey couple, they can convert this civil partnership into a marriage.

In addition, allowing conversion of civil partnerships formed after the introduction of same-sex marriage will bring Jersey into line with England, Wales and Scotland.

The process of applying for a conversion mirrors the process of applying to be married to the extent that it is possible to do so. There are, however, some fundamental differences in that a couple converting their civil partnership to marriage do not need to give notice.

A couple must apply to the Superintendent Registrar for a conversion. They can do so up to one year before the date on which they wish to convert (this is to make provision for people who want a ceremony). They do not need to be Jersey residents, but they must have been resident for at least 7 days in their place of residence before they apply.

Visa in relation to conversion

The Jersey Customs and Immigration Service have confirmed that there is no requirement for a separate visa category in relation to conversion to marriage. A person entering Jersey for the purpose of conversion would simply apply to enter Jersey for the purpose of marriage in the same way as an individual who is not already in a civil partnership.

The application form must be in such form as determined by the Superintendent Registrar. In considering their application, the Superintendent Registrar must ensure they have inspected all the necessary documents, including those that relate to evidence of immigration status and identity. The Superintendent Registrar may obtain any additional information from any authority which the Superintendent Registrar believes is appropriate in order to assist with verification of the information provided, or to determine if there may be grounds for the Superintendent Registrar not to issue the conversion declaration.

This includes the right to interview each of the partners individually or together, in order to verify any of the information provided and confirm that each party wishes to convert their civil partnership into a marriage and/or are capable of consenting to change their civil partnership into a marriage.

As per the marriage process, the couple must sign a signature verifier form in front of the Superintendent Registrar so that the Superintendent Registrar may provide it to the marriage celebrant in the event that the couple are converting at a ceremony, as opposed to simply signing the conversion declaration in front of the Superintendent Registrar.

Provision of notice

Under the Civil Partnership (Jersey) Law 2012, notice of a civil partnership must be provided to the Superintendent Register no less than 2 weeks before the intended date of the formation of the civil partnership. That notice must be entered into the civil partnership notice book by the Superintendent Registrar, and must be displayed in the entrance to or outside the office of the Superintendent Registrar. There is no similar requirement for notices with regard to the conversion of civil partnership to a marriage because the partners are simply converting the status of a legal relationship, as opposed to forming a new legal relationship (i.e. converting an existing civil partnership to marriage, as opposed to forming a new marriage).

Once the Superintendent Registrar has verified the relevant information, the Superintendent Registrar will prepare and issue the marriage conversion declaration for signing by the couple and conversion certificates. These forms, which will be prescribed by Order will, to all intents and purposes, be the same as the marriage schedule and marriage certificates, except that they will include references to relevant Articles of the Law under which the conversion has taken place.

The conversion may be administrative (i.e. the couple just sign the documents in front of the Superintendent Registrar) or there may be a ceremony at which the couple sign the conversion declaration. In the event that there is a ceremony, it sets out matters relating to the form that ceremony will take, including content such as hymns and the spoken declaration that the couple will make.

Effect of the signing of the declaration

At the point at which the couple sign the declaration, their civil partnership will be converted to marriage and that marriage will be treated as if it had subsisted since the date on which the couple entered into the civil partnership, not the date on which they signed the conversion declaration.

The signed conversion declaration must be placed in the Conversion Register held by the Parish Registrar.

New Article 24B provides for the Minister to prescribe arrangements relating to the endorsement of registers. This will include, where the couple's civil partnership was originally registered in Jersey, the Superintendent Registrar arranging for the relevant civil partnership register to be annotated with an appropriate form of words, for example, "*converted to marriage on (date) at (place)*".

Article 23: Approved locations

New Article 23 sets out that the Minister will, by Order, establish a scheme whereby an approving authority can approve locations for the solemnization of marriage. The approving authority will be the Connétable of the relevant Parish⁸ who, in approving the location, will be confirming that it upholds the dignity and solemnity of marriage⁹.

⁸ If the location belongs to the Connétable or the Parish, the Minister will need to approve in their place.

⁹ In this context, 'solemn' means characterised by deep sincerity (i.e. to make a solemn promise), as opposed to grave or dour.

Protections for religious organisations

In order to provide protections for religious organisations, the Law as amended sets out that the approving authority cannot approve a location for the solemnization of same-sex marriage, where that location is –

- a usual place of public religious worship according to the rite of the Church of England; or
- has been certified by the Minister as a usual place of public religious worship by a religious organisation, unless both the governing authority of that religious organisation and the owner/trustee of the location have given consent to same-sex marriage (see below for details of certification as a place of public religious worship).

The amended Law also provides that the neither the governing authority or the owner/trustee can be compelled to consent to same-sex marriage at that place of public religious worship. Further to that, new Article 23 reinforces the protections provided in Article 6 and 7, in that it states that –

- an authorized civil celebrant cannot solemnize any marriage in a location which is a certified place of public religious worship; and
- an authorized religious official can only solemnize marriage in a location which their religious organisation has certified as a place of public religious worship or approved for marriage according to the rites/usage of that religion. This would allow, for example, a United Reform vicar to solemnize marriage either in a United Reform church, or on a beach, if the United Reform church has agreed to solemnization of marriages on beaches.

Same-sex marriage

The amended Law sets out that all locations, unless they are a certificated place of religious worship, must be approved for all marriages (i.e. a hotelier or landowner cannot seek approval for opposite-sex marriage only).

Certified place of public religious worship

Article 23 sets out that the Minister will prescribe the process via which a location is certified as a place of public religious worship. It is envisaged that those arrangements will broadly mirror those set out in UK legislation, and will include –

- a requirement for the trustees to certify that the doors of the place of public religious worship are open to the Public where there are doors; or where there are not doors, that the Public are not excluded from the place; and
- a requirement for the trustees to certify that the location is a place of public religious worship of a religious organisation that is established in Jersey, or, where the religious organisation is not a recognised and established religious organisation in Jersey – or where the Minister may require it – certification by at least 20 households that the place is their usual place of public religious worship; and
- for the trustees and householders to request that the place should be registered for the solemnization of marriage between opposite-sex couples only or any marriages.

The trustee applying for approval must include in their application a copy of the written consents from their relevant governing religious authority.

A place of public religious worship –

- will not include locations that may be used for worship on an incidental basis (for example: a prayer-group hires or uses the same venue on a weekly basis, but that venue is also hired by others for other purposes);
- may include a location which is leased by a recognised and established religion primarily as a place of public religious worship, regardless of whether they sub-lease or allow it to be used for other purposes (for example: the Jersey Muslim Society leases a venue to use as a mosque, but hires it out to a Judo Club once a week). This would, however, only apply during the period in which it was being leased primarily as a place of public religious worship;
- may be shared by 2 or more religious organisations. Where this is the case, an application for approved for the solemnization of same-sex marriage must –
 - (a) provide details of the name of each religious organisation sharing that place; and
 - (b) certify whether or not each of relevant governing authorities for each religious organisation has consented to solemnization of marriages between same-sex couples; and
 - (c) certify whether or not each of the governing authorities for each religious has consented to the place to be used for solemnization of marriages between same-sex couples.

Locations that can be approved

Under the new Article 23 Order it is anticipated that the Minister will allow for –

- approved locations to include open-air locations, non-permanent locations, a permanent location or any combination thereof. This can be the whole location or part of a location (e.g. the whole of a headland, or a specific part of a headland; the whole of a building, or a given number of rooms in a building);
- locations to form part of a building or part of a larger location, as opposed to a whole building or location. Part may be approved for civil and religious marriage and part for just religious marriage, but only where the part approved just for religious marriage is a place of public religious worship;
- an open-air location to include a sea beach, or a specific area on a sea beach;
- a non-permanent location to include structures such as marquees and gazebos, and movable structures such as aeroplanes, trains or boats, providing –
 - the structure is moored/parked throughout the duration of the ceremony,
 - has been moored/parked at least 1 hour prior to the ceremony in order that any member of the Public may enter the boat, etc. in order to attend; and will be moored/parked for sufficient time after the end of the ceremony to permit any member of the Public who may attend to depart;
- approval for a named couple's wedding only, for example a couple's home or garden. A location will not, however, be able to be approved only for a named couple where that location could be used by other couples (for example, a beach or a restaurant which is generally accessible by the Public).

Public access

If a couple are getting married in their own living-room, for example, they must allow public access whilst the marriage ceremony is taking place.

Allowing any person to attend a wedding ceremony who wishes to attend helps prevent against clandestine marriage. This provides safeguards against forced marriage, sham marriage or marriages between people who are not legally free to marry.

Whilst it is understood that this provides no protection against attendance by deliberately disruptive individuals, it remains an essential safeguard.

Where a location is not accessible by the Public, the Order will provide that the Connétable may still approve the location, but only if the Minister determines that there are sufficiently compelling circumstances to do so. This could include, for example: H.M. Prison La Moye; or parts of the Hospital or Hospice where safety, security or care considerations restrict access.

Scope of approval

The introduction of open-air weddings creates a number of logistical challenges vis-à-vis use of locations for other events and activities, plus public rights of way. It also has ramifications in relation to authorisation/control of use processes set out in other pieces of legislation, including –

- the Minister for Economic Development, Tourism, Sport and Culture, in relation to the Island's beaches (under the Policing of Beaches (Jersey) Regulations 1959);
- the relevant Park authority (under the Policing of Parks (Jersey) Regulations 2005), and the Minister for Infrastructure (under the Road Works and Events (Jersey) Law 2016);
- the Bailiff's Panel in relation to entertainment licences (under the Unlawful Public Entertainments (Jersey) Regulations 2016);
- the relevant alcohol licensing authority;
- any relevant authority in relation to fireworks, etc.

It is intended that a new centralized system will be developed in relation to all events management processes and will be put in place before July 2019 (this being the point at which the triennial Unlawful Public Entertainments Regulations are due for renewal). Therefore, the Connétable's approval under the amended 2001 Law –

- only relates to the solemnization of marriage and to the general principle that marriages may be solemnized at that location as it upholds the dignity and solemnity of marriage. It does not include approval for wedding receptions and parties;
- does not signify that the location is safe for any configuration of ceremony (e.g. 5 guests as opposed to 200, etc.), or under any particular conditions (e.g. tide times; weather conditions, etc.);
- does not signify that the location is devoid of public nuisance or that other land-users will not be using that location whilst weddings are being solemnized;
- does not signify that any other relevant authority should or will give permission/licence for any given marriage ceremony to take place at that

location, or that they should or will prioritise the solemnization of marriage over and above permissions/licences to other land users;

- does not negate the requirement on persons organising any given marriage to ensure that they have all other required permissions/licences in place as issued by other relevant authorities.

Application process

The amended 2001 Law provides that the Minister will, by Order, put in place an application process, an appeals process and a revocation process. This Order will be subject to consultation with the Connétables and key stakeholders, but is likely to include the following –¹⁰

1. An application for approval, which must be accompanied by a location plan, may be made by –
 - a proprietor/trustee or the managing agent of a location
 - a relevant authority
 - an administering authority
 - any other person (e.g. a wedding planner or a party to a marriage).
2. Where the application relates to a certified place of public religious worship, the applicant must state the appropriate denomination/s and whether sex marriages will be solemnized there.
3. An approval can be time-limited or non-time-limited, as determined by the Connétable.
4. In determining an application, the Connétable must give due consideration to any written objections received, and may consult neighbouring owners or businesses and any other authority they consider relevant to their determination, including for example –
 - the SR;
 - Connétables of adjoining parishes;
 - the Minister for Home Affairs;
 - the Minister for Economic Development, Tourism, Sport and Culture;
 - the relevant Park authority;
 - the Minister for Infrastructure in relation to the Road Works and Events (Jersey) Law 2016;
 - the Bailiff's Panel;
 - the relevant alcohol licensing authority;
 - the relevant authority in relation to fireworks.
5. Where there is a responsible person for the location (for example where the location has an owner/managing agent), the responsible person must ensure compliance with any special conditions imposed by the Connétable (see below).

¹⁰ Significantly more detail about the potential content of the Order is provided in Chapter 9 of the law drafting instructions see MD-HA-2017-0001 (<https://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=CB866FE9-91FB-485F-9A88-D9013EA3D8A6>)

6. The Connétable will be able to revoke their approval in the event that –
 - any special conditions are not complied with;
 - the location has been altered, or its use has changed to an extent no longer suitable for the solemnization of marriage;
 - any relevant authority informs the Connétable that they will not issue licences or permission in relation to that location (e.g. the Minister for Economic Development, Tourism, Sport and Culture)
 - that there has been any breach of the Law relating to marriages at that location.
7. Before a Connétable’s approval is revoked, they will need to consult the relevant stakeholders and give notification of the intention to revoke. Revocation will be subject to safeguards to ensure a pre-booked wedding is not disrupted.
8. The Order will provide for appeals to the Minister about a Connétable’s decision to refuse an approval or to impose special conditions, or to revoke an approval. This may include providing that the Minister may review a Connétable’s decision where requested to do so by a relevant third party.

Register of approved locations

The Superintendent Registrar will keep a publicly accessible register of all approved locations. That register will clearly set out matters relating to the approval, for example –

- civil weddings or religious weddings only, and, if so, the relevant religious denomination/s)
- special conditions
- details of venue, name, location plan and description of boundaries.

Standard and special conditions

The Minister will set in the Order the standard conditions that must apply to any approval and any special locations that may be imposed by the Connétable. It will be responsibility of the marriage celebrant to ensure compliance with the standard conditions and either the location’s responsible person or the person organizing the wedding (for example, the parties to the wedding) to ensure compliance with any special conditions.

Standard conditions are likely to include that –

- no food or drink is sold or consumed at the location in which a marriage ceremony takes place for one hour prior to that ceremony or during that ceremony;
- the marriage ceremony takes place within the boundaries set out in the approval and as stated in the register (i.e. within the approved room/s or on the approved area of land);
- the location in which a marriage is solemnized is separate from any other activities taking place in that location at the time of the ceremony (for example: there must be a reasonable means whereby other beach users are kept out of the immediate space; other venue users must have vacated the location unless they are attending the marriage ceremony as members of the Public);
- the details of the wedding must be displayed at the location at which the

wedding is to take place; and these should –

- (a) be displayed a least 1 hour before the time of wedding and throughout the ceremony,
- (b) at each public entrance to the location or equivalent (i.e. the main entrances to a hotel; the public access point on a beach),
- (c) include the names of the parties to the marriage, plus a location map identifying and giving directions to the place where the marriage ceremony is to take place.

Special conditions could include –

- placing restrictions on the days of the year, days of the week or times of a day that a wedding may be solemnized at that location;
- placing restrictions on weddings being solemnized at a location in the event that the location or its surrounding land or premises is being used for other purposes at the time of the ceremony (for example: a location on a sea beach may not be approved for use during the same months of a year during which the Minister for Economic Development, Tourism, Sport and Culture has licensed a kayak rental concession);
- making requirements in relation to the erection of barriers or notices; use of semi-permanent structures or features (e.g. awnings, seats, floor coverings);
- any other requirements relating specifically to upholding the dignity and solemnity of marriage.

Article 24: Marriage: special circumstances

Canon law in Jersey provides for the Dean to issue a special licence so that a marriage can be solemnized in an unapproved/unregistered place, outside permitted hours or in other compelling circumstances. This provision is primarily to allow people to get married when one, or both, of the future spouses has very little time left to live. The 2001 Law does not make similar provision in relation to non-Anglican marriages.

New Article 24 provides for marriage/conversion in special circumstances and in curtailed timeframes, unlike Article 19, which only provides for changes to marriage arrangements that occur at least 25 clear days before the date of marriage. Article 24 sets out that, in certain special circumstances, a marriage may be solemnized or converted –

- at a location that is not an approved location (e.g. a person's home or a hospital ward); or
- is outside the standard hours of marriage;
- after a shorter notice period (i.e. less than the required 25 clear days); or
- on a date which is different to that set out in a notice to marry, where the change of date has been made less than 25 clear days before the date of marriage.

These circumstances include –

- where there is an expectation of death within 3 months;
- where a party to the marriage cannot get to an approved location due to illness;
- where a party to the marriage is unable to solemnize the marriage, through illness or other unavoidable circumstances;

- where a party to the marriage is detained in Prison or under the Mental Health Law;
- where it is impossible to use an approved location named on a marriage/conversion schedule; or
- where it is impossible for the celebrant named on the marriage/conversion schedule to solemnize the marriage.

The Law provides that the Minister will, by Order, prescribe the requirements and procedures that will apply to special circumstances marriage/conversion. This will include the application process and the fees payable¹¹.

It is anticipated that the Order will set out that where a person is dying, ill or housebound, an appropriate authority will need to provide a statement. That statement will need to have been signed no more than 14 days before it is received by the Superintendent Registrar, and must confirm the circumstances pertaining to that person, for example –

- that there is an expectation of death; and/or
- that the party is housebound and cannot be moved to an approved place of marriage; and/or
- there is a requirement for treatment in a given timeframe which impacts on when the party can get married; and/or,
- that the party is of sound mind and can understand the nature of marriage.

The appropriate authority will, where the party is ill or dying, be a registered medical practitioner. Where the person is detained in a hospital, the appropriate authority is the hospital manager, or where they are detained in a prison or secure accommodation centre, the appropriate authority is the prison governor or another officer with responsibility for the prison or place of secure accommodation.

The Order will provide for different requirements to be made with regard to the provision of original documents, although this is unlikely to include –

- forgoing evidence of immigration status where required;¹²
- forgoing evidence of divorce/dissolution/or death of previous partner of spouse, where one or both of the parties were previously married or in a civil partnership to someone else;
- signing the marriage notice form and the freedom to marry form, albeit the Superintendent Registrar can attend the party to the marriage so they may sign, as opposed to them attending the Superintendent Registrar's office (see Article 80B) for alternative arrangements for the signing of forms).

Article 24 also allows the Minister to require the Superintendent Registrar, where the Superintendent Registrar disapplies timeframes and/or provision of supporting evidence, to –

- fully record these matters on the Superintendent Registrar's records; and
- ensure that the marriage notice, schedule and certificates are annotated accordingly.

¹¹ Consideration will be given as to whether the fees charged in relation to some special circumstances weddings should be different from other fees.

¹² The Jersey Customs and Immigration Service has a facility for applying for emergency visas in the event that someone is dying.

Illustrative sample statement in relation to unforeseen circumstances

The statement must be –

- on headed paper, signed and dated;
- be from an appropriate authority. In relation to changes to marriage arrangements this must be a registered medical practitioner who is responsible for the care of the party to the marriage.

I am writing to confirm the following points with regard to the proposed marriage of [name of intended party to the marriage]

- I am the doctor in medical attendance for the above named patient;
- The above named patient is seriously ill and is not expected to be able to get married on the date set out in the notice to marry. This date being.....¹³
- The nature of the illness means that –
 - (a) there is an expectation of death within the next 3 months, OR
 - (b) due to the associated treatment or anticipated deterioration in health, marriage needs to take place before the date set out on their notice to marry, OR
 - (c) due to the associated treatment or anticipated deterioration in health, marriage needs to take place after the date set out on their notice to marry.

a. I confirm that I am a registered medical practitioner.

Registering authority:

Registration or reference number:

Date:

Articles 24A and 24B: Retention of schedules, information, books, indices and registers

New Articles 24B and 24C deal with the requirement to keep information and records relating to marriage. They set out that:

An authorized celebrant or religious official must return signed schedules to the Superintendent Registrar, for the Superintendent Registrar to enter details into a copy register prior to providing the original documents to the Parish Registrar. The Parish Registrar will be paid for each document included in the Parish registers.

As set out in Section D above, the Parish Registrar will no longer be required to write in the Parish Registers.

The Superintendent Registrar is required to keep an electronic copy of any application or document received in relation to marriages and conversion. In addition, the Superintendent Registrar must keep –

- a notice of intended marriage book;
- a register of authorized civil celebrants;

¹³ Details of date to be provided to the medical practitioner by the parties to the marriage.

- a register of authorized religious officials, including details of the religious organisation that applied for their authorisation and consents in relation to same-sex marriage;
- a register of approved location and, where that location is a certificated place of public worship, consents in relation to same-sex marriage;
- a copy of the entries into the marriage registers held by Parish Registrars and incumbents of Anglican Churches and the conversion registers.

All the registers kept by the Superintendent Registrar must be available for public inspection free of charge, albeit this does not preclude the Superintendent Registrar from charging people who request the Superintendent Registrar to undertake a search of those registers and books on their behalf. Anglican incumbents and Parish Registrars are also required to make their records open for public inspection (Article 78 as amended).

Article 24C: Official searches of records by Superintendent Registrar

The amended 2001 Law only provides for Jersey residents to obtain a CONI. Article 24C however, allows for non-residents (Jersey born and non-Jersey born) to apply to the Superintendent Registrar for what is commonly referred to as a “no trace” trace certificate (i.e. there is no trace of a person being in a valid marriage or civil partnership). The Superintendent Registrar, having searched the Superintendent Registrar’s records and relevant Court records, will issue the certificate which states whether there is a trace of a current, or previous, marriage or civil partnership in Jersey.

Articles 24D–24E: Validity of marriage and marriages that are void

New Article 24D sets out that a married couple does not need to prove the validity of their marriage in relation to certain matters; for example – whether or not the marriage was solemnized at an approved location, because their marriage was in accordance with the Law and the safeguards provided in that Law (i.e. they are married because their marriage was solemnized in accordance with the Law).

New Article 24D does not, however, negate the provisions of new Article 24E, which sets out the circumstances in which a marriage will be void. The circumstances under which a marriage will be void include, for example – due notice was not given; false documents were provided (this will include false identity and immigration documents); it was not solemnized by an authorized marriage celebrant or at an approved location.

Article 24F: Co-operation and disclosure

The amended Law provides the Superintendent Registrar powers to disclose information, or request information, with a range of different authorities both in Jersey and in other jurisdictions. The purpose of these powers is to help enhance safeguards against forced and sham marriage, by supporting the Superintendent Registrar to –

- verify any information or documents they receive;
- determine if there are grounds for refusing to issue a notice, schedule or certificate.

Articles 41 and 42 (amended): Appointment of Superintendent Registrar and Parish Registrars

Article 41 is amended to remove the requirement for the Minister to appoint the Superintendent Registrar and Deputies, and for the Chief Minister to approve that appointment. The Superintendent Registrar and Deputies will be appointed by the States of Jersey in accordance with standard States Employment Board processes.

Article 42 is amended in order to provide more clarity around the processes relating to the appointment and removal of Parish Registrars and their deputies.

The Superintendent Registrar will develop, in relation to Parish Registrars –

- a role description;
- a training and monitoring scheme;
- a complaints and investigation process, with associated procedures for suspending or removing Registrars from their role.

