



# Marriage (Scotland) Act 1977

## 1977 CHAPTER 15

An Act to make new provision for Scotland as respects the law relating to the constitution of marriage, and for connected purposes. [26th May 1977]

### Modifications etc. (not altering text)

- C1** Act applied (with modifications) (1.2.2005) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 22, 48\(3\)](#); S.I. 2004/3398, art. 3
- C2** Act power to apply (with modifications) conferred (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), ss. 30\(5\)\(b\), 36](#); S.S.I. 2014/212, art. 2, sch. (as amended (1.9.2014) by S.S.I. 2014/218, art. 2(3), Sch.)

### Commencement Information

- I1** Act partly in force at Royal Assent, see [s. 29\(2\)](#); Act wholly in force at 01. 01. 1978.

## MINIMUM AGE FOR MARRIAGE

### 1 Minimum age for marriage.

- (1) No person domiciled in Scotland may marry before he attains the age of 16.
- (2) A marriage solemnised in Scotland between persons either of whom is under the age of 16 shall be void.

## FORBIDDEN DEGREES

### 2 Marriage of related persons.

- (1) [<sup>F1</sup>Subject to [<sup>F2</sup>subsection (1A) below,] a marriage between a man and any woman related to him in a degree specified in column 1 of Schedule 1 to this Act, or between a woman and any man related to her in a degree specified in column 2 of that Schedule shall be void if solemnised—
  - (a) in Scotland; or
  - (b) at a time when either party is domiciled in Scotland.

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[<sup>F3</sup>(1A) Subsection (1) above does not apply to a marriage between a man and any woman related to him in a degree specified in column 1 of paragraph 2 of Schedule 1 to this Act, or between a woman and any man related to her in a degree specified in column 2 of that paragraph, if—  
(a) both parties have attained the age of 21 at the time of the marriage; and  
(b) the younger party has not at any time before attaining the age of 18 lived in the same household as the other party and been treated by the other party as a child of his family.

[<sup>F4</sup>(1B) . . . . .]

- (2) For the purposes of this section a degree of relationship exists—
  - (a) in the case of a degree specified in paragraph 1 of Schedule 1 to this Act, whether it is of the full blood or the half blood; . . . <sup>F5</sup>
  - (b) . . . . . <sup>F5</sup>
- (3) Where a person is related to another person in a degree not specified in Schedule 1 to this Act that degree of relationship shall not, in Scots law, bar a valid marriage between them; but this subsection is without prejudice to—
  - (a) the effect which a degree of relationship not so specified may have under the provisions of a system of law other than Scots law in a case where such provisions apply as the law of the place of celebration of a marriage or as the law of a person’s domicile; or
  - (b) any rule of law that a marriage may not be contracted between persons either of whom is married to a third person.

[<sup>F6</sup>(4) References in this section and in Schedule 1 to this Act to relationships and degrees of relationship shall be construed in accordance with section 1(1) of the Law Reform (Parent and Child) (Scotland) Act 1986.]

[<sup>F7</sup>(5) Where the parties to an intended marriage are related in a degree specified in paragraph 2 of Schedule 1 to this Act, either party may (whether or not an objection to the marriage has been submitted in accordance with section 5(1) of this Act) apply to the Court of Session for a declarator that the conditions specified in paragraphs (a) and (b) of subsection (1A) above are fulfilled in relation to the intended marriage.]

[<sup>F8</sup>(6) [<sup>F9</sup>Subsection (1A)] above and [<sup>F10</sup>paragraph 2] of Schedule 1 to this Act have effect subject to the following modifications in the case of a party to a marriage whose gender has become the acquired gender under the Gender Recognition Act 2004 (“the relevant person”).

(7) Any reference in those provisions to a former wife or former husband of the relevant person includes (respectively) any former husband or former wife of the relevant person.

[ This section and Schedule 1 to this Act have effect as if any reference in paragraphs 1 and 2 of that Schedule to a mother within any of the degrees of relationship specified in either column included a woman who is a parent of a child by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008 (c. 22).]

[<sup>F12</sup>(8) . . . . .]

