EXPLANATORY MEMORANDUM TO

THE MARRIAGE OF SAME SEX COUPLES (CONVERSION OF CIVIL PARTNERSHIP) REGULATIONS 2014

2014 No. [XXXX]

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The purpose of the Regulations is to set out the procedures to be followed by couples who wish to convert their civil partnership into a marriage.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This is the first exercise of the powers under section 9(1) and 9(2) of the Marriage (Same Sex Couples) Act 2013. These Regulations govern the conversion of civil partnerships into marriage in England and Wales. A separate instrument, subject to the negative resolution procedure, will set out the procedures to be followed by those seeking to convert a civil partnership overseas, by consular or Armed Forces officials. Although the procedures will be similar, it is considered preferable to have separate instruments for England and Wales conversions and consular / Armed Forces conversions as this follows existing practice in relation to regulations concerning the registration of births, deaths, marriages and civil partnerships. This practice reflects the fact that the instruments are the responsibility of different departments and are largely used by different officials.

4. Legislative Context

4.1 The Marriage (Same Sex Couples) Act 2013 received Royal Assent on 17 July 2013. It made marriage of same sex couples lawful in England and Wales, substantially amending the Marriage Act 1949 and other related legislation. The bulk of the Act was brought into force on 13 March 2014. The Act also makes provision for the conversion of civil partnership into marriage and for married couples to remain married if one party undergoes gender transition, which were not brought into force at that time.

4.2 This set of Regulations is one of a series of instruments which will implement these remaining provisions of the Act. An affirmative order (the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) (No. 2) Order) will be laid alongside these Regulations. At a later date further statutory instruments will be laid

which are subject to the negative procedure and which make provision for consular and armed forces conversions to take place overseas; for the registration of marriages and civil partnerships in which one or both parties have changed gender; and for amendments to secondary legislation.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

The Minister of State has made the following statement regarding Human Rights:

In my view the provisions of the Marriage of Same Sex Couples (Conversion of Civil Partnership) Regulations 2014 are compatible with the Convention rights.

7. Policy background

7.1 The overall purpose of the Act is to make marriage of same sex couples possible in England and Wales and to secure that same sex married couples are generally treated in the same way as opposite sex married couples.

7.2 The Act enables civil partners to convert their civil partnership into a marriage where the civil partnership was registered in England and Wales, or overseas at a consulate or Armed Forces base where the couple elected England and Wales as the relevant law for the registration. These Regulations set out in detail the processes for the conversion of civil partnerships into marriages in England and Wales including:

- the attendance of both parties at a register office;
- the signing by both parties of a declaration, in the presence of each other and the superintendent registrar, confirming that they are in a civil partnership and that they wish to convert the civil partnership into a marriage. When the parties and the superintendent registrar have signed the declaration they will be married;
- the registration of the declaration in the conversion register and the issue of a marriage certificate;
- the creation of an index of civil partnership conversions (which may be held jointly with the index of marriages) and access to conversion records;
- provisions for conversions to take place at the residence of a person who is housebound or terminally ill, or at the place of detention of one of the parties;
- fees for the conversion process.

8. Consultation outcome

8.1 No specific consultation has been undertaken on these Regulations, although there has been engagement with relevant stakeholders on the conversion process. The Government carried out a consultation on how marriage of same sex couples should be introduced prior to the introduction of the Act, which ran for 13 weeks and closed on 14 June 2012. There were over 228,000 responses of which 53% were in favour of the proposals and a number of large petitions which were opposed to the proposals. Most responses to the consultation question on the conversion of civil partnerships supported the introduction of a route by which civil partnerships could be converted to civil marriages. The consultation document and the Government response "Equal marriage: The Government's response" are available at https://www.gov.uk/government/consultations/equal-marriage-consultation.

9. Guidance

9.1 The General Register Office has produced guidance for staff involved in the conversion process that will be available to local authorities, registration officers and citizens setting out the amendments made by these Regulations.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is an impact on the public sector. The costs of this proposal fall primarily on public bodies which will need to adjust IT systems and administrative processes to record conversions of civil partnerships into marriage. There are also some familiarisation costs for local authorities who employ superintendent registrars to conduct conversions.

10.3 An Impact Assessment has not been prepared for this instrument. An impact Assessment was published for the Marriage (Same Sex Couples) Act 2013 which can be found at https://www.gov.uk/government/publications/marriage-same-sex-couples-bill

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Government has no specific targets in this area other than in regard to the fees which are set to recover full costs and are subject to annual review.

13. Contact

Alison Tighe at the General Register Office (part of Her Majesty's Passport Office) Tel: 0151 471 4293 or email: Alison.Tighe@gro.gsi.gov.uk can answer any queries regarding the instrument.