The Parish Connétable, as opposed to the Parish Assembly, will choose the Parish Registrar against that role description.

The amended Law also provides for the Superintendent Registrar, or a Registrar of another Parish, to act as the Registrar of any Parish. The purpose of this provision is to allow for the Parish Registration service to continue in relation to the registration of births, deaths and marriages in the event of a vacancy; particularly, for example, in relation to emergency circumstances such as pandemic.

Complaints and investigation

The 2001 Law states that a registrar may be required to vacate their office with immediate effect, if they have failed to carry out, or are incapable of carrying out, their duties. The 2001 Law does not, however, state who will require them to vacate their office or any associated appeals processes. The complaints and investigation process provided under the amended Law will provide clarity. Subject to consultation, it is envisaged that it could include the following –

- The Superintendent Registrar will be responsible for investigating any concerns or complaints that Parish Registrars may not be acting in accordance with the Law or may be failing to carry out their duties. This will be regardless of whether those complaints were made directly to the Superintendent Registrar, to the Connétable of the Parish, or to any other person.
- Any investigation should be undertaken in consultation with the relevant Connétable, and the Superintendent Registrar must report the findings of that investigation to the Connétable and to the Registrar. In reporting back, the Superintendent Registrar will make a recommendation to the Connétable as to action to be taken and grounds for the action. Grounds to remove could include –
 - (a) failure to comply with the Law, including behaving in a discriminatory manner;
 - (b) failure to provide a good service;
 - (c) failure to carry out duties;
 - (d) is incapacitated by illness; or
 - (e) is otherwise unable or unfit to discharge the functions of the Parish Registrar.

The decision to remove any Registrar will sit with the Connétable.

Note: Appeal against the decision of the Connétable

Consideration was given as to whether there should be a statutory appeals process against the decision of the Connétable to remove a Parish Registrar. In consultation with the Law Officers' Department, it has been determined that this is not necessary, as the roles of Parish Registrar and Deputy Parish Registrar (excluding those roles in

the Parish of St. Helier) are voluntary. Removal from post does not carry any obvious and significant pecuniary implications, nor does it impinge on any other civil right of the registrar. Whether a Registrar should be removed is a matter for the Connétable.

Article 44 (amended): Premises for Superintendent Registrar

At present, under the 2001 Law there is a requirement for the Superintendent Registrar's office to be in a central part of St. Helier. This requirement is amended to allow future flexibility for the Superintendent Registrar's office and/or the historic records held by the Superintendent Registrar potentially to be relocated. Any relocation would, however, need to ensure ongoing ease of public access to such records.

Articles 51, 53, 58, 60, 61 (amended): Matters relating to registration of births

The focus of the changes to the 2001 Law relate almost entirely to marriage; however, a number of minor changes are set out in Articles 51, 53, 60 and 61 in relation to the registration of births. These changes include –

- making it the duty of the father and the mother to register a birth, as opposed to “*the father or default of the father, the mother*” as per the 2001 Law as it currently stands;
- providing the Superintendent Registrar powers to inform the Registrar of a birth within 21 days. This is in the event that a baby dies shortly after birth and the parents are too distressed to register the birth;
- providing the Superintendent Registrar powers to determine the form that certificates take, as opposed to them being prescribed by Order. This allows for greater flexibility to keep the language of forms up-to-date.

Article 76 (substituted): Offences relating to solemnization of marriage

Article 76 will be substituted by a new Article which will set out matters relating to offences which are liable to a term of imprisonment (of not more than 5 years) or a fine.

Offences by any person –

- knowingly making false declarations or providing false information in order to get married;
- seeking to prevent a marriage by entering a caveat or forbidding the issue of a marriage certificate by falsely presenting as a person whose consent to that marriage is required.

Offences by the Superintendent Registrar include –

- issuing a marriage schedule or CONI which is void or where the notice period has been less than 25 clear days;
- issuing a marriage schedule or CONI if there has been lawful objection;
- authorizing a civil celebrant to solemnize a wedding at a location not approved for civil weddings;
- authorizing a religious official to solemnize a wedding at a location not approved for a wedding according to the rites of that religion or, where religious organisation have not consented it is a same-sex marriage;
- authorize a same-sex marriage at a location which is not approved for same-sex marriage.

Offences by persons –

- to knowingly solemnize a marriage declared void by law or on authority of a marriage schedule which is void;
- solemnize a wedding at a location other than an approved location;
- to solemnize a marriage if not a marriage celebrant.

Article 78 (substituted): Searches

Article 78 of the 2001 Law is substituted with a new Article which sets out arrangements to allow the Public to search the records held by Anglican Churches and Parish Registrars. It is similar to the requirements placed on the Superintendent Registrar in Article 24B. The amended Article also provides for the Superintendent Registrar to allow search of indexes and make certified copies of entries.

Article 80A (inserted): Provision of documents to Superintendent Registrar

New Article 80A sets out that all documents provided to the Superintendent Registrar must be in English or French and, where they are translated, it must be a certified translation. This Article recognises that, as more non-residents get married in Jersey and our resident community become increasingly diverse, the Superintendent Registrar will be presented with increasingly more foreign language documents.

Article 80B (inserted): Signing of documents

The amended Law provides for alternative arrangements for the signing of forms where the parties who are required to sign are unable to do so due to a disability or illness. These new alternative arrangements apply to all forms under the Law, including those relating to the registration of births and deaths.

Where a party is unable to sign using their signature or their mark, they may nominate someone else to do so on their behalf. Different people can be nominated to sign different forms, as this will provide flexibility where, for example, a party to the marriage has a number of different carers. The exception being marriage schedules and marriage certificates, and conversion declaration and conversion certificates, which must both be signed by the same representative.

The Minister will bring forward an Order setting out the details of these alternative arrangements; this will include restrictions on the representatives who can sign the forms, for example –

- cannot be the other party to the marriage/conversion;
- cannot be the authorized celebrant who it is anticipated will oversee the marriage/conversion;
- cannot be the Superintendent Registrar or deputy who is solemnizing the marriage/overseeing the conversion (although that does not preclude it from being the Superintendent Registrar or deputy if they are not acting as authorized celebrant and are not solemnizing the marriage, etc.);
- cannot be someone who will also act as witness to the marriage. This is a safeguard against sham or forced marriage;
- must be someone who the Superintendent Registrar deems as an appropriate person to sign on behalf of the party by dint of their relationship with the party (for example; a friend, family member, care worker, G.P.), or by dint of their office (for example, a deputy of the Superintendent Registrar);
- cannot be a minor.

It will also set out requirements to inform the Superintendent Registrar if a representative is signing, including that the Superintendent Registrar must –

- be informed in advance on the prescribed form (as set out in secondary legislation);
- agree that the proposed representative is an appropriate person (as set out above);
- have received and verified all supporting documentation relating to the representative's identity.

The alternative arrangements for signing forms do not apply in relation to people who do not have capacity to consent to marriage/conversion to marriage. Article 7(1)(a) of the Capacity and Self-Determination (Jersey) Law 2016 provides that nothing in that Law shall be taken to permit consent to be given, on behalf of another person, to marriage.

Article 80C (inserted): Fees and Charges

The Minister will, by Order, prescribe the fees to be paid under the amended 2001 Law. None of the fees paid will be refundable, unless the Order sets out that they can be refunded. For example, in the event that a wedding is called off, the parties to a marriage cannot ask for their money back; however, exceptions may apply in emergency circumstances.

In addition, whilst fees which may be charged by the Superintendent Registrar in relation to administrative processes of converting a civil partnership to a marriage, those fees will not apply to conversions that take place within 2 years from the date at which same-sex marriage is introduced. This is because the administrative conversion option has been developed in order to support couples who were previously denied access to same-sex marriage, but who have already paid the fees associated with the registration of their civil partnership.

Article 80D (inserted): Publications by the Superintendent Registrar

This Article provides that the Superintendent Registrar must publish the forms and documents required in law, but may also publish any other guidance relevant to the Law.

The forms set out in the 2001 Law are out of date and, in many cases their layout requires the use of non-standard paper sizes, which increases costs. The forms introduced under the new Law will be of standard size to facilitate printing and scanning.

Where a form includes the designation, *bride, bridegroom or spouse*, people will be allowed, to the extent that it is possible, to choose which designation is used on their forms. This is to allow for same-sex marriage (for example: 2 brides can marry, 2 grooms can marry, or 2 spouses can marry). This is as per P.77/2015, where it was set out that terms such as 'husband' and 'wife', 'mother' and 'father' shall be retained wherever possible.

The language of forms will also be updated, for example –

- references to “maiden name” will be changed to “previous surname”;
- where a form requires provision of information about a person's parents (forenames and surname), this will allow for inclusion of forename and surname of 2 parents, as the registering of just the father's details is no longer appropriate.

These amendments further support those set out in Article 47 (as substituted) which provide the Superintendent Registrar powers to decide the form of registers, providing they occurred with all relevant Orders. This allows for a more flexible response to changing printing, scanning and binding techniques, which help ensure that historic documents can be more readily archived and are more accessible to future generations.

Article 82 and 82A (amended and inserted): Powers to make further provision

New Articles 82 and 82A provide for the States, by Regulations, to amend other enactments to give full effect to the amended 2001 Law, and for the Minister to make Orders prescribed under the amended Law.

AMENDMENT OF OTHER ENACTMENTS

The information set out below relates to consequential changes to other legislation. It does not provide details relating to minor changes where, for example, another Law is amended simply to incorporate references to the fact that marriage can be between same-sex people; it only focuses on significant changes.

As set out in Section A, the Draft Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201- only provides for consequential amendments to other legislation that is necessitated by the introduction of same-sex marriage. This does not include, for example –

- Enhanced provisions for same-sex parents vis-à-vis extension of parental responsibility, step-parenting agreements, parental leave for surrogate parents, etc. Some of these changes will be brought forward as part of the wholesale review of the Children (Jersey) Law 2002, necessitated by the findings of the Independent Jersey Care Inquiry, and others will flow from the work undertaken by the Employment Forum to review family-friendly employment rights.
- Full reform of Jersey’s divorce legislation, including the potential requirement to access and use mediation services, as per the States’ debate in relation to P.77/2015. This work is scheduled to take place during 2018/2019.
- Changes to the Civil Partnership (Jersey) Law 2012 to ensure that the processes set out in that Law mirror those of the amended 2001 Law. This will be done further to the States Assembly adopting the changes to the 2001 Law.

Discrimination (Jersey) Law 2013 amended

See Section B above.

Gender Recognition (Jersey) Law 2010 amended

The Gender Recognition (Jersey) Law 2010 is amended to provide for the introduction of same-sex marriage. The overall effect of those changes will be to provide that the Court will issue a full certificate to applicant who has changed gender in accordance with the law in another jurisdiction where that person is married or single. Whilst the Court will continue to issue an interim certificate only to someone who is in a civil partnership, it will provide for a full certificate to be issued if the Civil Partnership is converted into a marriage.

In addition, as a consequence of these changes, under Article 18(1)(g) of the Matrimonial Causes (Jersey) Law 1949, there will no longer be a Decree of nullity based on the issue of an interim certificate.

Income Tax (Jersey) Law 1961 amended

The changes to the Income Tax (Jersey) Law 1961 facilitate the taxation of same-sex married couples so that they are taxed on the same basis as other married couples. Same-sex married couples will be entitled to the same reliefs and allowances as different-sex married couples. Under the current legislation, for all married couples, there is one taxpayer. For different-sex married couples, the taxpayer is the husband; for same-sex married couples, the taxpayer is the eldest spouse.

Matrimonial Causes (Jersey) Law 1949 amended

It is intended that the Matrimonial Causes (Jersey) Law 1949 (the “1949 Law”) will be subject to complete review and amendment during 2018/2019. The changes below are simply those required to allow for divorce amongst same-sex couples. It is recognised that the amendments brought forward do not address the problems associated with the adultery as grounds for divorce (or refusal to consummate as ground for nullity)¹⁴.

SECTION F: FINANCIAL AND MANPOWER IMPLICATIONS

The amended Law has a range of financial and manpower implications. These include the following.

It is anticipated that the ability to get married in the open air may result in increased numbers of non-residents getting married in Jersey. In the event that this does happen, there may be an impact on staffing levels at the Office of the Superintendent Registrar. This should, however, be managed within increased fees levels and the improved IT functionality. Work has already commenced on the design of up-to-date IT systems which allow people to interact online with the Superintendent Registrar.

As set out in the 2017 – 2019 Medium Term Financial Plan, it is intended that the Office of the Superintendent Registrar will be self-funding by 2019. In order to achieve this, there will be an increase in fees in relation to the services provided by the Superintendent Registrar. These fees will be prescribed by Order. It is important to recognise that, whilst fees will increase, they will still represent a very small proportion of the monies that people spend on organising wedding ceremonies.

The amended 2001 Law does provide opportunities to create savings, which will help minimise the necessary fees increases. These savings will be created through –

- better use of information technology;
- the potential relocation of the Superintendent Registrar’s office;
- use of standard paper sizes to reduce binding and archiving costs.

Collective responsibility under Standing Order 21(3A)

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers, and the Assistant Ministers to the Chief Minister, are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

¹⁴ Adultery is an act between a man and a woman and cannot be cited if a spouse has an affair with someone of the same sex. In addition, its definition is limited to a penetrative act, which does not include other sexual acts. It is therefore of potentially limited relevance to same-sex couples.

SECTION G: HUMAN RIGHTS STATEMENT

Human Rights

The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX TO REPORT

Human Rights Notes on the Draft Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201-

These Notes have been prepared in respect of the Draft Marriage and Civil Status (Jersey) Law 201- (the “**draft Law**”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“**ECHR**”).

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law will amend the Marriage and Civil Status (Jersey) Law 2001 (the “**2001 Law**”) to permit the solemnization of marriages between persons of the same sex, the solemnization of marriages by conversion of civil partnerships, amend the formalities for marriages and amend the registration requirements for births and deaths.

The main Articles of the ECHR which are potentially engaged by the draft Law, and its primary objective of providing for same sex marriage, are Article 9 (right to freedom of thought, conscience and religion), Article 12 (right of men and women to marry) and Article 14 (prohibiting discrimination in the field of enjoyment of rights guaranteed by the ECHR). As the draft Law also makes comprehensive reforms to marriage processes there are other ECHR considerations to take into account, such as aspects engaging Article 8 ECHR right to private life and the protection of property covered by Article 1 of the First Protocol to the ECHR.

Provisions relating to religious organizations and individual officials: Marriages according to religious rites: no compulsion to solemnize marriage, etc. (Article 7); Issue of marriage schedule (Article 15); Approved locations (Article 23)

Articles 7, 15 and 23 of the draft Law are key provisions in the draft Law’s implementation of a permissive scheme whereby religious organizations may decide whether or not to solemnize same sex marriages. Articles 7 and 23 also operate to protect religious organizations and officials from being compelled to undertake, or refrain from doing, acts associated with such marriages.

These provisions engage Articles 9, 12 and 14 ECHR and are relevant to the most significant ECHR issues associated with the draft Law, namely the rights of same sex couples to enter into a marriage by a religious ceremony; the right of religious organizations to conduct religious marriage ceremonies of same sex couples, should they wish to; and the right of religious organizations and their representatives not to conduct religious marriage ceremonies of same sex couples, if they do not wish to.

The framework to be implemented by Articles 7, 15 and 23 is similar in nature (rather than construction) to the approach taken in the UK’s Marriage (Same Sex Couples) Act 2013 (the “2013 Act”) and the Gender Recognition Act 2004, which amended the Marriage Act 1949. That framework of provisions is commonly referred to as the ‘quadruple lock’.

The 'Quadruple Lock': non-compulsion

The first element of the 'quadruple lock' to consider is the protection of religious organizations and officials against compulsion in matters relating to same sex marriages. The non-compulsion provision is contained in Article 7 of the draft Law and provides that a person (which is defined in Article 7(3) as including a 'religious organization, an authorized religious official') shall not be compelled to do, or refrain from doing, certain activities in relation to a marriage, where the reason for not doing so, or refraining, is that the marriage concerns two persons of the same sex or a marriage of a person believed to be of an acquired gender. The list of activities in Article 7(1) includes the solemnization of a marriage, giving consent to a marriage, applying for authorization for a person to solemnize a marriage, and giving consent or certifying any matter relating to a marriage. Article 23(8) of the draft Law also provides for specific protection against non-compulsion in the context of authorization for the use of locations for same sex marriages. The analysis below as regards Article 7 of the draft Law applies equally to Article 23(8).

Article 7 of the draft Law engages Article 9 ECHR. Article 9(1) ECHR provides that everyone has the right to freedom of thought, conscience and religion. Article 9(2) ECHR provides that freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others. Measures which prevent a person from manifesting their belief in a way that is recognised under Article 9 ECHR or penalising them for doing so will generally constitute a limitation of the person's right which will require justification. Justification will require showing that the limiting measure is proportionate to the aim of the interference. Article 9 ECHR is a collective, as well as an individual, right so both religious officials and religious organizations benefit from its protection.

'Manifestations' of a religion or belief protected under Article 9 ECHR are only those linked to beliefs or creeds such as acts of worship and devotion. To understand the application of Article 9 ECHR in the context of marriage legislation, it is important to appreciate that, while religious officials and organizations who facilitate marriages are doing so pursuant to a legal framework for the legal union of two people, the solemnization of a marriage by a religious celebrant is itself a 'sacrament'. A marriage according to religious rites is an act of worship or devotion forming part of the practice of a religion or belief and, because it is a 'manifestation' which is intimately linked to such acts, it is a practice that falls squarely within the protection of Article 9 ECHR. Religious organizations have the right to determine their doctrine and internal religious affairs, including as regards marriage, without interference from the State.

The European Court of Human Rights ("**ECtHR**") has held that the autonomy of religious organizations is "indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection which [Article 9 ECHR] affords". The State therefore has an obligation to protect the Article 9 ECHR rights of religious organizations and officials, and given the importance afforded to religious autonomy, it could not be proportionate to interfere with the religious freedom of such persons by requiring them to solemnize marriages that they consider to be doctrinally impermissible. As a result, any compulsion by a State on a religious organization to engage in a practice contrary to the beliefs of its members would infringe the Article 9 ECHR rights of the organizations, its members and officials. The draft Law does not require that any religious organization or religious official must solemnize marriages of same sex couples and so there is no active infringement with the Article 9 ECHR

right by the draft Law in this regard. The operation of Article 7 of the draft Law operates to ensure there can be no lawful compulsion of religious organizations and officials in this sphere, and this is clearly justified given the importance of protecting the Article 9 ECHR rights of such persons.

Exclusion of civil officials from non-compulsion provisions

The protection against non-compulsion afforded to religious organizations and officials raises the question as to the application of Article 9 ECHR in the case of non-religious, or civil, officials. Article 7(3) of the draft Law makes it clear that the non-compulsion provision in Article 7(1) of the draft Law “does not include a civil marriage celebrant” and the wider interpretation of Article 7(3) is that any civil official is not covered by the protection against compulsion. The effect of this, to illustrate by example, is that a civil marriage celebrant is required to comply with the Law, i.e. to marry a same sex couple, and a registrar is required to make the relevant registrations as the case may be, notwithstanding that he or she may have religious objections to same sex marriage. The exclusion of civil officials from Article 7 of the draft Law can also be understood as the draft Law not making provision for the conscientious objection of civil officials whose religious or philosophical beliefs mean that they do not want to solemnize marriage of same sex couples.

It is possible that civil officials might argue that Article 14 ECHR (prohibition of discrimination) read with Article 9 ECHR should mean that they must be allowed to conscientiously object to performing functions where their beliefs conflict with the principle of same sex marriage. The ECtHR has directly considered such claims before, holding that if a person is employed as a registrar or celebrant performing public functions, for example, it is unlawful to refuse to perform a part of those functions because of disagreement with the law as to who may get married. The justification for the interference with the ECHR rights of civil officials in such cases is based on the legitimate aim that public officials should offer their services to all without discrimination based on sexual orientation. Article 9 ECHR requires a balance to be struck between the rights of same sex couples in this regard and the rights of those who disagree with homosexuality or same sex union. Addressing inequality and tackling discrimination is a legitimate aim and an important social issue, and would, arguably, clearly justify measures preventing civil officials from objecting to same sex marriage being deemed proportionate in the determination of that balancing exercise. Moreover, the ECtHR has held that there is a wide margin of appreciation for national authorities when it comes to striking a balance between competing ECHR rights (i.e. between the Article 12 and 8 ECHR rights of same sex couples and the Article 9 ECHR rights of civil officials) and that a State did not exceed the margin of appreciation by prohibiting civil officials to object to performing functions as regards same sex couples, or by refusing to put in place alternative arrangements which would accommodate the objections of civil officials if made. It is, therefore, difficult to see that the effect of the non-compulsion provisions, and ‘opt-in’ scheme described below, would be considered incompatible as regards civil officials.

The ‘Quadruple Lock’: ‘Opting-in’ to the solemnization of same sex marriage

The remaining elements of the ‘quadruple lock’ are provided for in Articles 15 and 23. Article 15 of the draft Law provides for the issue by the Superintendent Registrar of a marriage schedule and paragraph (3)(d) thereto requires that, if the marriage celebrant to be named is an authorized religious official, he or she consents to solemnizing the marriage. Article 23 of the draft Law provides for the approval of locations for the solemnization of marriages and paragraph (7) provides that approval shall not be given for the solemnization of a same sex marriages at a location that is certified by the Minister as the usual place of public religious worship of any religious organization

unless: (i) the governing authority of every religious organization in respect of which that location has been certified as its usual place of public worship has given written consent to the use of that location for the solemnization of same sex marriages, and (ii) the owner or trustee of the location has given written consent to the use of that location for the solemnization of same sex marriages.

The effect of these provisions is to implement a scheme whereby religious organizations and officials can decide whether or not they wish to solemnize same sex marriages. This is, in effect, an ‘opt-in’ scheme although the draft Law does not seek to label it as such (note that the 2013 Act frames equivalent provisions expressly in terms of ‘opt-in’ and ‘opt-out’ – the reference to ‘opt-in’ activities in the context of the draft Law is used simply for ease of reference). In order for a same sex marriage to be solemnized in a place of religious worship the governing religious organization, the owners of the relevant building and the individual religious official who will solemnize the marriage must all consent to the solemnization of same sex marriage.