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### Textual Amendments

- F1** Words inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 2, **Sch. 2 para. 2(a)**
- F2** Words in s. 2(1) substituted (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), **ss. 1(a)(i)**, 46(2); [S.S.I. 2006/212](#), art. 2
- F3** S. 2(1A)(1B) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 2, **Sch. 2 para. 2(b)**
- F4** S. 2(1B) repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), **ss. 1(a)(ii)**, 46(2); [S.S.I. 2006/212](#), art. 2
- F5** S. 2(2)(b) and the word “and” preceding it repealed by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 9, 10(2), **Sch. 2**
- F6** S. 2(4) inserted by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 9, 10(1), **Sch. 1 para. 17**
- F7** S. 2(5) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 2, **Sch. 2 para. 2(c)**
- F8** S. 2(6)-(8) inserted (4.4.2005) by [Gender Recognition Act 2004 \(c. 7\)](#), s. 26, **Sch. 4 para. 7**; [S.I. 2005/54](#), art. 2
- F9** Words in s. 2(6) substituted (30.6.2006) by [The Family Law \(Scotland\) Act 2006 \(Consequential Modifications\) Order 2006 \(S.S.I. 2006/384\)](#), arts. 1, **4(a)(i)**
- F10** Words in s. 2(6) substituted (30.6.2006) by [The Family Law \(Scotland\) Act 2006 \(Consequential Modifications\) Order 2006 \(S.S.I. 2006/384\)](#), arts. 1, **4(a)(ii)**
- F11** S. 2(7A) inserted (1.9.2009) by [The Human Fertilisation and Embryology \(Consequential Amendments and Transitional and Saving Provisions\) Order 2009 \(S.I. 2009/1892\)](#), art. 1(1)(a), **Sch. 1 para. 1**
- F12** S. 2(8) repealed (30.6.2006) by [The Family Law \(Scotland\) Act 2006 \(Consequential Modifications\) Order 2006 \(S.S.I. 2006/384\)](#), arts. 1, **4(b)**

## PRELIMINARIES TO REGULAR MARRIAGE

### 3 Notice of intention to marry.

- (1) Subject to subsections (2) to (4) below, each of the parties to a marriage intended to be solemnised in Scotland shall submit to the district registrar a notice, in the prescribed form, of intention to marry (in this Act referred to as a “marriage notice”) [<sup>F13</sup>and] the prescribed fee, his birth certificate and—
- (a) if he has previously been married and the marriage has been dissolved, a copy of the decree of divorce, dissolution or annulment;
- [<sup>F14</sup>(aa) if he has previously been in civil partnership and the civil partnership has been dissolved, a copy of the decree of dissolution or annulment;]
- (b) in the case of a widow or widower, the death certificate of the former spouse;
- (c) in any case where a certificate is required under subsection (5) below, that certificate.
- [<sup>F15</sup>(d) where he is related to the other party in a degree specified in paragraph 2 of Schedule 1 to this Act, a declaration in the prescribed form stating—
- (i) the degree of relationship; and
- (ii) that the younger party has not at any time before attaining the age of 18 lived in the same household as the other party and been treated by the other party as a child of his family.]

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- (2) If a party is unable to submit his birth certificate or any document referred to in paragraph (a) [<sup>F16</sup>, (aa)] or (b) of subsection (1) above, he may in lieu thereof make a declaration stating that for reasons specified in that declaration it is impracticable for him to submit that certificate or document; and he shall provide the district registrar with such—
- (a) information in respect of the matters to which such certificate or document would have related; and
  - (b) documentary evidence in support of that information, as the district registrar may require.
- (3) If any document submitted under subsection (1) above is written in a language other than English, the party submitting it shall [<sup>F17</sup>also submit] a translation of it in English certified by the translator as a correct translation.
- [<sup>F18</sup>(3A) A person submitting a notice under subsection (1) above shall make and attest in the prescribed manner the necessary declaration (the form for which shall be included in any form prescribed for the notice).
- (3B) The necessary declaration is a declaration that the person submitting the notice believes that the parties to the marriage are eligible to be married to each other.]
- (4) Where a party to a marriage intended to be solemnised in Scotland is residing in another part of the United Kingdom, he may submit to the district registrar a valid certificate for marriage (in this Act referred to as an “approved certificate”) issued in that other part; and where that party so submits an approved certificate, he need not, unless the Registrar General so directs, comply with the other provisions of this section.
- [<sup>F19</sup>(4A) A district registrar to whom a notice under subsection (1) is submitted may require the person submitting the notice to provide the district registrar with specified nationality evidence relating to each of the parties to the marriage.
- (4B) A requirement under subsection (4A) may be imposed at any time—
- (a) on or after the submitting of the notice under subsection (1); but
  - (b) before the district registrar completes the Marriage Schedule.
- (4C) In subsection (4A), “specified nationality evidence” means such evidence of that person's nationality as may be specified in guidance issued by the Registrar General.]
- (5) A party to a marriage intended to be solemnised in Scotland who is not domiciled in any part of the United Kingdom is required, if practicable, to submit under subsection (1)(c) above a certificate, issued by a competent authority in the state in which the party is domiciled, to the effect that he is not known to be subject to any legal incapacity (in terms of the law of that state) which would prevent his marrying:
- Provided that such a party—
- (i) may, where under the law of the state in which he is domiciled his personal law is that of another foreign state, submit in lieu of the said certificate a like certificate issued by a competent authority in that other state;
  - (ii) need not submit a certificate under paragraph (c) of subsection (1) above [<sup>F20</sup>(a)] if he has been resident in the United Kingdom for a period of 2 or more years immediately before the date on which he submits a marriage notice under that subsection in respect of the said marriage [<sup>F21</sup>or (b) if no such certificate has been issued only by reason of the fact that the validity of a divorce or annulment

