



Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011

2011 asp 15

PART 2

DECLARATORS OF NULLITY OF MARRIAGE IN SHERIFF COURT

15 Action of declarator of nullity in sheriff court: jurisdiction

(1) Section 8 of the Domicile and Matrimonial Proceedings Act 1973 (c.45) (jurisdiction of sheriff court in respect of certain actions) is amended as follows.

(2) In subsection (1)—

- (a) the word “and” immediately following paragraph (a) is repealed, and
- (b) after paragraph (b) insert “; and
- (c) an action for declarator of nullity of marriage.”.

(3) After subsection (2) insert—

“(2A) The court shall have jurisdiction to entertain an action for declarator of nullity of marriage if (and only if)—

- (a) either party to the marriage—
 - (i) was resident in the sheriffdom for a period of forty days ending with the date when the action is begun; or
 - (ii) had been resident in the sheriffdom for a period of not less than forty days ending not more than forty days before that date and has no known residence in Scotland at that date; and
- (b) either—
 - (i) the Scottish courts have jurisdiction under the Council Regulation; or
 - (ii) the action is one to which subsection (2B) below applies and a condition mentioned in either subsection (2C) or (2D) is satisfied.

(2B) This subsection applies to an action—

- (a) which is an excluded action; or

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- (b) where one of the parties to the marriage in question died before the date when the action is begun.
- (2C) The condition is that either party to the marriage in question is domiciled in Scotland on the date when the action is begun.
- (2D) The condition is that either party to the marriage in question died before the date when the action is begun and either—
 - (a) was at death domiciled in Scotland; or
 - (b) had been habitually resident in Scotland throughout the period of one year ending with the date of death.”.
- (4) In subsection (3)—
 - (a) after “divorce” insert “ or declarator of nullity of marriage ”,
 - (b) after “subsection (2)”, where it first occurs, insert “ or (2A) ”, and
 - (c) for “or of” substitute “ (2A) or ”.
- (5) In subsection (4), after “divorce” insert “ or declarator of nullity of marriage ”.

Commencement Information

II S. 15 in force at 28.11.2011 by S.S.I. 2011/352, art. 2

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