Merely permitting the solemnization of marriages of same sex couples according to religious rites on religious premises will not infringe the Article 9 ECHR rights of any religious organization. The Article 9 ECHR rights of the organization, the owners of locations and individual officials are protected by the requirement for them to give consent to the solemnization of same sex marriage, and the fact that they can’t be compelled to do so under Article 7 and Article 23(8) of the draft Law. Equally, there is no precedent which would suggest the ECtHR would seek to interfere with the internal policies and decision-making of a religious body, i.e. by accepting a challenge to a religious organizations refusal to marry a same sex couple, for example by refusing to give consent to a particular act or approval. Rather, there is clear precedent that, where States have attempted to interfere, it is held that the State must remain neutral in relation to the internal workings of religious bodies. The ‘opt-in’ provisions of the draft Law uphold this principle of State neutrality by respecting the existing practices of religions and enables those organizations which want to opt in to do so, whilst providing protections for those that do not. Therefore, the religious freedoms of all organizations is respected and not interfered with any more than necessary.

The requirement for consent at each step (i.e. organization, location, official) also means that the Article 9 ECHR rights of a religious official unwilling to solemnize a same sex marriage are protected, notwithstanding that his or her religious organization, and the owner of the location in which he or she serves, has provided consent. In such circumstances the religious organization will be able to arrange for another official to conduct the ceremony. The unwilling official is not imposing their own views on the organization and its members, they are simply not willing to compromise their own beliefs, and are not infringing the rights and freedoms of the wider religious organization and members. Conversely, where a religious official wishes to solemnize a same sex marriage but is prevented from doing so because the religious organization has not consented to the solemnization of such marriages, the Article 9 ECHR rights of that official are not infringed. It would not be proportionate in these cases for a ‘splinter’ official to impose his or her religious views as to same sex marriage on the religious organization which they represent. The Article 9 ECHR infringement does not materialise because of the importance given, in justification, to the protection of the rights and freedoms of others, i.e. the religious organization.

The effect of the ‘opt-in’ scheme must also be assessed, in Article 9 ECHR and Article 12 ECHR terms, from the perspective of same sex couples. The opt-in system for religious bodies represents a difference of treatment on grounds of sexual orientation within the scope of Article 12 ECHR for those same sex couples who

might wish to be married in a place of religious worship in accordance with the rites of their religion. Taking Article 12 ECHR first, such persons might argue that their right to marry is infringed by the operation of the ‘opt-in’ provisions by denying them the opportunity to marry. It is, however, important to appreciate that the right to marry under Article 12 ECHR does not guarantee the right to marriage for same sex couples. The question of whether to allow same sex marriage falls within a States margin of appreciation and, as such, Article 12 ECHR does not impose an obligation on a State to grant same sex couples the right to marry. The approach taken by the States, in the draft Law, is to permit same sex marriage albeit through and in accordance with the operation of an opt-in scheme.

Looking to the Article 9 ECHR rights of same sex couples, determining whether there is an infringement of their rights in these circumstance requires those rights to be balanced against the rights of religious organizations. In an Article 9(2) ECHR context, it has been emphasized that ‘differences based on sexual orientation require particularly serious reasons by way of justification’. An obvious theoretical challenge to the draft Law is that, in making provisions for marriage, there are no ‘particularly serious reasons’ to justify religious bodies treating same sex couples differently to heterosexual couples. However, ‘serious reasons’ in the context of Article 9 ECHR does not prohibit all differences but rather requires that any differences must be justified by good reasons. Protecting the religious freedom of religious organizations is a ‘good reason’ and an identifiable legitimate aim in justifying the difference in treatment.

It is also possible that a same sex couple, who are prevented from marrying because of the operation of the ‘opt-in’ provisions described above, might argue that their Article 14 ECHR right to non-discrimination in manifesting their religious beliefs or in marriage (read together with Article 9 and 12 ECHR) are engaged by way of difference in treatment on grounds of sexual orientation. If such a challenge materialised, the justification for any Article 14 ECHR interference would be based on the need to protect the Article 9 ECHR rights of religious organizations (the importance of which in ECHR terms is explained above). Indeed, if all religious organizations were compelled, by statute or otherwise, to marry same sex couples, the effect would be to treat religions with different doctrines in the same manner. The blanket application of any such measure could, in failing to make a distinction between different religious doctrines, amount to a discriminatory measure which, given the weight ascribed to the protection of Article 9 ECHR freedoms, might be regarded as unjustified.

Position of the Anglican Church in Jersey

Article 7(6) of the draft Law provides that 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 by the Law to marriages of 2 persons of the same sex or marriages of persons of an acquired gender. Furthermore, Part 3 of the 2001 Law is not amended to enable marriage of same sex couples and other provisions under which the Anglican Church in Jersey may marry couples are similarly not extended.

The draft Law therefore treats the Anglican Church differently to other religious organizations, which are permitted to determine whether or not to provide for marriages of same sex couples. The reason for draft Law taking this position is the Anglican Church’s unique position as the established Church in Jersey, and the fact that it is understood that the Anglican Church does not favour same sex marriage at this time. The Anglican Church is under a duty to marry a parishioner in their parish church and, if the draft Law sought to extend provisions relating to same sex marriage

to the Anglican Church, the right of every parishioner to be married in his or her parish church would then be engaged as regards same sex couples as well as opposite sex couples. For this reason, and the distinct position of Canon Law and the particular legal circumstances surrounding the Anglican Church position in Jersey, it is important that the draft Law expressly makes it clear that there is no duty on a member of the clergy to solemnize marriages of same sex couples, in addition to not imposing statutory measures facilitating sex marriage on the Anglican Church.

The effect of this is that, arguably, the draft Law and the wider position of the Anglican Church, will limit the choice of same sex couples who happen also to be members of the Church of England to be married in a religious ceremony according to their faith. It also limits the choice of clergymen in determining who to marry in pursuance of their beliefs; their authority to marry being limited to opposite sex couples. While that may be the case, any interference with the Article 9 ECHR rights of parishioners or clergymen is justified. Any requirement imposed on the Church of England by the draft Law or otherwise, to marry same sex couples contrary to its religious doctrine, would infringe its Article 9 ECHR rights. Again, the margin of appreciation in Article 9 ECHR matters afforded to States is relevant here. That margin is wide and, in Jersey's case (as in England), must accommodate the complex issues surrounding the relationship of the State and the Church. The difference in treatment of the Anglican Church is justified due to the legal circumstances of that Church in Jersey.

Regulation of marriage celebrants (Persons authorized to solemnize marriages in Jersey (Article 6))

Article 6 of the draft Law provides that the Minister shall prescribe a scheme for the appointment of persons as an authorized civil celebrant or authorized religious official. That scheme must include, among other things, the matters to be taken into account in determining whether to authorize a person, the conditions that shall or may be imposed on the grant or renewal of an authorization, the determination and charging of prescribed fees in respect of the grant of or renewal of an authorization, and the circumstances in which an authorization shall or may be granted, renewed, suspended or revoked. In practice, it is intended that this scheme is used to authorize a range of civil celebrants to solemnize marriage in Jersey and the provision of authorized celebrant services will, in some cases, be a significant commercial enterprise for individuals.

The power to prescribe a scheme for the authorization of civil celebrants is, in itself, compatible with the ECHR. However, an Order made under that provision to implement the detail of the scheme will seek to allow for the determination of when a person can be authorized, impose potentially restrictive conditions on the exercise of that authorization and when that authorization might be revoked. These aspects of the authorization scheme will have the potential to engage the protection of property in Article 1 of the First Protocol ("A1P1") to the ECHR. The concept of a 'possession' under A1P1 has been given an expansive scope. In particular, a client base can amount to a 'possession' and the refusal to grant an authorization or equivalent to the business, which would affect the provision or scope of professional services, in turn resulting in the commerciality of the business, has been held to amount to an interference with the A1P1 right. The client base of an authorized civil celebrant, and the commercial nature of the provision of celebrant services, would mean that any restriction on that business, or revocation or alteration of the authorization, would amount to an interference with the A1P1 right of that celebrant.

An interference with the AIP1 rights of celebrants in these circumstances would be justified. Measures for the authorization of civil celebrants will be in ‘accordance with the law’, i.e. they will be implemented pursuant to primary and secondary legislation power. The rationale for those measures would also be for ‘the general interest’, namely the interest of ensuring that civil celebrants provide services relating to the solemnization of marriage in a manner that is both legal and moral (i.e. reflects the solemnity and dignity of the occasion of marriage). The requirement for a civil celebrant to comply with a scheme of authorization would, in principle, be proportionate to those legitimate aims. The authorization of celebrants is necessary to ensure that marriages are conducted in a legal and solemn manner, and by appropriate and qualified individuals. Equally, for these reasons, there is a necessity for it to be possible to revoke or cancel authorizations. It should be appreciated that, where property rights are concerned, states have a considerable margin of appreciation in determining the existence of a general public concern and in implementing measures designed to meet it, so in imposing an authorization system that might interfere with certain property rights but is required for an identifiable public interest, the States would be afforded a substantial degree of deference. In principle, therefore, the power to provide for a scheme of authorisation and the intention to regulate the ability for civil celebrants to operate, in this manner, is compatible with the ECHR although the detail of the scheme to be implemented must be proportionate.

Procedural requirements relating to marriage: Part 2, for example, Consideration of application for notice of intention to marry (Article 9); Issue of marriage schedule (Article 15)

New Part 2 to the 2001 Law sets out a number of procedural provisions relating to, among other things, the application for a marriage schedule and the review of such an application by the Superintendent Registrar. These procedural steps provide a number of instances in which authorisation, approval or the facilitation of the solemnization of a marriage can be refused or otherwise delayed, and also numerous procedural requirements and steps which couples must accord to or satisfy. This note to the draft Law does not seek to extract every instance for analysis but some examples will be illustrative for the purposes of the ECHR assessment. Article 9(2) of the draft Law provides the Superintendent Registrar with a power to refuse to issue a notice of intention to marry on the basis that he or she is not satisfied that both parties to the marriage are capable of consenting to the marriage and are entering into the marriage freely, or because there are other grounds for not issuing a notice of intended marriage. Article 15(4) also contains a power for the Superintendent Registrar to refuse to issue a marriage schedule if any party to the marriage is incapable of consenting to the marriage or is not entering into the marriage freely, or any other grounds exist for not issuing a marriage schedule. The effect of these provisions is that the Superintendent Registrar can, in essence, prevent a couple from marrying, should the relevant grounds be established.

The right to marry (Article 12 ECHR) is confined to marriage “according to the national laws governing the exercise of this right”. While national law may lay down the requisite formalities and rules of capacity, it may not injure the substance of the right. So, a State is free to establish and require certain formalities to be completed in order to establish the identity of the individuals concerned and such requirements will not, so long as they do not damage the substance of the right, amount to an interference with Article 12 ECHR. On this basis, so long as the requirements to be implemented under Part 2 of the Law are proportionate, and the exercise of the Superintendent Registrar’s discretion and assessment of grounds for refusing to issue a

notice or schedule are exercised in a proportionate manner, the power to require compliance with procedural formalities is compatible with the ECHR.

Co-operation and disclosure (Article 24F)

Article 24F of the draft Law provides a power for the Superintendent Registrar to disclose to any person any information or documents obtained by him or her in pursuance of any of his or her functions under the Law and request information and make such enquiries as he or she thinks fit for the purpose of verifying the accuracy or authenticity of any application or information delivered under the Law. That provision also enables the Superintendent Registrar to disclose information to, among others, persons performing equivalent registrar functions, or functions equivalent to the police, customs and immigration, in another jurisdiction.

Article 8 ECHR (right to private life) protects personal data as part of the subject's private life. The disclosure of information intimately connected with an individual's private life, without the consent of the individual, will constitute an interference with private life and will require some overriding public interest justification. In this sphere, however, a certain margin of appreciation is left to the competent national authorities, the scope of which will vary depending on the nature and seriousness of the interests at stake, and the gravity of the interference. However, for disclosure to be "necessary in a democratic society" within the meaning of Article 8(2) ECHR, it must be subject to procedural safeguards.

The scope of information and documents which may be obtained by the Superintendent Registrar under the 2001 Law is very wide. It will, for example, include information such as the name and address of individuals who have made applications under, or are otherwise, registered under the Law but will also include potentially sensitive information relating to divorce and gender re-assignment, for example. As a result, there is no doubt that the disclosure power in Article 24F will engage Article 8 ECHR. Indeed, even where the data in question is not personal in nature (in the classic sense), but rather relates to seemingly nondescript data, an interference with the Article 8 ECHR right may still be established.

Any interference with the Article 8(1) ECHR right must be justified under Article 8(2) ECHR, meaning it must be: (a) in accordance with the law; (b) in pursuit of one of the legitimate aims set out in Article 8(2) ECHR; and (c) necessary in a democratic society. 'Necessity' requires the identification of a pressing social need and the existence of "relevant and sufficient" reasons to justify the interference at issue. A measure will only be proportionate to the legitimate aim if supported by sufficiently persuasive reasons.

The nature of interference constituted by the disclosure power in the draft Law would be deemed to be 'in accordance with the law'; those provisions will have a basis in domestic law and can be viewed as sufficiently precise and accessible, therefore being foreseeable. The rationale for the interference, embodied in the Article 24F, is to ensure the Superintendent Registrar is able to perform his or her functions under the 2001 Law, which pertain, for example, to ensuring procedural requirements around the solemnization of marriage and registrations are complied with. The proper registration of marriages, births and deaths, among other things, and ensuring oversight of arrangements to facilitate the solemnization of marriages and conversions to marriage, for example, are all aspects which correspond to the protection of morals and rights and freedoms of others objective in Article 8(2) ECHR.

'Necessary in a democratic society' requires there to be a pressing social need for the interference in question. In the present case, it is fair to conclude generally that a power to disclose information in pursuance of the Superintendent Registrar's functions

under the 2001 Law is ‘necessary’ for undertaking those functions as far as they require interaction with other persons. Providing the Superintendent Registrar with powers necessary to enable performance of statutory functions, in an important sphere of social regulation, is a ‘pressing social need’. Given the legitimate aims concerned and the necessity for regulation, the interference with the Article 8 ECHR right is proportionate, in principle. In practice, it will be important for the Superintendent Registrar to exercise the Article 24F power in a proportionate manner.

An important aspect in determining what is ‘necessary in a democratic society’ is the identification of procedural safeguards which mitigate the exercise of powers interfering with private life. Safeguards ensure that a state remains within its margin of appreciation in fixing the applicable regulatory framework. The ECtHR has enunciated a list of safeguards which provide adequate protection against abuse of the Article 8 right, one of which was the requirement for the law to contain explicit and detailed provisions about how the powers interfering with Article 8 ECHR could be exercised. The Article 24F disclosure power is restricted to disclosure by a single officeholder, the Superintendent Registrar, and only extends to a disclosure for the purposes of his or her functions under the 2001 Law. Moreover, the power in Article 24F(3) and (4), for disclosure to an equivalent officeholder in another jurisdiction, is restricted in its scope by a reasonableness standard and a purposive restrictions around assisting those officeholders to exercise functions pertaining to that office. These aspects of Article 24F operate as safeguards against the excessive exercise of the disclosure power. Furthermore, the Superintendent Registrar is, as a ‘data processor’ under the Data Protection (Jersey) Law 2005 subject to the strict provisions in that Law around the processing of information, in particular the principles of fair and lawful processing and processing for limited purposes which, in themselves, should temper any potential for excessive or disproportionate disclosures by the Superintendent Registrar.

Consequential amendments

Discrimination (Jersey) Law 2013 amendment (Schedule, paragraph 4)

The Discrimination (Jersey) Law 2013 (the “2013 Law”) will be amended by the draft Law to insert a further exemption from discrimination under Article 22 of the 2013 Law (prohibited acts of discrimination: goods, facilities and services). In essence, the effect of the amendment will be that a person does not contravene Article 22, discrimination on grounds of sex or sexual orientation in providing services, by refusing to facilitate a same sex marriage if that person is a religious official or religious organization and the reason for not facilitating the marriage is that the marriage is between 2 persons of the same sex.

This amendment to the 2013 Law mirrors the implementation in the draft Law of provisions designed to protect the Article 9 ECHR rights of religious organizations and officials (as discussed further above). The exemption of religious officials from the Article 22 discrimination prohibition is clearly justified for reasons similar to their right to refuse to marry same sex couples in contradiction of their religious doctrine. Accordingly, there is no interference with the Article 9 or 12 ECHR rights of same sex couples wishing to be married by extending the exemption from discrimination in such cases.

Gender Recognition (Jersey) Law 2010 amendment (Schedule, paragraph 7)

Gender recognition is governed by the Gender Recognition (Jersey) Law 2010 (the “**2010 Law**”) and provides for the legal recognition in Jersey of changes in gender by transsexual people. Legal recognition of gender change in Jersey follows from the issue of a full gender recognition certificate by the Royal Court. Before issuing a

certificate the Royal Court must be satisfied that the applicant has been recognised under the law of an approved jurisdiction as having changed gender, because of limitations in Jersey around on-island services for those seeking to change their gender. On issue of a full certificate, a transsexual person will be entitled to an amended Jersey birth certificate reflecting his or her acquired gender.

The 2010 Law will be amended so that a person who is either single or married will receive a full gender certificate from the Court on satisfying it that he or she has changed his or her gender in accordance with the laws of an approved jurisdiction. The provision of a full gender certificate to a married person, rather than an interim certificate (which would be issued pending the marriage being annulled) recognises the fact that same sex marriage would be legal. The ability for couples to remain married following a change in gender of one of the parties is an important Article 12 ECHR aspect, and the issue of full gender certificates by the Court to those who are married reflects this. However, the Matrimonial Causes (Jersey) Law 1949 (Article 18(1)(g)) will be amended so that it continues to provide a person with the power to seek a decree of nullity on the issue of a gender recognition certificate under the 2010 Law. This aspect of the 1949 Law recognises the Article 12 ECHR rights of the spouse of a person who changes his or gender, and the fact that the person may not wish to continue in the marriage.

Explanatory Note

This Law amends the Marriage and Civil Status (Jersey) Law (the “2001 Law” as defined by Article 1) to permit the solemnization of marriages between persons of the same sex, permit the solemnization of marriages by conversion of civil partnerships, amend the formalities for marriages and amend the registration requirements for births and deaths.

Article 2 substitutes new Parts 1 and 2 of the 2001 Law.

New Part 1 of the 2001 Law comprises new Articles 1 to 7 which deal with introductory matters relating to interpretation, the right to marry and restrictions on marriage.

New Article 1 of the 2001 Law provides definitions for words used throughout that Law.

New Article 2 of the 2001 Law makes it lawful for 2 persons of the same sex to marry and for civil partners to marry by converting their civil partnership to a marriage if the marriage is solemnized in accordance with the 2001 Law. New Article 2 of the 2001 Law also clarifies that nothing in that Article affects the rights of 2 persons of the opposite sex to marry.

New Article 3 of the 2001 Law specifies certain circumstances in which a marriage would be void, including that a marriage, would be void if, at the time of the solemnization of the marriage either party is already lawfully married or in a civil partnership with a person, except that a solemnization of a marriage between civil partners converting their civil partnership to a marriage would not be void if the marriage is solemnized in accordance with that Law.

Under new Article 4 of the 2001 Law, a marriage would be void if, at the time of the solemnization of the marriage, either party is under the age of 16. New Article 4 of the 2001 Law also imposes a requirement for consent of the persons specified in Schedule 2 to the 2001 Law where the marriage of a minor aged 16 years or over is intended to be solemnized on the authority of a marriage schedule or certificate of no impediment to marriage issued by the Superintendent Registrar, or an ordinary licence or special licence of the Dean. The Superintendent Registrar or Dean (as the case may be) is given the power to dispense with the consent where the person whose consent is required cannot be obtained by reason of absence or inaccessibility or by reason of that person being under a disability. Where the Superintendent Registrar or Dean, as the case may be, refuses to dispense with consent, the Inferior Number of the Royal Court, has the power, on the application of the minor, to give consent in place of that person.

By new Article 5 of the 2001 Law, a marriage which results from the purported conversion of a void civil partnership would be void. A marriage which results from the purported conversion of a lawful civil partnership would also be void in the circumstances set out in new Article 5(2) of the 2001 Law.

New Article 6 of the 2001 Law provides that a marriage may only be solemnized by the Superintendent Registrar or a Deputy Superintendent Registrar, a clergyman, an authorized civil celebrant, or an authorized religious official. Every civil marriage celebrant has a duty to solemnize the marriage of 2 persons (whether or not they are of the same sex or the opposite sex) and whether or not the marriage is by conversion.

Under new Article 6 of the 2001 Law, the Minister for Home Affairs (the “Minister” as defined in new Article 1 of the 2001 Law) is required to prescribe a scheme for the

authorization by the Superintendent Registrar of persons as authorized civil celebrants or authorized religious officials. The Superintendent Registrar is prevented from authorizing a person as both an authorized civil celebrant and an authorized religious official.

New Article 7 of the 2001 Law clarifies that a religious organization, an authorized religious official or a clergyman but not a civil marriage celebrant (“a person” as defined in new Article 7(3) of the 2001 Law) would not be compelled to solemnize a same sex marriage or a marriage of a person that is believed to be of an acquired gender or to do certain acts in respect of such a marriage.

New Part 2 of the 2001 Law comprises Articles 8 to 24G which deal with marriages that are authorized under a marriage schedule or certificate of no impediment to marriage issued by the Superintendent Registrar.

New Article 8 of the 2001 Law requires that an application for a notice of intended marriage be delivered to the Superintendent Registrar where a marriage is intended to be solemnized on the authority of a marriage schedule or certificate of no impediment to marriage issued by the Superintendent Registrar.

New Article 9 of the 2001 Law provides for the consideration by the Superintendent Registrar of an application for a notice of intended marriage.

New Article 10 of the 2001 Law provides for the giving of a notice of intended marriage and the making of a freedom to marry declaration by the parties to an intended marriage. The parties to the intended marriage must have been resident at their place of residence (whether in Jersey or elsewhere) for at least 7 days before they give notice of the intended marriage to the Superintendent Registrar.

New Article 11 of the 2001 Law requires the Superintendent Registrar to publish a notice of intended marriage for a period of at least 25 clear days ending on the date of the marriage at the Office of the Superintendent Registrar, on the website of the States of Jersey and in any other place that the Superintendent considers appropriate. A notice of intended marriage would be void after the expiry of 1 year beginning on the day it was first published.

New Article 12 of the 2001 Law permits a person to enter a caveat with the Superintendent Registrar against the issue of a marriage schedule or a certificate of no impediment to marriage if the person has reason to believe that there is lawful cause to obstruct the issue of the marriage schedule or certificate of no impediment to marriage.

New Article 13 of the 2001 Law permits any person whose consent is required under Article 4 of that Law to a marriage intended to be solemnized on the authority of a marriage schedule or certificate of no impediment to marriage to forbid the issue of a marriage schedule or certificate of no impediment to marriage, in which case the notice of intended marriage and all proceedings on it would be void. Where the Inferior Number of the Royal Court orders that the marriage schedule or certificate of no impediment to marriage be issued under Article 12(5) of the 2001 Law, in the place of a person who has refused consent, that person would not be entitled to forbid the issue of a marriage schedule or certificate of no impediment to marriage for that marriage and the notice of intended marriage and proceedings would not be void.

