

MARRIAGE AND CIVIL PARTNERSHIP (SCOTLAND) ACT 2014

EXPLANATORY NOTES

SCHEDULES

Schedule 1: Jurisdiction in proceedings relating to same sex marriages

Recognition, or non-recognition, of foreign decrees

238. Paragraph 6(1) of Schedule 1B provides that the Court of Session is able to deal with proceedings to recognise or not recognise a court decree from outwith the EU relating to divorce, separation or nullity of a same sex marriage if (a) the Scottish courts have jurisdiction under regulations made under paragraph 2 of Schedule 1B or (b) no court has jurisdiction under the regulations and either party to the marriage is (i) domiciled in Scotland when the action is raised or (ii) dead and at death was domiciled in Scotland or had been habitually resident in Scotland for a year immediately preceding the death.
239. Under paragraph 6(2), the sheriff court has jurisdiction in these cases when either (a) or (b) above is met and either party to the marriage:
- was resident in the sheriffdom for a period of 40 days before the court action is raised; or
 - had been resident in the sheriffdom for at least 40 days ending not more than 40 days before the court action is raised and has no known residence in Scotland when the action is raised.