Under new Article 14 of the 2001 Law, any person whose ordinary place of residence is outside Jersey must, if he or she intends to marry in Jersey, deliver to the Superintendent Registrar a valid certificate of freedom to marry issued by a marriage authority in the jurisdiction of the person’s ordinary place of residence. In cases where the period of residency of the person who intends to marry in the person’s ordinary

place of residence is less than 2 years, or where the Superintendent Registrar reasonably believes that additional checks are necessary, the Superintendent Registrar may require the person to deliver a certificate of freedom to marry issued in respect of that person by the marriage authority in which that person previously resided or the jurisdiction of the person's nationality.

New Article 15 of the 2001 Law makes provision for the issue of a marriage schedule by the Superintendent Registrar to the marriage celebrant on application by one of the parties to an intended marriage where a marriage is intended to be solemnized in Jersey.

New Article 16 of the 2001 Law makes provision for the issue of a certificate of no impediment to marriage by the Superintendent Registrar for a marriage that is intended to be solemnized outside of Jersey.

New Article 17 of the 2001 Law makes provision for the solemnization of a marriage. Where a marriage schedule states that a marriage between the persons named in the marriage schedule is intended to be solemnized in a location named in that marriage schedule, the marriage must be solemnized in that location but otherwise according to such form and ceremony as those persons may see fit to adopt. New Article 17 of the 2001 Law also requires that a marriage must be solemnized between the hours of 8 a.m. and 7 p.m. by a marriage celebrant and in the presence of 2 or more witnesses, in addition to the marriage celebrant.

New Article 18 of the 2001 Law makes provision for changes to the date, time or location of an intended marriage.

New Article 19 of the 2001 Law requires an application for a conversion to be delivered to the Superintendent Registrar where civil partners wish to convert their civil partnership to a marriage. The parties to the intended conversion must have been resident at their place of residence (whether in Jersey or elsewhere) for at least 7 days before they give notice of the intended marriage to the Superintendent Registrar.

New Article 20 of the 2001 Law provides for the consideration by the Superintendent Registrar of an application for a conversion.

New Article 21 of the 2001 Law provides for the Superintendent Registrar to issue a conversion declaration form for signing by the parties to an intended conversion from a civil partnership to a marriage.

New Article 22 of the 2001 Law makes provision for the procedure for a marriage by conversion and provides that a marriage by conversion may be solemnized between the hours of 8 a.m. and 7 p.m. in the presence of a marriage celebrant. If the civil partners do not wish to have any ceremony other than making the declarations contained in Article 22(9) of the 2001 Law, the marriage must be solemnized before the Superintendent Registrar or a Deputy Superintendent Registrar at any approved location for the solemnization of civil marriages. If the civil partners wish to have any ceremony in addition to making declarations, the marriage must be solemnized by a marriage celebrant, other than an authorized religious official, at any approved location for the solemnization of civil marriages or by an authorized religious official at any approved location for the solemnization of marriages that is approved by the religious organization to which the authorized religious official belongs.

New Article 23 of the 2001 Law prohibits a marriage from being solemnized unless it is at an approved location. The Minister is required by Order to establish a scheme for the approval by an approving authority (as defined in new Article 1(1) of the 2001 Law) of any location for the purpose of solemnizing marriages at that location.

New Article 24 of the 2001 Law requires the Minister to make provision for cases where special circumstances exist such that persons intending to solemnize their marriage on the authority of a marriage schedule or conversion declaration wish to solemnize their marriage in a location that is not an approved location; solemnize their marriage earlier than 25 clear days after the publication of notice of marriage under new Article 11 of the 2001 Law; solemnize their marriage at night; or change the date, time or location of the marriage specified in the notice of intended marriage or application for a conversion.

New Article 24A of the 2001 Law requires a marriage celebrant to return each marriage schedule, conversion declaration form, marriage certificate and signature verification form to the Superintendent Registrar as soon as practicable after the solemnization of a marriage. The registrar of the parish in which a marriage was solemnized is required to keep a register of all marriages (including marriages by conversion) that are solemnized in his or her parish.

New Article 24B provides for the keeping of information, books, indexes and registers relating to marriage and conversion by the Superintendent Registrar.

New Article 24C of the 2001 Law makes provision for searches by any person of certain books, indexes or registers held by the Superintendent Registrar or the Royal Court.

New Article 24D of the 2001 Law clarifies that where a marriage is solemnized under Part 2 of the that Law, it shall not be necessary , in support of the marriage to give proof of the matters that are specified in Article 24D(1) of that Law.

New Article 24E of the 2001 Law specifies certain circumstances in which a marriage would be void.

New Article 24F of the 2001 Law gives the Superintendent Registrar the power to disclose to any person any information or documents obtained by him or her in pursuance of any of his or her functions under that Law. The Superintendent Registrar is also given the power to request information and make such enquiries as he or she thinks fit for the purpose of verifying the accuracy of any application or information delivered to him or her or the authenticity of any document provided to him or her or determining whether any ground exists for the Superintendent Registrar to refuse to issue any notice or certificate.

New Article 24G of the 2001 Law gives the Minister the power by Order to prescribe the information and documents that must be supplied when giving notice of intended marriage, prescribe the manner in which that information or documentation may or must be supplied or amend any period specified the 2001 Law.

Article 3 amends Article 39 of the 2001 Law to change the reference to “intermarry” to a reference to “marry” and to change a cross-reference that is required in consequence of other amendments.

Article 4 repeals Article 40A of the 2001 Law.

Article 5 amends Article 41 of the 2001 Law to provide for a Superintendent Registrar and one or more Deputy Superintendent Registrars to be employed by the States Employment Board rather appointed by the Minister and for the any person currently holding those positions to continue to hold them as if he or she has been employed by the States Employment Board.

Article 5 also amends Article 41 of the 2001 Law to provide for each Deputy Registrar to have such powers as the Superintendent Registrar may delegate to him or her and to

be subject to the same duties, conditions and penalties as the Superintendent Registrar in respect of any such delegated power.

Article 6 amends Article 42 of the 2001 Law to make provision for the publication by the Superintendent Registrar of a role description and person specification in respect of the roles of registrar and deputy registrar in a parish and a scheme setting out the process for the training and monitoring of registrars and deputy registrars; investigating complaints against a registrar or deputy registrar; the circumstances in which a person may or must be suspended or removed from the role as registrar or deputy registrar; and the review of any decision to suspend or remove a person from the role as registrar or deputy registrar. Each parish is required to have regard to the published role description in choosing a registrar and deputy registrars registered in the parish.

Article 7 substitutes a new Article 44 in the 2001 Law which makes provision for the States to provide and maintain for the Superintendent Registrar an office where records and documents required to be kept by the Superintendent Registrar may be kept in safe custody and protected from fire.

Article 8 amends Article 47 of the 2001 Law to provide for a register supplied to a registrar by the Superintendent Registrar under paragraphs (1) and (2) of that Article to be in such form as the Superintendent Registrar decides and to contain the prescribed particulars.

Article 9 amends Article 51 of the 2001 Law to impose the duty on the father or mother (rather than just the father) in the first instance to inform the Registrar of the birth of a child within 21 days.

Article 10 amends Article 53 of the 2001 Law to provide that where Article 51 of that Law has not been complied with, the Superintendent Registrar may, by notice in such form as the Superintendent Registrar decides, and to the extent that he or she has not received a particular about the birth of a child, require the father or mother of the child, any person who assisted at the birth and any person having care of the child, to provide him or her, to the best of his or her ability, with the particulars of the birth.

Article 11 amends Article 58 of the 2001 Law so that a certificate for an alteration or registration of a name, where none was previously registered would be a certificate containing prescribed information in such form as the Superintendent Registrar may by notice require rather than a certificate in a form prescribed by the Minister.

Article 12 amends Article 60 of the 2001 Law so that a birth certificate would be in such form as the Superintendent Registrar may by notice require rather than in the prescribed form.

Article 13 amends Article 61 of the 2001 Law so that a certificate by a medical practitioner and a certificate of registration of a still birth would be in such form as the Superintendent Registrar may by notice require rather than in a form prescribed by the Minister.

Article 14 amends Article 64 of the 2001 Law so that a certificate of the cause of death would be in such form as the Superintendent Registrar may by notice require rather than in the prescribed form and manner.

Article 15 amends Article 68 of the 2001 Law so that a certificate of registration of death would be in the form as the Superintendent Registrar may by notice require rather than in the form prescribed by Order of the Minister.

Article 16 amends Article 69 of the 2001 Law to provide for the particulars of a marriage to be registered by the registrar of the parish in which the marriage was solemnized where it is solemnized in a place other than in an Anglican church. Where

a marriage is solemnized in an Anglican church, the clergyman by whom the marriage is solemnized would register the particulars of the marriage.

Article 17 substitutes new Article 70 of the 2001 Law which requires the particulars of the marriage to be recorded and a record of the particulars of the marriage to be held, in accordance with prescribed requirements, by the registrar of the parish in which the marriage was solemnized.

Article 18 amends Article 71 of the 2001 Law to enable a person who is under a duty to register or record the particulars of a marriage to require the Superintendent Registrar (rather than the parties to a marriage) to provide those particulars.

Article 19 amends Article 74 of the 2001 Law to add references to marriages by conversion and to give the Minister the power by Order to specify procedures for the making of returns from parish registrars or the Anglican Church.

Article 20 amends Article 75(1) of the 2001 Law to add a reference to marriages by conversion.

Article 21 substitutes new Article 76 of the 2001 Law which makes provision for offences relating to the solemnization of marriage.

Article 22 substitutes new Article 78 of the 2001 Law which provides for every incumbent of an Anglican church or a registrar, at all reasonable hours, to allow searches to be made in any register in his or her keeping and to give a copy certified under his or her hand of any entry in such a register. Article 78 also gives a person an entitlement to search the index maintained by the Superintendent Registrar and to have a copy of an entry in a book or a register kept by the Superintendent Registrar. Fees are prescribed for the provision of copies supplied by a registrar.

Article 23 substitutes new Articles 80A, 80B, 80C and 80D in the 2001 Law which provide for the provision of documents to the Superintendent Registrar; the signing of documents; fees and charges and publications by the Superintendent Registrar.

Article 24 substitutes new Articles 82 and 82A in the 2001 Law. New Article 82 gives the States the power by Regulations to amend specified provisions of the 2001 Law. New Article 82 also gives the States the power by Regulations to make such amendments to other enactments where it is expedient to do so for certain purposes. New Article 82A gives the Minister the power by Order to prescribe anything that may or shall be prescribed under the 2001 Law, other than anything that may be prescribed by Rules of Court. New Article 82A also clarifies that the power to make Regulations or Orders includes the power to make supplementary, incidental, consequential, transitional transitory or savings provisions.

Article 25 substitutes new Schedules 1 and 2 to the 2001 Law. New Schedule 1 lists the relations that a person is prohibited to marry. New Schedule 2 specifies the persons who are required to give consent to a marriage of a minor.

Article 26 provides for the enactments specified in the Schedule to be amended in the manner specified in the Schedule.

Article 27 provides the title of the Law and provides for it to come into force on such day or days as the States may by Act appoint.



Jersey

DRAFT MARRIAGE AND CIVIL STATUS (AMENDMENT No. 4) (JERSEY) LAW 201-

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Jersey

DRAFT MARRIAGE AND CIVIL STATUS (AMENDMENT No. 4) (JERSEY) LAW 201-

A LAW to amend the Marriage and Civil Status (Jersey) Law 2001 to permit the solemnization of marriages between persons of the same sex, permit the solemnization of marriages by conversion of civil partnerships, amend the formalities for marriages and amend the registration requirements for births and deaths and for connected purposes.

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

In this Law “2001 Law” means the Marriage and Civil Status (Jersey) Law 2001¹.

2 Parts 1 and 2 substituted

For Parts 1 and 2 of the 2001 Law there shall be substituted the following Parts –

“PART 1 INTRODUCTION

Interpretation

1 Interpretation

(1) In this Law, unless the context otherwise requires –

‘1995 Law’ means the Inquests and Post-Mortem Examinations (Jersey) Law 1995²;

‘acquired gender’ has the meaning given by Article 1(2) of the Gender Recognition (Jersey) Law 2010³;

‘apostille’ means a certificate of authenticity applied to a document in accordance with the process required under the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents done at the Hague on 5th October 1961;

‘approved location’ shall be construed in accordance with Article 23;

‘approving authority’ means the Connétable of the parish in which a location that is subject to an application for approval under the scheme in Article 23 is situated or such other person to whom the Connétable may delegate the responsibility for approving locations for the purposes of this Law;

‘authorized civil celebrant’ means a person authorized as such under Article 6(3);

‘authorized religious official’ means a person authorized as such under Article 6(3);

‘banns’ means banns of matrimony;

‘brother’ includes a brother of the half-blood;

‘certificate of freedom to marry’ shall be construed in accordance with Article 14;

‘certificate of no impediment to marriage’ shall be construed in accordance with Article 16;

‘child of the family’, in relation to any person, means another person who, when not of full age, has lived in the same household as that person and been treated by that person as a child of his or her family;

‘civil marriage’ means a marriage that is not solemnized according to any religious rites or usages;

‘civil marriage celebrant’ means the Superintendent Registrar, a Deputy Superintendent Registrar or an authorized civil celebrant;

‘clergyman’ means the Dean, a priest or a deacon of the Anglican Church;

‘conversion’ means a conversion of a civil partnership to a marriage under this Law;

‘conversion declaration form’ shall be construed in accordance with Article 21;

‘Dean’ includes the Vice-Dean;

‘deputy registrar’ means a person appointed as such under Article 42(1A)(b);

‘Deputy Superintendent Registrar’ means a person employed under the Employment of States of Jersey Employees (Jersey) Law 2005⁴ as a Deputy Superintendent Registrar for the purposes of this Law;

‘freedom to marry declaration’ shall be construed in accordance with Article 10;

‘governing authority’ means the person or persons recognized by the members of a recognized and established religious organization as its governing authority;

‘illegitimate child’ means a child who is not legitimate by birth, as defined in Article 2(1) of the Legitimacy (Jersey) Law 1973⁵;

‘immigration officer’ means an immigration officer appointed under Schedule 2 to the Immigration Act 1971 of the United Kingdom, as extended to the Bailiwick of Jersey by the Immigration (Jersey) Order 1993⁶ or a person who carries out similar duties to such an officer in another jurisdiction;

‘marriage authority’ means the authority in the jurisdiction of the person’s usual place of residence outside Jersey that is able to search the relevant records relating to the civil status of its residents;

‘marriage celebrant’ means any person described in Article 6(1)(a), (b), (c) and (d);

‘marriage schedule’ shall be construed in accordance with Article 15;

‘Minister’ means the Minister for Home Affairs;

‘notice of intended marriage’ shall be construed in accordance with Article 10;

‘notice of intended marriage form’ shall be construed in accordance with Article 10;

‘notices of intended marriage book’ means the notices of intended marriage book held by the Superintendent Registrar under Article 24B(2)(c);

‘officer of the Impôts’ means the Agent of the Impôts, Deputy Agent of the Impôts or an officer of the Impôts appointed under Article 4 of the Customs and Excise (Jersey) Law 1999⁷;

‘licence’, ‘ordinary licence’ and ‘special licence’ shall be construed in accordance with Part 3;

‘prescribed’ means, except in Articles 28(2) and 40, prescribed by Order of the Minister;

‘register of approved locations’ means the register kept pursuant to Article 24B(2)(d);

‘register of authorized civil celebrants’ means the register kept pursuant to Article 24B(2)(a);

‘register of authorized religious officials’ means the register kept pursuant to Article 24B(2)(b);

‘registered medical practitioner’ shall have the same meaning as in the Medical Practitioners (Registration) (Jersey) Law 1960⁸;

‘registrar’ means a person appointed as such under Article 42;

‘religious marriage’ means a marriage solemnized according to religious rites or usages;

‘same sex marriage’ means the marriage of 2 persons of the same sex and includes a marriage by conversion;

‘signature verification form’ shall be construed in accordance with Article 15(3);

‘sister’ includes a sister of the half-blood;

‘Superintendent Registrar’ means the person employed under the Employment of States of Jersey Employees (Jersey) Law 2005⁹ as the Superintendent Registrar for the purposes of this Law under Article 41;

‘working day’ means any day other than Christmas Day, Good Friday, a Sunday or a day observed as a bank holiday pursuant to the Public Holidays and Bank Holidays (Jersey) Law 1951¹⁰.

- (2) For the purposes of this Law, relationship by blood shall include such a relationship even though arising otherwise than by lawful marriage.
- (3) In this Law, any reference to the registrar in relation to a marriage birth, stillbirth or death means the registrar of the parish in which the marriage is solemnized or the birth, stillbirth or death occurs, and includes the registrar’s deputy.

Right to marry and restrictions on marriage

2 Right to marry or convert civil partnership to marriage

- (1) It shall be lawful –
 - (a) for 2 persons of the same sex to marry; and
 - (b) for civil partners to marry by converting their civil partnership to a marriage,if the marriage is solemnized in accordance with this Law.
- (2) Nothing in this Article affects the rights of 2 persons of the opposite sex to marry in accordance with this Law.

3 Restriction on marriage

- (1) A marriage shall be void if at the time of the solemnization of the marriage either party is already lawfully married.
- (2) A marriage shall be void if at the time of the solemnization of the marriage either party is already in a civil partnership with a person, except that a solemnization of a marriage between civil partners

converting their civil partnership to a marriage shall not be void if the marriage is solemnized in accordance with this Law.

- (3) A marriage shall be void if it is between a person and any person listed in Schedule 1.
- (4) Subject to paragraph (5), a marriage shall be void if it is between a person and –
 - (a) his or her former spouse's child or grandchild or former civil partner's child or grandchild;
 - (b) his or her former spouse's adoptive child or grandchild or former civil partner's adoptive child or adoptive grandchild;
 - (c) his or her father's former spouse or former civil partner or grandfather's former spouse or civil partner; or
 - (d) his or her mother's former spouse or former civil partner or grandmother's former spouse or former civil partner.
- (5) Any marriage to which paragraph (4) applies shall not be void by reason only of that paragraph if –
 - (a) both the parties to the marriage are of full age at the time of the marriage; and
 - (b) the younger party has not, at any time before attaining full age, been a child of the family in relation to the other party.

4 Marriage of a minor

- (1) A marriage shall be void if at the time of the solemnization of the marriage, either party is under the age of 16.
- (2) A person whose marriage is void under paragraph (1) because at the time of the solemnization of the marriage the other party to the marriage is under the age of 16 –
 - (a) shall not be guilty of the offence mentioned in the first section of Article 4 of the Loi (1895) modifiant le droit criminel¹¹ if the person establishes that, at the time of commission of the alleged offence, the person had sufficient reason to believe that the person in respect of whom the offence is alleged to have been committed was the person's wife;
 - (b) shall not be guilty of the offence of indecent assault if the person establishes that, at the time of commission of the alleged offence, the person had sufficient reason to believe that the person in respect of whom the offence is alleged to have been committed was the person's spouse.
- (3) Where the marriage of a minor over 16 years is intended to be solemnized on the authority of a marriage schedule or certificate of no impediment to marriage issued by the Superintendent Registrar, or an ordinary licence or special licence of the Dean, the consent of the persons specified in Schedule 2 shall be required.

- (4) The Superintendent Registrar may refuse to issue any marriage schedule or certificate of no impediment to marriage, and the Dean may refuse to issue any certificate or licence, unless satisfied by production of written evidence that the consent of a person specified in Schedule 2 has in fact been obtained.
- (5) Where the consent of any person whose consent is required under paragraph (3) cannot be obtained, by reason of absence or inaccessibility or by reason of his or her being under a disability, the Superintendent Registrar, when deciding whether to issue a marriage schedule or certificate of no impediment to marriage, or the Dean, when deciding whether to issue an ordinary licence or special licence, may dispense with the consent of that person before issuing the marriage schedule, certificate of no impediment to marriage or ordinary or special licence, as the case may be.
- (6) Where the Superintendent Registrar or the Dean, as the case may be, refuses to dispense with the consent of any person required under paragraph (3), the Inferior Number of the Royal Court may, on the application of the minor, give consent in place of that person.
- (7) Where an application is made under paragraph (6) in consequence of a refusal to give consent, the applicant shall serve notice of the application on the person who has refused consent.
- (8) Where the marriage of a minor is intended to be solemnized after the publication of banns then, if any person whose consent would have been required under paragraph (3) for the solemnization of the marriage on the authority of any marriage schedule, certificate of no impediment, ordinary licence or special licence openly and publicly declares or causes to be declared in the Church in which the banns are published, at the time of publication, his or her dissent from the intended marriage, the publication of banns shall be void.

5 Restriction on marriage by conversion

- (1) A marriage which results from the purported conversion of a void civil partnership shall be void.
- (2) A marriage which results from the conversion of a civil partnership shall be void if –
 - (a) the civil partnership is between a person and any person listed in Schedule 1;
 - (b) at the time the civil partnership was formed, either party was under the age of 16;
 - (c) at the time the civil partnership was formed, either party was a minor and consent had not been obtained before the formation of the civil partnership from a person specified in Schedule 2; or
 - (d) the civil partnership is between a person and –

- (i) his or her former spouse's child or grandchild or former civil partner's child or grandchild,
 - (ii) his or her former spouse's adoptive child or grandchild or former civil partner's adoptive child or adoptive grandchild,
 - (iii) his or her father's former spouse or former civil partner or grandfather's former spouse or civil partner, or
 - (iv) his or her mother's former spouse or former civil partner or grandmother's former spouse or former civil partner.
- (3) Any marriage to which paragraph (2)(d) applies shall not be void by reason only of that paragraph if –
- (a) both the parties to the civil partnership were of full age at the time of the formation of the civil partnership; and
 - (b) the younger party had not, at any time before attaining full age, been a child of the family in relation to the other party.

Persons authorized to solemnize marriage

6 Persons authorized to solemnize marriages in Jersey

- (1) A marriage may only be solemnized by –
- (a) the Superintendent Registrar or a Deputy Superintendent Registrar;
 - (b) a clergyman;
 - (c) an authorized civil celebrant; or
 - (d) an authorized religious official.
- (2) Every civil marriage celebrant has a duty to solemnize the marriage of 2 persons –
- (a) whether or not they are of the same sex or the opposite sex; and
 - (b) whether or not the marriage is by conversion.
- (3) The Minister shall prescribe a scheme for the authorization by the Superintendent Registrar of persons as authorized civil celebrants or authorized religious officials, which must include –
- (a) the procedures for applying to be authorized;
 - (b) the matters to be taken into account in determining whether to authorize a person provisionally or fully;
 - (c) the duration and renewal of an authorization;
 - (d) the conditions that shall or may be imposed on the grant or renewal of an authorization, including any condition in respect of the circumstances in which –

- (i) an authorized civil celebrant or authorized religious official may solemnize a marriage, or
 - (ii) a marriage must be solemnized by an authorized civil celebrant;
 - (e) the training and monitoring of marriage celebrants;
 - (f) the determination and charging of prescribed fees in respect of the grant of or renewal of an authorization and for the charging by the Superintendent Registrar for the training of a person authorized or to be authorized as a marriage celebrant;
 - (g) the circumstances in which an authorization shall or may be granted, renewed, suspended or revoked; and
 - (h) the review or appeal of any decision to refuse to authorize or renew an authorization, impose a condition on the grant or renewal of an authorization or revoke an authorization.
- (4) The Superintendent Registrar shall not authorize a person as both an authorized civil celebrant and an authorized religious official.
- (5) Before solemnizing any marriage, an authorized civil celebrant must take an oath before the Royal Court to well and faithfully perform the duties imposed on him or her by or under this Law and to carry out such duties relating to the solemnization and registration of marriages as the Superintendent Registrar directs.
- (6) Any person authorized to solemnize a marriage must carry out his or her duty in compliance with any requirement made under this Law and in a way that upholds the dignity and solemnity of marriage.
- (7) Every person who immediately before the coming into force of the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201-¹² was authorised to solemnize marriages in registered buildings –
- (a) shall be deemed to be an authorized religious official under paragraph (3) for a period of 12 months beginning on the day of the coming into force of that Law;
 - (b) shall only be authorized to solemnize marriages of persons in buildings in respect of which he or she was authorized to solemnize marriages before the coming into force of that Law; and
 - (c) shall only be authorized to solemnize marriages of persons of the opposite sex.

7 Marriages according to religious rites: no compulsion to solemnize marriage etc.

- (1) A person shall not be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement) to do any of the following in respect of 2 persons of the same sex or of a person whom the marriage celebrant reasonably believes to

be a person is of an acquired gender, within the meaning of Article 1(2) of the Gender Recognition (Jersey) Law 2010¹³ –

- (a) to solemnize same sex marriages;
- (b) to solemnize the marriage of the person believed to be of an acquired gender;
- (c) to be present at or participate in the solemnization of a same sex marriage or a marriage of a person believed to be of an acquired gender;
- (d) to consent to the solemnization of a same sex marriage or a marriage of a person believed to be of an acquired gender;
- (e) to apply for authorization for a person to solemnize a same sex marriage or a marriage of a person believed to be of an acquired gender; or
- (f) to give consent or certify any matter relating to a same sex marriage or a marriage of a person believed to be of an acquired gender,

where the reason for not doing so is that the marriage concerns 2 persons of the same sex or a marriage of a person believed to be of an acquired gender.

- (2) For the avoidance of doubt, a person cannot be compelled by any means to refrain from doing any of the activities described in paragraph (1)(a), (b), (c), (d), (e) or (f).
- (3) In paragraphs (1) and (2), ‘person’ includes a religious organization, an authorized religious official or a clergyman but does not include a civil marriage celebrant.
- (4) In paragraphs (1) and (2), ‘person’ applies to an individual whether or not the religious organization to which he or she may belong consents to marriages of 2 persons of the same sex being solemnized according to the rites or usages of that religious organization.
- (5) 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 by this Law to marriages of 2 persons of the same sex or marriages of persons of an acquired gender.

PART 2**MARRIAGE AUTHORIZED UNDER MARRIAGE SCHEDULE OR
CERTIFICATE OF NO IMPEDIMENT TO MARRIAGE ISSUED BY
SUPERINTENDENT REGISTRAR***Pre-marriage procedural requirements and solemnization of marriage***8 Application for notice of intended marriage**

- (1) Where a marriage is intended to be solemnized on the authority of a marriage schedule or certificate of no impediment to marriage issued by the Superintendent Registrar, one or both of the persons intending to marry, or that person's or those person's representative, must –
 - (a) deliver to the Superintendent Registrar an application for a notice of intended marriage not earlier than 1 year before the day of the intended marriage; and
 - (b) pay the prescribed fee.
- (2) The application for a notice of intended marriage must –
 - (a) include such information as may be prescribed;
 - (b) be in such form as the Superintendent Registrar may by notice require; and
 - (c) be accompanied by such documents that corroborate the information required under sub-paragraph (a) as the Superintendent Registrar may by notice require, including (but not limited to) –
 - (i) evidence of the identity, residence and nationality of the parties,
 - (ii) evidence of the parties' immigration status in Jersey, and
 - (iii) evidence of any previous marriage or civil partnership and evidence that it has ended.

9 Consideration of application for notice of intended marriage

- (1) The Superintendent Registrar may consider the application for notice of intended marriage delivered under Article 8 before he or she has inspected the original or certified copy of any document delivered under Article 8(2)(c).
- (2) The Superintendent Registrar may request such other information or documents as he or she considers to be necessary and interview either or both of the parties to the intended marriage or any other person for the purpose of considering the application and in particular for the purpose of any of the following –
 - (a) verifying the accuracy of any information provided or the authenticity of any document;

- (b) satisfying himself or herself that both parties are capable of consenting to the marriage and are entering into the marriage freely; and
- (c) satisfying himself or herself whether any other ground exists for not issuing a notice of intended marriage.

(3) The Superintendent Registrar may –

- (a) reject any information or evidence provided under Article 8 and this Article if he or she has reasonable grounds for suspecting that information or evidence is false; and
- (b) proceed under this Law as if that rejected information or evidence had not been provided.

10 Giving notice of intended marriage and making freedom to marry declaration

- (1) The parties to the intended marriage must have been resident at their place of residence (whether in Jersey or elsewhere) for at least 7 days before they give notice of their intended marriage to the Superintendent Registrar.
- (2) Subject to paragraph (3), notice of intended marriage may not be given until the Superintendent Registrar has inspected the original or certified copies of all of the documents provided in corroboration (as required under Article 8(2)(c)) of the information required under Article 8(2)(a) and has satisfied himself or herself of their authenticity.
- (3) A notice of intended marriage may be given despite the Superintendent Registrar not seeing the original or certified copy of a document referred to in paragraph (2) where the Superintendent Registrar has otherwise satisfied himself or herself that the parties to the intended marriage have corroborated the information provided under Article 8(2)(a) by some other means or in a case where Article 24 applies.
- (4) If the Superintendent Registrar is satisfied that the information and documents referred to in Articles 8 and 9 reveal no reason why the intended marriage between the parties cannot take place, the parties may give notice of their intended marriage in accordance with paragraph (5) or (6).
- (5) If the parties to the intended marriage attend the office of the Superintendent Registrar to give notice of their intended marriage they must, in the presence of the Superintendent Registrar –
 - (a) both sign the notice of intended marriage in respect of their intended marriage in the notices of intended marriage book; and
 - (b) each sign a freedom to marry declaration.
- (6) If the parties to the intended marriage do not intend to attend the office of the Superintendent Registrar to give notice of their intended marriage –

- (a) the Superintendent Registrar must send to the parties a notice of intended marriage form in respect of their intended marriage and a freedom to marry declaration in respect of each of the parties; and
 - (b) the parties must sign and return the notice of intended marriage form and freedom to marry declarations to the Superintendent Registrar,
- (7) Upon receipt of the notice of intended marriage form and freedom to marry declarations under paragraph (6) the Superintendent Registrar must enter a notice of intended marriage in the notices of intended marriage book.
 - (8) A notice of intended marriage form shall be in such form as the Superintendent Registrar decides and must include the prescribed particulars.
 - (9) A freedom to marry declaration shall be in such form as the Superintendent Registrar decides, must include the prescribed particulars and must contain the following declaration –

‘I [AB] solemnly declare that I know of no legal impediment to my intended marriage to BC on grounds of kindred or affinity or on any other ground and I have not at any time before attaining full age, been a child of the family in relation to [BC].’
 - (10) In a case where paragraph (5) applies, the date upon which the parties sign the notice of intended marriage in the notices of intended marriage book is the date upon which the parties give notice of their intended marriage.
 - (11) In the case where paragraph (6) applies, the date on which the Superintendent Registrar enters the details of the intended marriage in the notices of intended marriage book, shall be deemed to be the date on which the parties to the marriage have given notice of their intended marriage (whether or not that date is different to the date on which the parties to the marriage signed the notice of intended marriage form).
 - (12) In the case where Article 24 applies and the Superintendent Registrar has not seen the original or a certified copy of a document submitted to him or her under Article 8 or 9 at the time of entering the details referred to in paragraph (11), the Superintendent Registrar must endorse upon the notices of intended marriage book and the notice of intended marriage that the notice of intended marriage is a provisional notice.

11 Publication of notice of intended marriage and entry in notices of intended marriage book

- (1) The Superintendent Registrar must publish the notice of intended marriage any time after the notice has been given provided that it must not be published more than one year before the intended date of the marriage and, subject to Article 24, must be published for a period of at least 25 clear days ending on the date of the marriage –

- (a) at the Office of the Superintendent Registrar;
- (b) on the website of the States of Jersey; and
- (c) in any other place that the Superintendent Registrar considers appropriate.

- (2) A notice of intended marriage shall be void after the expiry of 1 year beginning on the day on which it is first published.

12 Caveat against issue of marriage schedule or certificate of no impediment to marriage

- (1) A person having reason to believe that there is lawful cause to obstruct the issue of a marriage schedule or certificate of no impediment to marriage may enter a caveat with the Superintendent Registrar against such issue.
- (2) A caveat shall be signed by or on behalf of the person by whom it is entered, state his or her place of residence and the grounds for entering the caveat.
- (3) Subject to paragraph (6), where a caveat is entered, the Superintendent Registrar shall not issue a marriage schedule or certificate of no impediment to marriage until –
 - (a) he or she has examined into the matter of the caveat and is satisfied that it ought not obstruct the issue of a marriage schedule or certificate of no impediment to marriage; or
 - (b) the caveat is withdrawn by the person who entered it.
- (4) If the Superintendent Registrar is doubtful whether to issue a marriage schedule or certificate of no impediment to marriage, he or she may refer the matter of the caveat to the Inferior Number of the Royal Court.
- (5) Where the matter of a caveat is referred to the Inferior Number of the Royal Court, the Royal Court may uphold the caveat or order that the marriage schedule or certificate of no impediment to marriage be issued and no appeal shall lie from the decision of the Royal Court.
- (6) Where a caveat is entered against a marriage on the ground that the persons to be married are not both of full age or that one of those persons has, at any time before attaining full age, been a child of the family in relation to the other then, even if the caveat is withdrawn by the person who entered it, the Superintendent Registrar shall not issue a marriage schedule or certificate of no impediment to marriage unless a declaration is obtained from the Inferior Number of the Royal Court under paragraph (7).
- (7) In the case described in paragraph (6), one of the persons to be married may apply to the Inferior Number of the Royal Court for a declaration that, both those persons being of full age and the younger of those persons not having been, at any time before attaining full age, a child of the family in relation to the other, there

is no impediment (on the grounds referred to in paragraph (6)) to the solemnization of the marriage.

- (8) The Inferior Number of the Royal Court, in any proceedings before it under this Article, may order the person who entered the caveat to pay all or part of the costs of the proceedings and damages to the person against whose marriage the caveat was entered.

13 Forbidding of issue of marriage schedule or certificate of no impediment to marriage

- (1) Subject to paragraph (3), any person whose consent is required to a marriage intended to be solemnized on the authority of a marriage schedule or certificate of no impediment to marriage under Article 4 may forbid the issue of a marriage schedule or certificate of no impediment to marriage by writing, at any time before its issue, the word ‘forbidden’ in the margin of the notices of intended marriage book next to the entry of the notice of intended marriage and subscribing to that word the person’s name, place of residence and the capacity, in relation to either of the persons to be married, in which he or she forbids the issue of the schedule or certificate.
- (2) Subject to paragraph (3), where the issue of a marriage schedule or certificate of no impediment to marriage is forbidden under paragraph (1), the notice of intended marriage and all proceedings on it shall be void.
- (3) Where the Inferior Number of the Royal Court orders that the marriage schedule or certificate of no impediment to marriage be issued under Article 12(5), in the place of a person who has refused consent, that person shall not be entitled to forbid the issue of a marriage schedule or certificate of no impediment to marriage for that marriage under this Article and the notice of intended marriage and proceedings on it shall not be void by virtue of this Article.

14 Marriage in Jersey by non-Jersey resident: certificate of freedom to marry issued by other authority

- (1) Any person, whose ordinary place of residence is outside Jersey, must, if he or she intends to marry in Jersey, deliver to the Superintendent Registrar a valid certificate of freedom to marry issued in respect of that person by the marriage authority in the jurisdiction of the person’s ordinary place of residence.
- (2) The Superintendent Registrar may require a person who intends to marry in Jersey to deliver to the Superintendent Registrar a certificate of freedom to marry issued in respect of that person by the marriage authority of the jurisdiction in which that person previously resided or the jurisdiction of the person’s nationality where –
 - (a) the person has been resident in his or her ordinary place of residence for a total period of less than 2 years; or

- (b) the Superintendent Registrar reasonably considers that additional checks are necessary to satisfy himself or herself that no lawful impediment exists to prevent the person from freely entering into the intended marriage.
- (3) For the purposes of this Law, a certificate of freedom to marry is a document (whether or not described as a certificate of freedom to marry) that provides official confirmation from a marriage authority of any marriage or civil partnership entered into by the person in that jurisdiction.
- (4) The certificate of freedom to marry must –
 - (a) include the full names of the parties to the intended marriage and the location of the intended marriage;
 - (b) be issued not more than 3 months before the intended date of marriage; and
 - (c) if it contains a date of expiry, be a date that falls after the date of the intended marriage.
- (5) The Superintendent Registrar may require the certificate of freedom to marry delivered under this Article to be authenticated by way of an apostille applied to the document or in such other manner as the Superintendent Registrar may reasonably require.
- (6) The Superintendent Registrar may refuse to issue a marriage schedule in respect of any person intending to marry in Jersey who fails to deliver to the Superintendent Registrar a valid certificate of freedom to marry as may be required under paragraph (1) or (2) unless the Superintendent Registrar is satisfied that the failure is beyond the control of the person in respect of whom the requirement applies.

15 Issue of marriage schedule

- (1) Where a marriage is intended to be solemnized in Jersey one of the parties to the intended marriage must, subject to Article 24, at least 2 clear days and not more than 10 clear days before the day on which the marriage is to be solemnized, request the Superintendent Registrar to issue a marriage schedule.
- (2) The request must be accompanied by the prescribed fee.
- (3) The Superintendent Registrar must not issue a marriage schedule unless –
 - (a) both parties to the intended marriage have attended the office of the Superintendent Registrar (together or separately), and in the presence of the Superintendent Registrar, have signed a signature verification form, and the Superintendent Registrar is satisfied that the signatures on the freedom to marry declarations are the signatures of the persons signing the signature verification form;

- (b) each person who is required under Article 14 to provide a certificate of freedom to marry has delivered the original of a valid certificate to the Superintendent Registrar;
 - (c) the prescribed fee has been paid; and
 - (d) if the marriage celebrant to be named in the marriage schedule is an authorized religious official, in the case of a same sex marriage, he or she consents to solemnizing the marriage.
- (4) The Superintendent Registrar must refuse to issue a marriage schedule if he or she satisfied that –
- (a) any party to the marriage is incapable of consenting to the marriage or is not entering into the marriage freely; or
 - (b) any other ground exists for not issuing a marriage schedule.
- (5) Subject to paragraphs (3) and (4), the Superintendent Registrar shall issue the marriage schedule to the marriage celebrant unless –
- (a) any lawful impediment has been shown to his or her satisfaction; or
 - (b) its issue has been forbidden under Article 13.
- (6) The marriage schedule and signature verification form shall be in such form as the Superintendent Registrar may decide and contain such particulars as may be prescribed.
- (7) Upon issuing the marriage schedule, the Superintendent Registrar shall also issue to the marriage celebrant –
- (a) 3 marriage certificates for completion at the solemnization of the marriage;
 - (b) a notice of time and location of the marriage; and
 - (c) the signature verification form signed by both parties to the intended marriage.
- (8) The marriage certificates shall be in such form as the Superintendent Registrar decides and must contain such particulars as may be prescribed.
- (9) A notice under paragraph 7(b) shall contain such particulars and be in such form as the Superintendent by notice requires.
- (10) Subject to Article 24, if the marriage –
- (a) is not solemnized on the date specified in the marriage schedule;
 - (b) is not specified in the location specified in the marriage schedule; and
 - (c) is solemnized earlier than the time specified in the marriage schedule, or more than 1 hour later than the time specified in the marriage schedule,
- the marriage schedule shall be void and no person shall solemnise the marriage on its authority.

16 Issue of certificate of no impediment by Superintendent Registrar for marriage outside Jersey

- (1) A party to a marriage who is resident in Jersey and whose marriage is intended to be solemnized outside Jersey may request the Superintendent Registrar to issue a certificate of no impediment to marriage in respect of that person.
- (2) Subject to Article 24, the request must be made before the day on which the marriage is to be solemnized and must be accompanied by the prescribed fee.
- (3) The Superintendent Registrar must not issue a certificate of no impediment to marriage under paragraph (1) unless –
 - (a) the notice of intended marriage has been published in accordance with Article 11;
 - (b) the person requiring the certificate of no impediment to marriage has attended the office of the Superintendent Registrar and signed the certificate of no impediment to marriage in the Superintendent Registrar's presence; and
 - (c) the prescribed fee has been paid.
- (4) The Superintendent Registrar must sign the certificate of no impediment to marriage and endorse upon it the date on which he or she signed it and must issue the certificate of no impediment to marriage to the party who requested it, or to his or her agent, unless –
 - (a) any lawful impediment has been shown to his or her satisfaction; or
 - (b) its issue has been forbidden under Article 13.
- (5) The certificate of no impediment to marriage –
 - (a) must state the date upon which notice of intended marriage was given;
 - (b) must state the residence of the person in respect of whom it relates; and
 - (c) may be in such form as the Superintendent Registrar may decide and contain such particulars as may be prescribed.
- (6) A certificate of no impediment to marriage issued under this Article –
 - (a) is only valid for a marriage that takes place on the date and at the location indicated on the certificate; and
 - (b) shall remain valid for a period of 3 months from the date of date that notice of intention of marriage was given.
- (7) A certificate of no impediment to marriage shall be void if it is not issued in accordance with this Article and no person shall solemnize the marriage on its authority.

17 Solemnization of marriage

- (1) This Article is subject Article 24.
- (2) Where a marriage schedule states that a marriage between the persons named in the marriage schedule is intended to be solemnized in an approved location and by the marriage celebrant named in that marriage schedule, the marriage must be solemnized in that location and by that marriage celebrant in accordance with this Article but otherwise according to such form and ceremony as those persons may see fit to adopt.
- (3) A marriage must be solemnized –
 - (a) between the hours of 8 a.m. and 7 p.m.;
 - (b) by a marriage celebrant; and
 - (c) in the presence of 2 or more witnesses, in addition to the marriage celebrant.
- (4) The marriage celebrant must display a notice of the solemnization of the marriage, or cause a notice of the solemnization of the marriage to be displayed, at the approved location named in the marriage schedule for at least one hour before the commencement of the ceremony and until the conclusion of the ceremony.
- (5) The notice of the solemnization of the marriage displayed under paragraph (4) must contain the forenames and surnames of both parties to the marriage and the time, date and location of the solemnization of the marriage.
- (6) Members of the public shall be permitted to attend freely the solemnization of a marriage.
- (7) Each of the persons to the marriage shall, in some part of the marriage ceremony and in the presence of the witnesses and the marriage celebrant –
 - (a) make the following declaration –

‘I solemnly declare that I know of no lawful reason why I, [AB] may not be joined in marriage to [CD]’; and
 - (b) say to the other person –

‘I call upon the persons here present to witness that I, [AB], take you, [CD], to be my lawful wedded wife [or husband] [or spouse].’.
- (8) A civil marriage celebrant must not permit any marriage solemnized by him or her to include any religious ritual or symbol or permit prayers or any religious worship or service to be conducted during the marriage ceremony.
- (9) A civil marriage celebrant, if satisfied that the content of the marriage ceremony does not contravene paragraph (8), must permit any marriage solemnized by him or her to contain any of the following –
 - (a) hymns, songs or chants, whether or not they contain any references of a religious nature;

- (b) readings from the bible or other holy books or any other reading that contains any references of a religious nature;
 - (c) vows or statements of commitment by the persons to each other that make any references of a religious nature, provided that any such vow or statement does not replicate any made in any religious marriage ceremony.
- (10) A marriage celebrant must permit candles, lights, incense, ribbons and other decorations provided that, in the case of a civil celebrant, he or she is satisfied that they are not used in contravention of paragraph (6).
 - (11) After the parties have made the declaration under paragraph (7) the parties to the marriage and the witnesses must sign the marriage schedule and the marriage certificates.
 - (12) The marriage celebrant, if satisfied that the parties celebrating the marriage are the same parties whose signatures are on the signature verification form given to him or her by the Superintendent Registrar, shall sign and date the marriage schedule and the marriage certificates.
 - (13) The parties to the marriage shall be married upon the signing of the marriage schedule by the marriage celebrant.
 - (14) Two of the marriage certificates may be kept by the parties to the marriage.
 - (15) Nothing in this Article shall be construed as requiring a marriage celebrant to attend the solemnization of a marriage on a particular day or at a particular time.

18 Changes to date, time or location of intended marriage

- (1) If the parties to an intended marriage wish to change the date or time of the marriage contained in the notice of intended marriage, both parties must notify the Superintendent Registrar in writing of the new date or time (subject to Article 24) not later than 25 clear days before the new date.
- (2) If the parties to a marriage intended to take place in Jersey wish to change the location of the intended marriage contained in the notice of intended marriage, both parties must notify the Superintendent Registrar in writing of the new location (subject to Article 24) not later than 25 clear days before the date of the intended marriage.
- (3) The Superintendent Registrar shall, as soon as reasonably practicable after receiving notice under paragraph (1) or (2), and upon payment by the parties to the marriage of the prescribed fee, endorse a note of any change of date, time or location upon the published notice of intended marriage, the notices of intended marriage book and on any electronic records so as to accurately record the change of date, time or location, as the case may be.

- (4) Where for any reason a marriage in respect of which a notice of intended marriage has been published is not to take place, the Superintendent Registrar must endorse a note in the notices of intended marriage book and on any electronic records to that effect.

Marriage by Conversion

19 Application for conversion

- (1) Subject to Article 24, where civil partners wish to convert their civil partnership to a marriage, one or both of the civil partners or that person's or those persons' representative, must –
 - (a) deliver to the Superintendent Registrar an application for a conversion not earlier than 1 year before the day of the intended conversion; and
 - (b) pay the prescribed fee.
- (2) The parties to the intended conversion must have been resident at their place of residence (whether in Jersey or elsewhere) for at least 7 days before they make their application to the Superintendent Registrar.
- (3) The application for a conversion must –
 - (a) include the prescribed information;
 - (b) be in such form as the Superintendent Registrar may by notice require; and
 - (c) be accompanied by such documents that corroborate the information required under sub-paragraph (a) as the Superintendent Registrar may by notice require, including (but not limited to) –
 - (i) evidence of the identity, residence and nationality of the parties,
 - (ii) evidence of the parties' immigration position in Jersey, and
 - (iii) evidence that when the civil partnership was formed, if it had instead been a marriage, it would not have been a void marriage under Article 3.

20 Consideration of application for conversion

- (1) The Superintendent Registrar may consider the application for a conversion delivered under Article 19 before he or she has inspected the original or certified copy of any document referred to in Article 19(3)(c) but he or she must not issue a conversion declaration form unless the Superintendent Registrar has inspected the original or certified copy of those documents.
- (2) The Superintendent Registrar may request such other information or documents as he or she considers to be necessary and interview

either or both of the parties to the intended conversion or any other person for the purpose of considering the application and in particular for the purpose of –

- (a) verifying the accuracy of any information provided or authenticity of any document;
- (b) satisfying himself or herself that both parties are capable of consenting to the conversion and are entering into the marriage freely; and
- (c) satisfying himself or herself whether any other ground exists for not issuing a conversion declaration form.

- (3) If the Superintendent Registrar concludes that the information and documents referred to in Article 19(3) and paragraph (2) reveal no reason why the civil partners may not marry by conversion, the Superintendent Registrar must notify the civil partners of that conclusion and that the conversion declaration form may be issued.

21 Issue of conversion declaration form

- (1) One or both of the parties to the intended marriage must, subject to Article 24, at least 2 clear days and not more than 10 clear days before the day on which the marriage by conversion is to be solemnized, request the Superintendent Registrar to issue a conversion declaration form for signing by the parties to the marriage.
- (2) The request must be accompanied by the prescribed fee.
- (3) The Superintendent Registrar must not issue a conversion declaration form unless –
 - (a) both parties to the intended conversion have attended the office of the Superintendent Registrar (together or separately), and –
 - (i) have brought with them the original or certified copy of the documents required under Articles 19(3)(c) and 20(2), and
 - (ii) in the presence of the Superintendent Registrar have signed a signature verification form; and
 - (b) subject to paragraph (5), the Superintendent Registrar has inspected the original or certified copies of all of the documents provided in corroboration of the information required under Articles 19(3) and 20(2) and has satisfied himself or herself of their authenticity; and
 - (c) the prescribed fee has been paid.
- (4) Subject to paragraph (3) the Superintendent Registrar must refuse to issue the conversion declaration form to the marriage celebrant if he or she is satisfied that –
 - (a) any party to the marriage is incapable of consenting to the conversion or is not entering into the marriage freely; or

- (b) any other ground exists for not issuing a conversion declaration form.
- (5) The Superintendent Registrar may issue a conversion declaration form for completion by the parties to the marriage, despite not seeing the original or certified copy of a document referred to in paragraph (3)(b) where the Superintendent Registrar has otherwise satisfied himself or herself that the parties to the intended conversion have corroborated any information provided under Articles 19(3) and 20(2) by some other means.
- (6) Upon issuing the conversion declaration form the Superintendent Registrar shall also issue to the marriage celebrant –
 - (a) the form for entering details of the marriage by conversion into the conversion register held by the registrar of the parish;
 - (b) 3 marriage certificates for completion at the solemnization of the marriage;
 - (c) a signature verification form, signed by both parties to the intended marriage.
- (7) The conversion declaration form, signature verification form and the marriage certificates shall be in such form as the Superintendent Registrar decides and contain the prescribed information.

22 Marriage by conversion

- (1) This Article is subject to Article 24.
- (2) A marriage by conversion may be solemnized between the hours of 8 a.m. and 7 p.m. in the presence of a marriage celebrant.
- (3) The marriage may be solemnized –
 - (a) upon payment to the Superintendent Registrar or a Deputy Superintendent Registrar of the prescribed fee; or
 - (b) upon such payment as any other marriage celebrant and the parties to the marriage may agree is payable for the services of the marriage celebrant.
- (4) If the civil partners do not wish to have any ceremony other than making the declarations contained in paragraph (9), the marriage must be solemnized before the Superintendent Registrar or a Deputy Superintendent Registrar at any approved location for the solemnization of civil marriages.
- (5) If the civil partners wish to have any ceremony in addition to making the declarations contained in paragraph (9), the marriage must be solemnized –
 - (a) by a marriage celebrant, other than an authorized religious official, at any approved location for the solemnization of civil marriages; or

-
- (b) by an authorized religious official at any approved location for the solemnization of marriages.
- (6) A civil marriage celebrant must not permit any marriage ceremony solemnized by him or her under this Article to include any religious ritual or symbol or permit prayers or any religious worship, or service to be conducted during the marriage ceremony.
- (7) A civil marriage celebrant, if satisfied that the content of the marriage ceremony does not contravene paragraph (6), must permit any marriage ceremony solemnized by him or her to contain any of the following –
- (a) hymns, songs or chants, whether or not they contain any references of a religious nature;
 - (b) readings from the bible or other holy books or any other reading that contains any references of a religious nature;
 - (c) vows or statements of commitment by the persons to each other that make any references of a religious nature, provided that any such vow or statement does not replicate any made in any religious marriage ceremony.
- (8) A marriage celebrant must permit candles, lights, incense, ribbons and other decorations provided that, in the case of a civil celebrant, he or she is satisfied that they are not used in contravention of paragraph (6).
- (9) Each of the civil partners shall in the presence of the marriage celebrant make the following declaration to each other –
- ‘I (*AB*) solemnly declare that I am in a civil partnership with you (*CD*) and I know of no lawful reason why we may not convert our civil partnership into marriage.
- I understand that in making this declaration I will be converting our civil partnership into a marriage and that you (*CD*) will thereby become my lawful [husband][wife][spouse].’
- (10) After the civil partners have made the declaration in paragraph (9), they shall sign the conversion declaration form and the marriage certificates in the presence of each other and the marriage celebrant.
- (11) The marriage celebrant, if satisfied that the parties converting the civil partnership are the same parties whose signatures are on the signature verification form given to him or her by the Superintendent Registrar, shall sign and date the conversion declaration form and the marriage certificates.
- (12) The parties to the conversion shall be married upon the signing of the conversion declaration form by the marriage celebrant.
- (13) Two marriage certificates may be kept by the parties to the conversion.

- (14) Nothing in this Article shall be construed as requiring a marriage celebrant to attend the solemnization of a marriage under this Article on a particular day or at a particular time.
- (15) A civil partnership that is converted to a marriage under this Law shall be treated for all purposes as if it had always been a marriage.
- (16) Civil partners who convert their civil partnership to a marriage under this Law shall be treated for all purposes as if they had married on the date on which their civil partnership was formed.

23 Approved locations

- (1) Subject to Article 24, a marriage shall not be solemnized at a location unless it is an approved location.
- (2) The Minister shall by Order establish a scheme for the approval by an approving authority of any location for the purpose of solemnizing marriages at that location.
- (3) The scheme shall not permit approval to be given in respect of a location unless the approving authority is of the opinion that the location is suitable for upholding the dignity and solemnity of marriage.
- (4) An approval for a location under the scheme must be –
 - (a) an approval for religious marriages only to be solemnized at that location; or
 - (b) approval for any marriage to be solemnized at that location.
- (5) An Order made under paragraph (2) may include provision in respect of any of the following matters –
 - (a) the kinds of locations in respect of which approvals may be granted;
 - (b) the type and nature of an approval and any matter that is or is not relevant to an approval given;
 - (c) the procedures in relation to applications for approval and the determination of applications;
 - (d) the information required to be given in an application for approval and any supporting documents to be supplied;
 - (e) the persons to be consulted in relation to the application, revision or revocation of any approval;
 - (f) the inspection of any location;
 - (g) the matters to be taken into account, or not to be taken into account, when determining whether to approve any location;
 - (h) the duration, renewal, revision or revocation of approvals;
 - (i) the conditions that shall or may be imposed on the grant or renewal of approvals;
 - (j) the determination and charging of fees in respect of applications for, or the grant of, the approvals and in respect of renewals, revisions or revocations of approvals, including

- any that must or may be payable before an application may be considered;
 - (k) the circumstances in which approvals shall or may be revoked;
 - (l) the review of any decision to refuse the approval, or the renewal of approval, or to impose conditions on the grant or renewal of approval or to revoke approval;
 - (m) any requirements as to the notification of any person of any matter related to the grant, renewal, revision or revocation of any approval, including any appeal; and
 - (n) any other purpose incidental to the approval of a location for the solemnization of marriages.
- (6) Approval shall not be given for the solemnization of same sex marriages at a location that is the usual place of public religious worship according to the rites of the Church of England.
- (7) Subject to paragraph (14), approval shall not be given for the solemnization of same sex marriages at a location that is certified by the Minister as the usual place of public religious worship of any religious organization unless –
- (a) the governing authority of every religious organization in respect of which that location has been certified as its usual place of public worship has given written consent to the use of that location for the solemnization of same sex marriages; and
 - (b) the owner or trustee of the location has given written consent to the use of that location for the solemnization of same sex marriages.
- (8) Neither a governing authority of a religious organization nor the owner or trustee of a location described in paragraph (7) shall be compelled to consent to the approval of that location for the solemnization of same sex marriages and where the governing authority or owner or trustee does so consent, they shall not be compelled by any person not to withdraw their consent.
- (9) An authorized civil celebrant shall not be authorized to solemnize any marriage in any building or part of a building which has been certified under paragraph (7) as a usual place of public religious worship.
- (10) An authorized religious official shall not be authorized to solemnize any marriage except in a location that –
- (a) has been certified under paragraph (7) as a usual place of public religious worship of the religious organization to which the official is affiliated; or
 - (b) is approved by that religious organization for the purpose of solemnizing marriages according to the rites or usages of that religious organization to which the official is affiliated.

- (11) An approving authority shall not approve a location belonging to the Connétable or the parish unless the Minister consents to that location being an approved location.
- (12) The Minister may delegate the power to consent to a matter referred to in paragraph (11).
- (13) The Minister shall certify locations as usual public places of public religious worship for the purposes of this Law.
- (14) The Minister shall prescribe the process by which a location may be certified as a place of public religious worship including –
 - (a) the information that must be supplied with an application;
 - (b) the persons who may apply for the certificate;
 - (c) the locations that may or may not be certified; and
 - (d) the process by which a location may be certified.
- (15) Any building that was registered under this Law for the solemnization of marriages immediately before the coming into force of the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201- –
 - (a) shall be deemed to have been certified under paragraph (13) as a place of public religious worship of the religious organization in favour of whom it was registered; and
 - (b) shall be deemed to be an approved location under this Article for the purpose of solemnizing marriages according to the rites or usages of that religious organization for a period of 12 months commencing on the day that the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201- comes into force.
- (16) Any premises that were approved under this Law for the solemnization of marriages immediately before the coming into force of the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201- shall be deemed to be approved under this Article for the purpose of solemnizing civil marriages of persons of the same sex and persons of the opposite sex for a period of 12 months commencing on the day that the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201- comes into force.

24 Marriage: special circumstances

- (1) This Article applies where special circumstances exist such that persons intending to solemnize their marriage on the authority of a marriage schedule or conversion declaration wish to –
 - (a) solemnize their marriage in a location that is not an approved location;
 - (b) solemnize their marriage at a time outside the hours of 8.00 a.m. and 7.00 p.m.;
 - (c) solemnize their marriage earlier than 25 clear days after the publication of notice of marriage under Article 11; or

- (d) change the date, time or location of the marriage specified in the notice of intended marriage or application for a conversion.
- (2) For the purposes of paragraph (1), special circumstances are any of the following –
- (a) one or both of the parties to the intended marriage are expected to die within 3 months of applying for notice of intended marriage under Article 8 or applying for a conversion under Article 19;
 - (b) one or both of the parties to the intended marriage are physically incapacitated such that it would be impossible to solemnize the marriage in an approved location;
 - (c) one or both of the parties to the intended marriage are unable to solemnize the marriage by reason of illness or unforeseen or unavoidable circumstances;
 - (d) one or both of the parties to the intended marriage are detained in prison or under the Mental Health (Jersey) Law 1969¹⁴, such that it would be impossible to solemnize the marriage at an approved location; or
 - (e) an emergency has arisen such that it is impractical or impossible for the approved location named in the marriage schedule or conversion declaration form to be used, or for the marriage celebrant named in the marriage schedule or conversion declaration form to solemnize the marriage or conversion, as the case may be.
- (3) The Minister shall prescribe the requirements and procedures that shall apply for allowing persons to solemnize their marriage according to a wish referred to in paragraph (1), which may include any of the following –
- (a) the application process for seeking to solemnize a marriage in special circumstances;
 - (b) the fees payable;
 - (c) the medical evidence, information or documents that must be provided, or need not be provided, in support of an application for permission to solemnize a marriage in special circumstances;
 - (d) the timescales that apply or may be disapplied for making applications, giving notice, issuing declarations, schedules or certificates or searches in relation to a marriage or a conversion in special circumstances;
 - (e) the requirements for providing original documents and attending the office of the Superintendent Registrar;
 - (f) the time and location for the solemnization of a marriage; and
 - (g) the requirements for annotating any applications, notice, register or other document in consequence of any marriage being solemnized in special circumstances.

*Miscellaneous***24A Retention of marriage schedule or conversion declaration form**

- (1) A marriage celebrant shall return each marriage schedule, conversion declaration form, marriage certificate or signature verification form to the Superintendent Registrar as soon as reasonably practicable after the solemnization of a marriage.
- (2) The Superintendent Registrar shall, as soon as reasonably practicable upon receipt of the marriage schedule or conversion declaration form, as the case may be –
 - (a) complete the entries in the copy marriage register or copy conversion register held by the Superintendent Registrar in respect of the marriage to which the schedule or conversion declaration form relates with the details contained in the marriage schedule or conversion declaration form, as the case may be; and
 - (b) return the original marriage schedule or conversion declaration form to the registrar of the parish in which the marriage was solemnized.
- (3) The registrar must keep, in the date order in which each marriage is solemnized, a register of all marriages that are solemnized in his or her parish.
- (4) The registrar must keep, in the date order in which each civil partnership is converted to marriage, a register of all conversions that are solemnized in his or her parish.
- (5) A registrar shall be paid by the Superintendent Registrar the prescribed fee for each marriage which the registrar registers under paragraph (3) or (4) and for the provision of returns or registers.

24B Keeping of information, books, indexes, registers etc. relating to marriage

- (1) The Superintendent Registrar shall retain an electronic copy of every application, information and document provided to him or her from any person, whether received in electronic or paper form.
- (2) The Superintendent Registrar shall keep, in such form as he or she decides, and containing the prescribed particulars –
 - (a) a register of authorized civil celebrants;
 - (b) a register of authorized religious officials, and the religious organization that applied for the authorization of the religious official;
 - (c) a notices of intended marriage book;
 - (d) a register of approved locations;
 - (e) an index of the names of the parties to any marriage solemnized in Jersey under this Law;

- (f) a copy of the entries in the marriage registers and conversion registers held by each registrar and each incumbent of an Anglican Church in which marriages may be solemnized;
 - (g) a copy of the entries in the registers of marriages by conversions maintained by the parish registrars.
- (3) The book, registers, indexes, notices and entries kept under paragraph (2) shall be open to public inspection free of charge during such hours at such locations as the Superintendent Registrar publishes.
- (4) The parish registrars shall keep up to date and in such form and manner as the Superintendent Registrar may by notice require, and containing the prescribed details –
- (a) a register of all marriages that took place in the parish before the coming into force of the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201-;
 - (b) the marriage schedules and conversion declaration forms in respect of all the marriages that take place in the parish.
- (5) The registers to be kept under this Article shall be kept in permanent form, which may include their maintenance on a computer.
- (6) The Minister may prescribe the matters that may or must be endorsed upon any book, registers, indexes, notices or entries kept under this Law.

24C Official searches of records by Superintendent Registrar

- (1) Any person may apply to the Superintendent Registrar for a search to be made of the books, indexes, registers, notices or entries held at the Office of the Superintendent Registrar and at the Royal Court and for the applicant to be supplied with a certificate containing details of such of the following matters that are held in any of those books, indexes, registers, notices or entries –
- (a) any marriage or civil partnership to which the applicant was a party;
 - (b) any decree for a divorce, nullity of marriage or presumption of death in respect of a marriage to which the applicant was a party;
 - (c) any decree for the dissolution of a civil partnership, nullity of a civil partnership or presumption of death in respect of a civil partnership to which the applicant was a party;
 - (d) any gender recognition certificate issued in respect of the applicant;
 - (e) any change of name of the applicant;
 - (f) the birth of the applicant; and
 - (g) the death of any former spouse or civil partner of the applicant.

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- (2) The applicant must pay the prescribed fee for any search conducted under this Article at the Office of the Superintendent Registrar or the Royal Court.
 - (3) The application for a search under paragraph (1) shall be in such form as the Superintendent Registrar may by notice require, and contain the prescribed information.
 - (4) The Superintendent Registrar shall, as soon as reasonably practicable after receiving the application and prescribed fee –
 - (a) search the records of the Superintendent Registrar; and
 - (b) request the Judicial Greffier of the Royal Court to search the records of the Royal Court,and after such searches have been completed, issue to the applicant a search certificate setting out the information in paragraph (5)(a) or (5)(b), as the case may require.
 - (5) The search certificate must –
 - (a) state that there is no trace of any previous marriage or civil partnership by the applicant in Jersey, if that is the case; or
 - (b) if the search has confirmed the existence of a previous marriage or civil partnership by the applicant in Jersey, provide the date of and the parties to that previous marriage or civil partnership and, if it has ended, the date on which it ended and whether that was by nullity, dissolution or death; and
 - (c) provide details of any record of the birth of the applicant or change of name or any gender recognition certificate of the applicant.
 - (6) A search certificate under this Article shall not be evidence of a person's residency in Jersey.

24D Proof of certain matters not necessary to validity of marriages

- (1) Subject to Article 24F, where a marriage has been solemnized under this Part, it shall not be necessary, in support of the marriage, to give any proof –
 - (a) that, before the marriage, either of the parties to be married resided, or resided for any period, at the location stated in the notice of intended marriage to be his or her place of residence;
 - (b) that any person whose consent to the marriage is required under Article 4 has given his or her consent;
 - (c) that the location in which the marriage was solemnized was an approved location at the time of the solemnization;
 - (d) that the marriage celebrant was authorized under this Law to solemnize the marriage and he or she solemnised the marriage in accordance with the conditions of his or her authorization,

nor shall any evidence be given to prove the contrary in any proceedings touching the validity of the marriage.

- (2) A marriage purporting to be solemnized in accordance with Article 23 in a location which, at the time of the solemnization, is not an approved location shall be valid as if the location had been an approved location.
- (3) A civil marriage that is solemnized otherwise than in accordance with Article 17(8) or 22(6), as the case may be, shall be valid as if it had been solemnized in accordance with Article 17(8) or 22(6), as the case may be.

24E Marriages void under this Part

If any persons knowingly and intentionally marry under this Part –

- (a) without having given due notice of intended marriage to the Superintendent Registrar;
- (b) without a marriage schedule or conversion declaration form, as the case may be, having been duly issued;
- (c) on the authority of a marriage schedule or a conversion declaration form that has been issued after one or both of the parties to the marriage have provided information or documents to the Superintendent Registrar that are false or inaccurate;
- (d) on the authority of a marriage schedule or a conversion declaration form when a party to the marriage has provided false information as to his or her immigration status;
- (e) on the authority of a marriage schedule which is void by virtue of Article 15(10);
- (f) on the authority of a certificate of no impediment which is void by virtue of Article 16(7);
- (g) in the case of a marriage purporting to be solemnized in an approved location, at any location that is not approved at the time the marriage is solemnized or, as the case may be, for the purposes of that marriage;
- (h) in the absence of a marriage celebrant; or
- (i) subject to Article 24, at a time, place or date that is not specified as the time, date or place of the marriage in the marriage schedule,

the marriage shall be void.

24F Co-operation and disclosure

- (1) The Superintendent Registrar may disclose to any person any information or documents obtained by him or her in pursuance of any of his or her functions under this Law and request information and make such enquiries as he or she thinks fit for the purpose of –

- (a) verifying the accuracy of any application or information delivered to him or her or the authenticity of any document provided to him or her under this Law; or
 - (b) determining whether any ground exists for the Superintendent Registrar to refuse to issue any notice, certificate or declaration.
- (2) The Superintendent Registrar may, in particular, disclose information or documents to, and request information from, the following persons and organizations in pursuance of his or her functions under this Law –
 - (a) the Attorney General;
 - (b) a police officer;
 - (c) an immigration officer;
 - (d) an officer of the Impôts;
 - (e) any Minister of the States of Jersey;
 - (f) any Connétable or employee of a parish;
 - (g) the Royal Court.
- (3) The Superintendent Registrar may, at the request of any person who carries out similar functions in another jurisdiction to the functions of the Superintendent Registrar in respect of the persons entering into a marriage or civil partnership in that other jurisdiction, disclose any information that the Superintendent Registrar reasonably believes may assist that other person in the exercise of his or her functions in that other jurisdiction.
- (4) The Superintendent Registrar may disclose information to, and request information from, any person who carries out similar functions in another jurisdiction to the functions of a police officer, an immigration officer or an officer of the Impôts investigating the immigration status of a person intending to marry in that other jurisdiction, any information that the Superintendent Registrar reasonably believes may assist that other person in the exercise of his or her functions in that other jurisdiction.

24G Orders under this Part

The Minister may by Order –

- (a) prescribe the information and particulars to be included in any application, certificate, declaration, form or notice under this Part and the manner in which that information or documents may or must be supplied;
- (b) amend any period specified in this Part.”.

3 Article 39 amended

In Article 39 of the 2001 Law –

- (a) for the word “intermarry” there shall be substituted the words “marry”;

- (b) for the word “6(7)” there shall be substituted the word “4(8)”.

4 Article 40A repealed

Article 40A of the 2001 Law shall be repealed.

5 Article 41 amended

In Article 41 of the 2001 Law –

- (a) for paragraph (1) shall be substituted the following paragraphs –

“(1) A Superintendent Registrar and one or more Deputy Superintendent Registrars shall be employed by the States Employment Board.

(1A) The person holding the position of Superintendent Registrar immediately before the coming into force of the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201-, having been appointed by the Minister as such, and any person holding the position of a Deputy Superintendent Registrar before the coming into force of that Law, having been appointed by the Minister as such, shall continue to hold the position to which he or she was appointed as if he or she had been employed in that position by the States Employment Board.

(1B) Any person who was a delegate of the Superintendent Registrar immediately before the coming into force of the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201-, having been appointed by the Minister as such, shall from the date of the coming into force of that Law be deemed to have been employed by the States Employment Board as a Deputy Superintendent Registrar.”;

- (b) For paragraph (3) there shall be substituted the following paragraphs –

“(3) Each Deputy Superintendent Registrar shall have such powers as the Superintendent Registrar may delegate to him or her and shall be subject to the same duties, conditions and penalties as the Superintendent Registrar in respect of any such delegated power.”.

6 Article 42 amended

In Article 42 of the 2001 Law –

- (a) for paragraphs (1) and (2) there shall be substituted the following paragraphs –

“(1) The Superintendent Registrar shall publish a role description and person specification in respect of the roles of registrar and deputy registrar in a parish and a scheme setting out the process for –

- (a) the training and monitoring of registrars and deputy registrars;

- (b) investigating complaints against a registrar or deputy registrar;
 - (c) the circumstances in which a person may or must be suspended or removed from the role of registrar or deputy registrar; and
 - (d) the review of any decision to suspend or remove a person from the role of registrar or deputy registrar.
- (1A) In each parish –
- (a) having regard to the published role description and person specification for registrars, the Connétable of each parish shall appoint a person for his or her parish; and
 - (b) having regard to the published role description and person specification for deputy registrars, the Connétable of each parish shall appoint one or more persons as deputy registrars for his or her parish.”;
- (b) in paragraph (4), for the words “parish assembly” there shall be substituted the word “Connétable”;
 - (c) in paragraph (5), for the words “A parish assembly, other than the parish assembly for St. Helier,” there shall be substituted the words “The Connétable of the parish”;
 - (d) paragraph (8) shall be deleted;
 - (e) in paragraph (9) after the words “new registrar is appointed” there shall be added the words “or, where there is no deputy registrar, the Superintendent Registrar may act as registrar or, with the consent of the Connétable of the parish concerned, he or she may appoint a registrar or deputy registrar of another parish to act as registrar until the vacancy is filled”.

7 Article 44 amended

For Article 44 of the 2001 Law there shall be substituted the following Article –

“44 Premises for Superintendent Registrar

The States shall provide and maintain for the Superintendent Registrar an office where records and documents required to be kept by the Superintendent Registrar under this Law and any other enactment may be kept in safe custody and protected from fire.”.

8 Article 47 amended

In Article 47 of the 2001 Law –

- (a) for paragraph (3) there shall be substituted the following paragraph –
 - “(3) A register supplied pursuant to paragraph (1) or (2) shall be in such form as the Superintendent Registrar decides and contain the prescribed particulars.”;

(b) for paragraph (5) there shall be substituted the following paragraph –

“(5) The Superintendent Registrar shall supply registered medical practitioners, free of charge, with the certificates required under Articles 61(3) and 64(1).”.

9 Article 51 amended

In Article 51 of the 2001 Law –

(a) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraph –

“(a) the father or mother;”;

(b) after paragraph (1) there shall be inserted the following paragraph –

“(1A) Despite paragraph (1), where any particulars come to the attention of the Superintendent Registrar relating to the birth of a child, the Superintendent Registrar may inform the registrar of those particulars.”.

10 Article 53 amended

For Article 53(1) of the 2001 Law there shall be substituted the following paragraph –

“(1) Where Article 51 has not been complied with, the Superintendent Registrar may, by notice in such form as the Superintendent Registrar decides, and to the extent that he or she has not received a particular about the birth of a child, require the father or mother of the child, any person who assisted at the birth and any person having care of the child, to provide him or her, to the best of the person’s ability, with the particulars of the birth.”.

11 Article 58 amended

In Article 58(1) of the 2001 Law, for the words “the prescribed certificate” there shall be substituted the words “a certificate containing the prescribed information in such form as the Superintendent Registrar may decide”.

12 Article 60 amended

In Article 60(1) and (2) of the 2001 Law, for the words “in the prescribed form” there shall be substituted the words “in such form as the Superintendent Registrar may by notice require”.

13 Article 61 amended

In Article 61 of the 2001 Law –

(a) in paragraph (1), for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraph –

- “(a) the father or the mother;”;
- (b) in paragraph (3), for the words “in the prescribed form and manner” there shall be substituted the words “in such form and manner as the Superintendent Registrar may by notice require”;
- (c) in paragraph (5), for the words “in the prescribed form” there shall be substituted the words “in such form as the Superintendent Registrar may by notice require”.

14 Article 64 amended

In Article 64(1)(a), for the words “in the prescribed form and manner” there shall be substituted the words “in such form as the Superintendent Registrar may by notice require”.

15 Article 68 amended

In Article 68 of the 2001 Law, for the words “in the prescribed form” there shall be substituted the words “in such form as the Superintendent Registrar may by notice require”.

16 Article 69 amended

For Article 69(b) of the 2001 Law there shall be substituted the following paragraph –

- “(b) in any other case, by the registrar of the parish in which the marriage was solemnized.”.

17 Article 70 substituted

Article 70 of the 2001 Law there shall be substituted the following Article –

“70 Duty to record marriage

The particulars of the marriage shall be recorded and a record of the particulars of the marriage shall be held, in accordance with prescribed requirements, by the registrar of the parish in which the marriage was solemnized.”.

18 Article 71 amended

In Article 71 of the 2001 Law, for the words “the parties to the marriage” there shall be substituted the words “the Superintendent Registrar”.

19 Article 74 amended

In Article 74 of the 2001 Law –

- (a) in paragraph (a) after the words “a marriage” there shall be inserted the words “(including marriages by conversion)”;

- (b) in paragraph (c), for the words “deaths and marriage” there shall be substituted the words “deaths and marriages (including marriages by conversion)”;
- (c) after paragraph (g) for the full-stop there shall be substituted a semi-colon and the following sub-paragraph added –
 - “(h) the making of returns from parish registrars or the Anglican Church.”.

20 Article 75 amended

In Article 75(1), after the word “marriages” there shall be inserted the words “, including marriages by conversion”.

21 Article 76 substituted

For Article 76 there shall be substituted the following Article –

“76 Offences relating to solemnization of marriage

- (1) It shall be an offence for a person, knowingly and voluntarily, to make a false declaration or sign any false document or otherwise provide false information for the purpose of giving notice of intended marriage or of obtaining any marriage schedule, certificate of no impediment to marriage or declaration of conversion of a civil partnership to a marriage or having a marriage solemnized or a civil partnership converted to a marriage.
- (2) It shall be an offence for a person, when entering any caveat or forbidding the issue of any marriage schedule or certificate of no impediment to marriage, knowingly to make a statement that he or she is a person whose consent is required to a marriage or conversion, when he or she is not.
- (3) It shall be an offence for the Superintendent Registrar, knowingly and voluntarily, to –
 - (a) issue a marriage schedule or certificate of no impediment to marriage pursuant to a notice of intended marriage which is void by virtue of Article 11(2);
 - (b) issue a marriage schedule where there are fewer than 25 clear days between the date on which the notice of intended marriage was given and the date of the marriage specified on that notice;
 - (c) issue a certificate of no impediment to marriage where there are fewer than 25 clear days between the date on which the certificate of no impediment to marriage was issued and the date of the marriage specified on the notice of intended marriage;
 - (d) issue a licence or certificate on which a lawful objection has been entered;

- (e) authorize an authorized civil celebrant to solemnize a marriage in a location that is not an approved location, or only approved for the solemnization of marriages according to the rites or usages of a religious organization;
 - (f) authorize an authorized religious celebrant to solemnize a marriage in a location that is not an approved location for the solemnization of marriages according to the rites or usages of the particular religious organization that applied for the authorization of that celebrant;
 - (g) authorize the solemnization of a marriage between 2 persons of the same sex in a location that is not approved for the solemnization of same sex marriages;
 - (h) authorize an authorized religious celebrant to solemnize a marriage of 2 persons of the same sex according to the rites or usages of the religious organization that has not consented to the solemnization of same sex marriages.
- (4) It shall be an offence for a person, knowingly and voluntarily, to solemnize a marriage declared void by this Law.
 - (5) It shall be an offence for a person, knowingly and voluntarily, to solemnize a marriage on the authority of a marriage schedule which is void or before the expiry of any period required by this Law to elapse after the issue of the marriage schedule and before the solemnization of the marriage.
 - (6) It shall be an offence for a person, knowingly and voluntarily, to solemnize a marriage pursuant to a marriage schedule in a location other than an approved location specified in the notice of intended marriage and marriage schedule or, in a case where Article 24 applies, at the location approved under that Article.
 - (7) It shall be an offence for a person other than a marriage celebrant to solemnize a marriage.
 - (8) A person guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding 5 years or a fine, or both.”.

22 Article 78 substituted

For Article 78 there shall be substituted the following Article –

“78 Searches

- (1) Every incumbent of an Anglican Church who keeps a register of marriages shall, at all reasonable hours, allow searches to be made in any register in his or her keeping and, upon payment of such fee as may be required by the incumbent, shall give a copy certified under his or her hand of any entry in such a register.
- (2) Every registrar who keeps any register under this Law shall, at all reasonable hours, allow searches to be made in any register in his or her keeping and, upon payment of the prescribed fee, shall give

a copy certified under his or her hand of any entry in such a register.

- (3) Any person shall be entitled, at such place and time as the Superintendent Registrar may publish –
 - (a) upon payment of the prescribed fee, to search the indexes maintained by the Superintendent Registrar pursuant to an Order made under Article 74;
 - (b) upon payment of the prescribed fee, to have a copy, certified under the hand of the Superintendent Registrar, of any entry in a book or register kept by him or her under this Law.
- (4) A copy of an entry provided in accordance with this Article shall be received as evidence of the birth, stillbirth, death, marriage or conversion to which it relates without any further or other proof of the entry.”.

23 Articles 80A, 80B, 80C and 80D inserted

After Article 80 of the 2001 Law there shall be inserted the following Articles –

“80A Provision of documents to Superintendent Registrar

- (1) All information or documents delivered to the Superintendent Registrar or a registrar under this Law –
 - (a) must be written in, or translated into, the French or English language; and
 - (b) if a document has been translated, the original document and a certified translation must be supplied to the Superintendent Registrar.
- (2) Except as otherwise provided under this Law or prescribed, an application, information or document or other information delivered to the Registrar under this Law may be provided electronically.

80B Signing of documents

- (1) A person who is required under this Law to sign a document may do so by signing with his or her usual signature or mark.
- (2) If the signature comprises letters or symbols that are not in current use in the English language the person signing the document must print his or her name in English or French.
- (3) A person who is required to sign a document under this Law who by reason of his or her physical incapacity is unable to sign or make a mark that is capable of being replicated by him or her may nominate a person (‘representative’) to sign the document on his or her behalf.

- (4) In the case of a person who is unable to sign a marriage schedule, conversion declaration form or marriage certificate, the same representative must sign that marriage schedule or conversion declaration form, as the case may be and the marriage certificate.
- (5) The Minister may prescribe –
 - (a) a description of the persons who may or must not be a representative;
 - (b) the requirements that must be satisfied before a representative signs a document on behalf of a person; and
 - (c) the particulars that must be provided in relation to the representative and documents that may or must be provided in relation to the representative;
 - (d) the duties of the Superintendent Registrar in relation to the recording of the signing of the documents by a representative.

80C Fees and charges

- (1) A fee paid under this Law shall not be refundable except in such circumstances as may be prescribed.
- (2) The Superintendent may charge for such services incidental to his or her functions under this Law as may be prescribed.
- (3) The Superintendent Registrar may refuse to issue a form, certificate, notice or schedule under this Law if the prescribed fee for that form, certificate, notice or schedule, as the case may be, has not been paid.

80D Publications by Superintendent Registrar

- (1) The Superintendent Registrar may publish guidance for any purpose connected with this Law.
- (2) The Superintendent Registrar must publish any form, notice, guidance or other document that he requires or which he is required or permitted to publish under this Law in such manner as to draw it to the attention of any person affected by it.”.

24 Article 82 amended

For Article 82 of the 2001 Law there shall be substituted the following Articles –

“82 Power to make further provision in connection with marriages and registration of births, marriages and deaths

- (1) The States may by Regulations amend this Law to –
 - (a) increase the age referred to in Article 4(1) and (2);

- (b) make such other amendments to this Law as may be necessary in consequence of the age referred to in paragraphs (1) and (2) being increased.
- (2) The States may by Regulations amend Articles 1, 17, 22, 23 and Part 5.
- (3) The States may by Regulations make such amendments to any enactment (including this Law) as appear to the States to be expedient –
 - (a) for the general purposes, or any particular purpose, of this Law;
 - (b) in consequence of any provision made by or under this Law; or
 - (c) for giving full effect to this Law or any provision of it.
- (4) The Minister may prescribe any requirement in respect of the endorsement of any register, certificate, notice or index.
- (5) The Minister may prescribe transitional arrangements in respect of –
 - (a) any notice, certificate or licence issued under this Law;
 - (b) any authorization or approval given under this Law;
 - (c) any registration before the coming into force of the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201-.

82A Regulations and Orders

- (1) The Minister may by Order prescribe anything that may or shall be prescribed under this Law, other than anything that may be prescribed by Rules of Court.
- (2) The power to make Regulations or Orders includes power to make any supplementary, incidental, consequential, transitional, transitory or saving provisions which appear to the States or the Minister, as the case may be, to be necessary or expedient for the purposes of the Regulations or Order.”.

25 Schedule 1 and 2 substituted

For Schedules 1 and 2 to the 2001 Law there shall be substituted the following Schedules –

“SCHEDULE 1

(Article 3(3) and 5)

RELATIONS WHOM PERSON IS PROHIBITED TO MARRY

parent
adoptive parent

former adoptive parent
child
adoptive child
former adoptive child
grandparent
grandchild
adoptive grandchild
former adoptive grandchild
sister
half-sister
brother
half-brother
aunt
uncle
niece
nephew

SCHEDULE 2

(Article 4(3) and 5)

CONSENTS REQUIRED TO THE MARRIAGE OF A MINOR

- 1 The consents are –
 - (a) subject to sub-paragraphs (b) to (d), the consent of –
 - (i) each parent (if any) of the minor who has parental responsibility for the minor, and
 - (ii) each guardian (if any) of the minor;
 - (b) where a residence order is in force with respect to the minor, the consent of the person or persons with whom the minor lives, or is to live, as a result of the order (in substitution for the consents mentioned in sub-paragraph (a));
 - (c) where a care order is in force with respect to the minor, the consent of the Minister for Health and Social Services (in addition to the consents mentioned in sub-paragraph (a)); and
 - (d) where neither sub-paragraph (b) nor (c) applies but a residence order was in force with respect to the minor immediately before the minor reached the age of 16, the consent of the person or persons with whom the minor lives, or was to live, as a result of the order (in substitution for the consents mentioned in sub-paragraph (a)).

-
- 2 In this Schedule ‘guardian’, ‘parental responsibility’, ‘residence order’ and ‘care order’ have the same meaning as in the Children (Jersey) Law 2002¹⁵.”

26 Amendment of other enactments

The enactments specified in the Schedule are amended in the manner specified in the Schedule.

27 Citation and commencement

This Law may be cited as the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201- and shall come into force on such day or days as the States may by Act appoint.

SCHEDULE

(Article 26)

AMENDMENT OF OTHER ENACTMENTS**1 Agriculture (Loans) (Jersey) Regulations 1974 amended**

In Regulation 4(3) of the Agriculture (Loans) (Jersey) Regulations 1974¹⁶, for the words “a husband and wife” there shall be substituted the word “spouses”.

2 Building Loans (Miscellaneous Provisions) (Jersey) Regulations 1961 amended

For Regulation 5 of the Building Loans (Miscellaneous Provisions) (Jersey) Regulations 1961¹⁷ there shall be substituted the following Regulation –

“5

A loan may be made to spouses jointly if the property on which the loan is to be secured is or will be owned by them for themselves and the survivor of them and the heirs of such survivor and if both spouses satisfy the conditions specified in Regulation 1.”.

3 Children (Jersey) Law 2002 amended

In the Children (Jersey) Law 2002¹⁸ –

- (a) in Article 1(1), in the definition “relative” after the word “step-parent” there shall be inserted the words “(whether by marriage or civil partnership)”;
- (b) In Schedule 1, paragraph 9(6), in the definition “maintenance agreement”, for the words “father and mother” there shall be substituted the word “parents”.

4 Discrimination (Jersey) Law 2013 amended

In the Discrimination (Jersey) Law 2013¹⁹, after paragraph 24 in Part 3 of Schedule 2, there shall be inserted the following paragraphs –

“24A Sex or sexual orientation: marriage between persons of the same sex

A person does not contravene Article 22, so far as it relates to the protected characteristic of sex only because the person –

- (a) does not solemnize a same sex marriage;
- (b) is not present at, or does not otherwise participate in the solemnization of a same sex marriage;
- (c) does not consent to a same sex marriage being solemnized;

- (d) does not apply for authorization to solemnize a same sex marriage; or
- (e) does not give consent or certify any matter relating to same sex marriage,

in any case where a person is not compelled to do so under Article 7 of the Marriage and Civil Status (Jersey) Law 2001²⁰.

24B Sex and sexual orientation: marriage after gender reassignment

- (1) A person does not contravene Article 22, so far as it relates to the protected characteristic of sex or sexual orientation only because the person –
 - (a) does not solemnize the marriage of a person of an acquired gender;
 - (b) is not present at, or does not otherwise participate in the marriage of a person of an acquired gender;
 - (c) does not consent to a marriage of a person of an acquired gender being solemnized;
 - (d) does not apply for authorization to solemnize the marriage of a person of an acquired gender; or
 - (e) does not consent or certify any matter relating to the marriage of a person of an acquired gender,

in any case where a person is not compelled to do so under Article 7 of the Marriage and Civil Status (Jersey) Law 2001.

- (2) In this paragraph “acquired gender” has the same meaning as in Article 1(2) of the Gender Recognition (Jersey) Law 2010²¹.

5 Employment (Jersey) Law 2003 amended

- (1) In this paragraph “Law” means the Employment (Jersey) Law 2003²².
- (2) In Article 77B(4)(a), for the words “any wife or widow,” there shall be substituted the words “any spouse or surviving spouse.”
- (3) In Article 77C(3)(a), for the words “any wife or widow,” there shall be substituted the words “any spouse or surviving spouse.”

6 Fire Precautions (Designated Premises) (Jersey) Regulations 2012 amended

In Regulation 1(3)(b)(i) and (c) of the Fire Precautions (Designated Premises) (Jersey) Regulations 2012²³, for the words “husband and wife” there shall be substituted the words “spouses”.

7 Gender Recognition (Jersey) Law 2010 amended

- (1) In this paragraph “Law” means the Gender Recognition (Jersey) Law 2010²⁴.

-
- (2) Article 2(2)(b) of the Law shall be deleted.
- (3) In Article 3(2) of the Law –
- (a) in sub-paragraph (a), for the words “neither married nor in” there shall be substituted the words “not in”;
 - (b) in sub-paragraph (b), the words “married or” shall be deleted.
- (4) Article 4 of the Law shall be repealed.
- (5) In Article 5 of the Law –
- (a) for paragraph (1)(a) there shall be substituted the following sub-paragraph –
 - “(a) the applicant’s civil partnership has been converted to a marriage under Article 22 of the Marriage and Civil Status (Jersey) Law 2001²⁵ within 6 months of the interim certificate being issued, or dissolved or annulled (other than on the ground mentioned in Article 4A) in proceedings instituted within 6 months of the interim certificate being issued; or”;
 - (b) in paragraph (1)(b) the words “spouse or” shall be deleted;
 - (c) for paragraph (2)(a) there shall be substituted the following sub-paragraph –
 - “(a) may be made within 6 months of the conversion of the applicant’s civil partnership to a marriage, or dissolution or annulment of the civil partnership or the death of the applicant’s civil partner, as the case may be, unless the applicant has entered into a civil partnership again during that period; and”;
 - (d) for paragraph (2)(b)(i) there shall be substituted the following clause –
 - “(i) the conversion of the civil partnership to a marriage under Article 22 of the Marriage and Civil Status (Jersey) Law 2001 and the date of the conversion, or the dissolution or annulment of the civil partnership and the date on which the relevant proceedings were instituted, or”;
 - (e) in paragraph (2)(b)(ii) the words “spouse or” shall be deleted;
 - (f) in paragraph (3)(a) the words “spouse or” shall be deleted;
 - (g) in paragraph (4) the words “married and is not” shall be deleted.
- (6) In Article 17 of the Law –
- (a) for paragraph (2) there shall be substituted the following paragraph –
 - “(2) Accordingly, a person is not to be regarded as being in a civil partnership by reason of having entered into a foreign post-recognition civil partnership.”;
 - (b) for paragraph (3) there shall be substituted the following paragraph –

- “(3) Notwithstanding paragraph (2), on and from the issue of a full certificate to a person who has entered into a foreign post-recognition civil partnership, the civil partnership is no longer to be regarded as being void on the ground that (at the time when it was entered into) the parties to it were not either both male or both female.”;
- (c) paragraph (5) shall be deleted.

8 Gender Recognition (Disclosure of Information) (Jersey) Order 2010 amended

In Article 3(2)(b) of the Gender Recognition (Disclosure of Information) (Jersey) Order 2010²⁶ the words “marriage or” shall be deleted.

9 Income Tax (Jersey) Law 1961 amended

- (1) In this paragraph “Law” means the Income Tax (Jersey) Law 1961²⁷.
- (2) In Article 3(1) of the Law –
 - (a) in paragraph (a) of the definition “earned income” for the words “husband, wife” in both places where they appear there shall be substituted the word “spouse”;
 - (b) after the definition “shareholder loan” there shall be inserted the following definitions –
 - “ ‘spouse A’ means –
 - (a) in relation to a marriage between 2 persons of the opposite sex, the husband;
 - (b) in relation to a marriage between 2 persons of the same sex, the elder of the persons;
 - ‘spouse B’ means –
 - (a) in relation to a marriage between 2 persons of the opposite sex, the wife;
 - (b) in relation to a marriage between 2 persons of the same sex, the younger of the persons;”.
- (3) In Article 3A(2) and (3) of the Law, for the words “, wife, husband” in every place where they appear there shall be substituted the word “spouse”.
- (4) For Article 18(1)(c) of the Law there shall be substituted the following sub-paragraph –
 - “(c) the name and address of every person who owns each source and, in each case, whether the person is of full age, resident in Jersey or incapacitated, or married or in a civil partnership and –
 - (i) in the case of a person who is married, whether the person is a spouse A or spouse B,

- (ii) in the case of a person who is in a civil partnership, whether the person is a civil partner A or a civil partner B.”.
- (5) For Articles 20(2)(b) and 20(2)(ba) of the Law there shall be substituted the following sub-paragraphs –
- “(b) in the case of a person who is married and is spouse B, the full name of spouse A;
- (ba) in the case of a person who is in a civil partnership and is civil partner B, the full name of civil partner A;”.
- (6) For Articles 20A(2)(b) and 20A(2)(ba) of the Law there shall be substituted the following sub-paragraphs –
- “(b) in the case of a person who is married and is spouse B, the full name of spouse A;
- (ba) in the case of a person who is in a civil partnership and is civil partner B, the full name of civil partner A;”.
- (7) In Article 41B of the Law –
- (a) for paragraph (14) there shall be substituted the following paragraph –
- “(14) Deductions shall be made, in accordance with this Article, from the earnings of a spouse B notwithstanding that, by virtue of Article 121(1), his or her income is deemed to be that of his or her spouse A.”;
- (b) in paragraph (14A), for the words “notwithstanding” there shall be substituted the word “notwithstanding”.
- (8) In Article 41D of the Law –
- (a) in the heading, for the words “husbands and wives” there shall be substituted the word “spouses”;
- (b) for paragraph (1) there shall be substituted the following paragraph –
- “(1) In the case of spouses to whom Article 121(1) applies –
- (a) a rate shall be determined in accordance with Article 41C(2) as if spouse A were the employee, whether or not he or she is in employment; and
- (b) subject to paragraph (2), where the Comptroller has issued a notice under Article 41C specifying a rate, that rate shall apply to both spouses.”;
- (c) in paragraph (2), for the words “husband and wife are each” there shall be substituted the words “spouses are both”;
- (d) in paragraph (3), for the words “the husband and wife” there shall be substituted the words “each spouse”;
- (e) in paragraph (4), for the words “the husband and wife” there shall be substituted the words “both spouses”;
- (f) in paragraph (5)(a), for the words “the husband or wife” there shall be substituted the word “spouse”.

- (9) For Article 41G(2) of the Law there shall be substituted the following paragraph –

“(2) Where the Comptroller receives an amount remitted under Article 41B or 41E which has been deducted from the earnings of, or payments made to, a spouse B whose income, by virtue of Article 121(1), is deemed to be that of his or her spouse A, the Comptroller shall receive the amount as a payment of tax by his or her spouse A.”.

- (10) For Article 41H(7)(d) of the Law there shall be substituted the following sub-paragraph –

“(d) if the person is married, the date of the marriage and whether the person is spouse A or spouse B;”.

- (11) For Article 42(2) of the Law there shall be substituted the following paragraph –

“(2) Where under the provisions of this Law income tax has been charged on the spouse A in respect of the profits or income of the spouse B, the powers of recovery provided in this Law in the case of non-payment of any such tax shall extend to the property, goods and chattels of the spouse B:

Provided that no action for recovery shall be instituted against the spouse B unless a notice demanding payment has been served by the Comptroller on the spouse B and he or she has failed to pay the amount of tax payable by his or her spouse A within 7 days of such service.”.

- (12) In Article 92A of the Law –

- (a) for paragraphs (2)(a) and (2)(b) there shall be substituted the following sub-paragraphs –

“(a) that he or she has his or her spouse B living with him or her;
or

(b) that his or her spouse B is wholly maintained by him or her during the year of assessment and that he or she is not entitled, in computing the amount of his or her income for that year for the purpose of this Law, to make any deductions in respect of sums paid for the maintenance of his or her spouse B,

the threshold applicable in his or her case is –

(i) if the individual also proves that, on 31st December 2016, either he or she or his or her spouse B was aged 65 years or older, £26,100,

(ii) in any other case, £23,350.”;

- (b) for paragraph (4) there shall be substituted the following paragraph –

“(4) Where –

(a) an individual to whom paragraph (2) applies receives earned income for a year of assessment; and

(b) the individual's spouse B also receives earned income for the year of assessment, which is included in the total income of the individual,

the threshold applicable in the individual's case shall be increased by whichever is the lowest of –

- (i) £5,000,
- (ii) an amount equal to his or her earned income, or
- (iii) an amount equal to his or her spouse B's earned income.”.

(13) For Article 98A(3)(a) of the Law there shall be substituted the following sub-paragraph –

“(a) 2 persons who are not married to each other live together as if they were spouses for the whole or any part of a year of assessment; and”.

(14) for Article 121 of the Law there shall be substituted the following Article –

“121 General rule as to income tax on married persons

(1) Subject to Articles 121A and 121B, a spouse B's income chargeable to income tax shall, so far as it is income for a year of assessment or part of a year of assessment during which he or she is married and living with his or her spouse, be deemed for the purposes of this Law to be spouse A's income and not to be spouse B's income:

Provided that the question whether there is any income of spouse B's chargeable to income tax for any year of assessment, and, if so, what is to be taken to be the amount thereof for the purposes of this Law, shall not be affected by the provisions of this paragraph.

(2) Subject to Articles 121A and 121B, any tax falling to be assessed in respect of any income which, under paragraph (1) is to be deemed to be the income of a spouse A shall, instead of being assessed on spouse B, or on spouse B's trustee, guardian or curator, or on spouse B's heirs, executors or administrators, be assessable on spouse A, or in the appropriate cases, on spouse A's trustee, guardian or curator, or on spouse A's heirs, executors or administrators:

Provided that nothing in this paragraph shall affect the operation of Article 74.”.

(15) In Article 121A of the Law –

- (a) in the heading and in paragraphs (4) and (6) for the words “husband or wife” there shall be substituted the word “spouse”;
- (b) in paragraph (1) for the words “A married woman living with her husband, or her husband,” there shall be substituted the words “A spouse B living with his or her spouse A, or spouse A,”;

- (c) in paragraph (3), for the words “husband and wife” there shall be substituted the word “spouses”.
- (16) For Articles 121B and 122 of the Law there shall be substituted the following Articles –

“121B Effect of election for separate assessment

- (1) Subject to this Article, an election shall have the effect that –
- (a) the spouse B’s income is not deemed, for the purposes of this Law, to be his or her spouse A’s income; and
 - (b) the spouses are separately assessed and charged under this Law.
- (2) The spouse A’s and spouse B’s incomes shall be aggregated for the purpose of determining their entitlement to any allowances, exemptions and reliefs.
- (3) The sum of the allowances, exemptions and reliefs to which the spouse A and spouse B are entitled shall not exceed the sum of such amounts to which they would have been entitled if the election had not been made.
- (4) Subject to paragraph (5), any allowances, exemptions or reliefs (notwithstanding Articles 92B(2), 95(4) and 98A(4)) shall be apportioned between the spouses in proportion to the amounts or their respective incomes.
- (5) The spouses may jointly, in accordance with paragraph (6), notify the Comptroller in writing that any allowances, exemptions and reliefs to which they are entitled, by virtue of the election, are to be apportioned and transferred between them in the manner specified in the notice.
- (6) An apportionment notice delivered to the Comptroller before 31st January following a year of assessment shall have effect for that year and, unless replaced by a further apportionment notice or revoked, for ensuing years.
- (7) The spouses may jointly revoke an apportionment notice by written notice delivered to the Comptroller.
- (8) A revocation of an apportionment notice delivered before 31st January following a year of assessment shall have effect for that year and ensuing years unless a further apportionment notice is delivered.
- (9) Either spouse may prepare and deliver the statement required by Article 16 on behalf of both of them, unless the Comptroller requires otherwise.
- (10) An election shall not affect the operation of Article 74.
- (11) In this Article, ‘apportionment notice’ means a notice under paragraph (5).

122 Construction of references to a spouse B living with his or her spouse A, and special provisions as to certain spouses geographically separated

- (1) A spouse B shall be treated for all the purposes of this Law as living with his or her spouse A unless either –
- (a) they are separated under an order of a court of competent jurisdiction or by agreement of separation; or
 - (b) they are in fact separated in such circumstances that the separation is likely to be permanent.

- (2) Where a spouse B is living with his or her spouse A and either –
- (a) one of them is, and one of them is not, resident in Jersey for a year of assessment; or
 - (b) both of them are resident in Jersey but one of them is, and one of them is not, absent from Jersey throughout that year,
- the same consequences shall follow for all the purposes of this Law as would have followed if, throughout that year of assessment, they had been in fact separated in such circumstances that the separation was likely to be permanent:

Provided that, where this paragraph applies and the net aggregate amount of income tax falling to be borne by the spouse A and the spouse B for the year is greater than it would have been but for the provisions of this paragraph, the Comptroller shall give such relief as will reduce the said net aggregate amount by the amount of the excess.”.

- (17) For Article 130C(3)(a) of the Law there shall be substituted the following sub-paragraph –

“(a) a spouse B’s relevant earnings shall not be treated as the spouse A’s relevant earnings, notwithstanding that spouse B’s income chargeable to tax is treated as spouse A’s income;”.

- (18) In Schedule 1A to the Law –

- (a) for paragraph 41B(14) there shall be substituted the following sub-paragraph –

“(14) Deductions shall be made, in accordance with this Article, from the earnings of a spouse B notwithstanding that, by virtue of Article 121(1), his or her income is deemed to be that of his or her spouse A.”;

- (b) in paragraph (14A), for the words “notwithstanding” there shall be substituted the word “notwithstanding”.

10 Income Tax (Purchased Life Annuities) (Jersey) Order 1959 amended

- (1) In this paragraph “Order” means the Income Tax (Purchased Life Annuities) (Jersey) Order 1959.
- (2) For Article 13 of the Order there shall be substituted the following Article –

“13

Where the payee is regarded as spouse B for the purposes of Part 16 of the Law and is living with his or her spouse A, any reference in this Order to repaying tax to the payee or to charging tax on the payee shall be construed as requiring tax to be repaid to, or charged on, the spouse of spouse B.”

- (3) For Article 15(a)(ii) of the Order there shall be substituted the following sub-paragraph –

“(ii) if the payee is married and is living with his or her spouse and, for the purposes of Part 16 the Law is spouse B, of spouse A,”.

- (4) For paragraph 6(a) of Part 1 of the Schedule to the Order there shall be substituted the following sub-paragraph –

“(a) if the annuitant is a spouse B for the purposes of Part 16 of the Law, the name of his or her spouse A;”.

11 Interpretation (Jersey) Law 1954 amended

In Part 1 of the Schedule to the Interpretation (Jersey) Law 1954²⁸, after the definition “Magistrate” there shall be inserted the following definition –

“ ‘marriage’ includes a marriage between persons of the same sex, and references to ‘spouse’ in any enactment shall be construed accordingly;”.

12 Law Reform (Miscellaneous Provisions) (Jersey) Law 1978 amended

In the heading to Article 1 of the Law Reform (Miscellaneous Provisions) (Jersey) Law 1978²⁹, for the words “husband and wife” there shall be substituted the word “spouses”.

13 Loi (1864) réglant la Procédure Criminelle amended

In Article 39 of the Loi (1864) réglant la procédure criminelle³⁰, for the words “le mari et la femme” there shall be substituted the words “les époux”.

14 Loi (1880) sur la Propriété Foncière amended

Article 42 of the Loi (1880) sur la propriété foncière³¹ shall be repealed.

15 Loi (1915) sur la Propriété Foncière (Garanties) amended

Article 5 of the Loi (1915) sur la Propriété Foncière (Garanties)³² shall be repealed.

16 Loi (1908) au sujet des témoins et informateurs amended

In Article 2(6) of the Loi (1908) au sujet des témoins et informateurs³³, for the words “un mari et une femme” there shall be substituted the words “des époux”.

17 Matrimonial Causes (Jersey) Law 1949 amended

- (1) In this paragraph “Law” means the Matrimonial Causes (Jersey) Law 1949³⁴.
- (2) In Article 7 of the Law –
 - (a) in paragraphs (1) and (2), for the words “the husband or the wife” there shall be substituted the word “spouse”;
 - (b) after paragraph (2) there shall be added the following paragraph –

“(3) For the purposes of this Article, only conduct between the respondent and a person of the opposite sex may constitute adultery.”.
- (3) In Article 12 of the Law –
 - (a) in paragraph (1), for the words “either by the husband or the wife” there shall be substituted the word “by a party to the marriage”;
 - (b) in paragraph (3), for the words “husband or wife” there shall be substituted the word “spouse”;
 - (c) after paragraph (4) there shall be added the following paragraph –

“(5) Paragraph (4) only applies in relation to the judicial separation of spouses who are of the opposite sex.”.
- (4) In Article 13 of the Law, for the words “So long” there shall be substituted the words “In the case of a marriage of 2 persons of the opposite sex, so long”.
- (5) In Article 14 of the Law, for paragraphs (1) and (2) there shall be substituted the following paragraphs –
 - (1) No decree of judicial separation shall be enforceable and no liability shall accrue thereunder whilst the party to the marriage with respect to whom the decree was made resides with his or her spouse, and any such decree shall cease to have effect if, for a period of 3 months after it is made, the parties to the marriage continue to live with each other.
 - (2) Where a party to the marriage with respect to whom a decree of judicial separation has been made resumes cohabitation with his or her spouse after living apart from him or her, the decree shall cease to have effect on the resumption of such cohabitation.”.
- (6) In Article 17(1) of the Law, for the words “husband or a wife or if, in the answer to the petition the husband or the wife” there shall be substituted the words “spouse or if, in the answer to the petition the spouse”.
- (7) In Article 18 of the Law –
 - (a) in paragraph (1)(f) the words “and the procurement of children” shall be deleted;

- (b) in paragraph (1)(g) for the word “an interim” there shall be substituted the words “a gender recognition”;
 - (c) in paragraph (4) for the word “interim” there shall be substituted the words “gender recognition”;
 - (d) after paragraph (4) there shall be added the following paragraph –
“(5) Paragraphs (1)(a) and (c) do not apply to the marriage between persons of the same sex.”.
- (8) After Article 18 of the Law there shall be inserted the following Article –

“18A Grounds on which a marriage converted from a civil partnership is void or voidable

- (1) This Article applies to a marriage which has been converted, or is purported to have been converted, from a civil partnership under Article 22 of the Marriage and Civil Status (Jersey) Law 2001³⁵.
- (2) A marriage which results from the purported conversion of a void civil partnership is void.
- (3) A marriage which results from the conversion of a civil partnership is voidable if any of sub-paragraphs (b), (d), (e), (f), (g), (h) or (i) of Article 18(1) applied at the date from which the marriage is treated as having subsisted in accordance with Article 22(15) of the Marriage and Civil Status (Jersey) Law 2001.”.

18 Mental Health (Jersey) Law 1969 amended

In Article 29(5)(b) of the Mental Health (Jersey) Law 1969³⁶ –

- (a) for the words “her husband, his wife or his or her” there shall be substituted the words “his or her spouse or”;
- (b) for the words “husband or wife” there shall be substituted the word “spouse”.

19 Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992 amended

In Regulation 13(b) of the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992³⁷, after the words “a man as the man’s wife” there shall be inserted the words “, or with a woman as the woman’s spouse”.

20 Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 amended

In Regulation 8(3)(c) of the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967³⁸, after the words “a man as the man’s wife” there shall be inserted the words “or with a woman as the woman’s spouse”.

21 Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015 amended

In Regulation 3 of the Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015³⁹ –

- (a) in paragraphs (3)(b) and (c) and (5)(c), for the words “husband and wife” in each place where they appear there shall be substituted the word “spouses”;
- (b) paragraph (7) shall be deleted.

22 Separation and Maintenance Orders (Maintenance Payments) (Jersey) Regulations 1972 amended

In the Separation and Maintenance Orders (Maintenance Payments) (Jersey) Regulations 1972⁴⁰ –

- (a) in Regulation 1, for the words “a wife in respect of the wife’s maintenance” there shall be substituted the words “a party to a marriage or civil partnership in respect of his or her maintenance”;
- (b) in Regulation 2, for the words “a wife in respect of the maintenance of any child of the marriage of whom the wife is given the legal custody” there shall be substituted the words “a party to a marriage or civil partnership in respect of the maintenance of any child of the marriage or civil partnership of whom he or she is given the legal custody.”.

23 Social Security (Jersey) Law 1974 amended

- (1) In this paragraph “Law” means the Social Security (Jersey) Law 1974⁴¹.
- (2) In Article 21 of the Law –
 - (a) in paragraph (1)(b) for the word “husband” there shall be substituted the word “spouse”;
 - (b) for paragraph (6) there shall be substituted the following paragraph –
 - “(6) In this Article ‘spouse’ includes –
 - (a) a woman’s late spouse; or
 - (b) a former spouse,
 where the benefit is claimed in respect of a child conceived during the subsistence of the marriage.”.
- (3) For paragraph 5(2)(b)(i) of Schedule 2 to the Law there shall be substituted the following sub-clause –
 - “(ii) where the relevant person is the spouse and he or she was dead or over pensionable age on that date, the date of him or her attaining pensionable age or dying under that age.”.

24 Social Security (Classification) (Jersey) Order 1974 amended

In the Social Security (Classification) (Jersey) Order 1974⁴², in Schedule 1 –

- (a) in paragraphs 11 and 16, in Column (A), for the word “wife” there shall be substituted the word “spouse”;
- (b) for paragraphs 17 and 17A in Columns (A) and (B) there shall be substituted the following paragraph –

“17. Employment of a person (whether or not under contract of service) by, or as partner of, or in any similar association with, his or her spouse or civil partner.	17. None.”.
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25 Social Security (Contributions) (Jersey) Order 1975 amended

In the Social Security (Contributions) (Jersey) Order 1975⁴³, in paragraph 2(4) of Schedule 1, for the words “a husband and wife” there shall be substituted the word “a person and his or her spouse or civil partner”.

26 Social Security (Maternity Benefit) (Jersey) Order 1975 amended

In Article 2(b) of the Social Security (Maternity Benefit) (Jersey) Order 1975⁴⁴, in the modification to paragraph 5(2)(b) of Schedule 2 to the Social Security (Jersey) Law 1974, for sub-clause (i) there shall be substituted the following sub-clause –

- “ (i) where the relevant person is the spouse and he or she was dead or over pensionable age on the date of the making of the claim, the date of his or her attaining pensionable age or dying under that age, and”.

27 Social Security (Residence and Persons Abroad) (Jersey) Order 1974 amended

In the Social Security (Residence and Persons Abroad) (Jersey) Order 1974⁴⁵ –

- (a) for Article 2A(1) there shall be substituted the following paragraph –

“ (1) Where –

- (a) spouse B is an insured person;
- (b) his or her spouse A is not an insured person, by reason only that he or she does not fulfil the residence condition in Article 2; and
- (c) under the 1961 Law, they are assessed jointly, whether by virtue of Article 121 or the operation of the proviso to Article 122,

spouse A shall be deemed to be resident in Jersey and insured under the Law for the purpose of the liability to pay spouse B’s LTC contributions, to the extent that spouse B’s income is deemed to be spouse A’s income and not his or her own.

(1A) The references to spouse A and spouse B in paragraph (1) have the meaning given to those expressions in Article 3(1) of the 1961 Law.”;

(b) in Article 5, for the words “wife, husband” there shall be substituted the words “spouse, civil partner”.

28 Standing Orders of the States of Jersey

In standing order 1(1) of the Standing Orders of the States of Jersey⁴⁶, in the definition “cohabitee”, for the words “husband and wife” there shall be substituted the word “spouses”.

29 Teachers’ Superannuation (Existing Members) (Jersey) Order 1986 amended

In Article 68(5) of the Teachers’ Superannuation (Existing Members) (Jersey) Order 1986⁴⁷, for the words “as husband and wife” there shall be substituted the words “as a spouse”.

30 Trusts (Jersey) Law 1984 amended

In Article 9(6) of the Trusts (Jersey) Law 1984⁴⁸, in paragraph (b) of the definition “personal relationship” for the words “husband and wife” there shall be substituted the word “spouses”.

31 Wills and Successions (Jersey) Law 1993 amended

For Article 6A of the Wills and Successions (Jersey) Law 1993⁴⁹ there shall be substituted the following paragraph –

“6A Extension of right in nature of dower to surviving spouses and surviving civil partners

Where a civil partner or in the case of a marriage by persons of the same sex, a spouse, dies testate as to immovable estate, his or her civil partner or spouse, as the case may be, shall have a right of *usufruit* in that immovable estate to the same extent and upon the same terms as a widow has by virtue of her right of dower in the immovable estate as to which her husband dies testate.”.

1	<i>chapter 12.600</i>
2	<i>chapter 07.455</i>
3	<i>chapter 12.320</i>
4	<i>chapter 16.325</i>
5	<i>chapter 12.450</i>
6	<i>chapter 21.700</i>
7	<i>chapter 24.660</i>
8	<i>chapter 20.600</i>
9	<i>chapter 16.325</i>
10	<i>chapter 15.560</i>
11	<i>chapter 08.540</i>
12	<i>P.91/2017</i>
13	<i>chapter 12.320</i>
14	<i>chapter 20.650</i>
15	<i>chapter 12.200</i>
16	<i>chapter 01.400.25</i>
17	<i>chapter 24.090.30</i>
18	<i>chapter 12.200</i>
19	<i>chapter 15.260</i>
20	<i>chapter 12.600</i>
21	<i>chapter 12.320</i>
22	<i>chapter 05.255</i>
23	<i>chapter 23.150.25</i>
24	<i>chapter 12.320</i>
25	<i>chapter 12.600</i>
26	<i>chapter 12.320.20</i>
27	<i>chapter 24.750</i>
28	<i>chapter 15.360</i>
29	<i>chapter 04.640</i>
30	<i>chapter 08.740</i>
31	<i>chapter 18.495</i>
32	<i>chapter 18.450</i>
33	<i>chapter 07.910</i>
34	<i>chapter 12.650</i>
35	<i>chapter 12.600</i>
36	<i>chapter 20.650</i>
37	<i>chapter 16.650.24</i>
38	<i>chapter 16.650.48</i>
39	<i>chapter 16.640.30</i>
40	<i>chapter 12.800.60</i>
41	<i>chapter 26.900</i>
42	<i>chapter 26.900.08</i>
43	<i>chapter 26.900.24</i>
44	<i>chapter 26.900.46</i>
45	<i>chapter 26.900.78</i>
46	<i>chapter 16.800.15</i>
47	<i>chapter 16.850.60</i>
48	<i>chapter 13.875</i>
49	<i>chapter 04.960</i>