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granted by a court of civil jurisdiction in Scotland or entitled to recognition in Scotland under section 44 or 45 of the Family Law Act 1986 is not recognised in the state in which the certificate would otherwise have been issued.]

[<sup>F22</sup>(6) In this section, “the district registrar” means—

- (a) where the marriage is to be solemnised in a registration district, the district registrar for that district;
- (b) where the marriage is to be solemnised in Scottish waters—
  - (i) in the case where the marriage is to be solemnised by an approved celebrant, the district registrar for any registration district;
  - (ii) in the case where the marriage is to be solemnised by an authorised registrar, the district registrar for the registration district of the proposed authorised registrar.]

#### Subordinate Legislation Made

**P1** S. 3: for previous exercises of this power see Index to Government Orders.

**P2** S. 3(1): s. 25 (with ss. 3(1), 19(2) and 26) power exercised (12.12.1991) by [S.I.1991/2816](#).

#### Textual Amendments

**F13** Word in s. 3(1) substituted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 50(2)(a)**, 63(2); [S.S.I. 2006/469](#), art. 2, schs. 1, 2 (with art. 4)

**F14** S. 3(1)(aa) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 43(a)**; [S.S.I. 2005/604](#), arts. 2(c), 4

**F15** S. 3(1)(d) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 2, **Sch. 2 para. 3**

**F16** Word in s. 3(2) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 43(b)**; [S.S.I. 2005/604](#), arts. 2(c), 4

**F17** Words in s. 3(3) substituted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 50(2)(b)**, 63(2); [S.S.I. 2006/469](#), art. 2, schs. 1, 2 (with art. 4)

**F18** S. 3(3A)-(3B) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 50(2)(c)**, 63(2); [S.S.I. 2006/469](#), art. 2, schs. 1, 2 (with art. 4)

**F19** S. 3(4A)-(4C) inserted (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), **ss. 17(2)**, 36; [S.S.I. 2014/212](#), art. 2, sch. (as amended (1.9.2014) by [S.S.I. 2014/218](#), art. 2(3), sch.)

**F20** Word inserted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(6), **Sch. 1 para. 21(a)**

**F21** Words added by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(6), **Sch. 1 para. 21(b)**

**F22** S. 3(6) inserted (1.1.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 48(2)**, 63(2); [S.S.I. 2006/469](#), art. 3, sch. 2 (with art. 4)

#### Modifications etc. (not altering text)

**C3** By [S.I. 1993/3152](#), **art. 2(1)**, it is provided (1.4.1994) that the fee payable under s. 3(1) shall be £10.00.

## 4 Marriage notice book and list of intended marriages.

- (1) On receipt of a marriage notice or an approved certificate in respect of a party to an intended marriage, the district registrar shall forthwith enter such particulars, extracted from such notice or certificate, as may be prescribed, together with the date of receipt

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by him of such notice or certificate, in a book (in this Act referred to as “the marriage notice book”) supplied to him for that purpose by the Registrar General.

[<sup>F23</sup>(2) The district registrar shall maintain a list of the intended marriages in respect of which he has received a marriage notice or an approved certificate (the “district list”).

(2A) Subject to subsection (2B) below, the district list shall be displayed in a conspicuous place at the registration office.

(2B) If the registration office comprises more than one set of premises, it shall be sufficient for the purpose of subsection (2A) above if the district registrar displays the list in a conspicuous place at the principal premises only.

(2C) The district registrar shall, as soon as practicable after he has received a marriage notice or an approved certificate in relation to an intended marriage—

- (a) make an entry in the district list containing the relevant particulars of the marriage; and
- (b) provide (in such form and by such means as the Registrar General thinks fit) the relevant particulars of the marriage to the Registrar General.

(2D) The Registrar General shall maintain a list of proposed marriages in Scotland (the “Scottish list”).

(2E) The Registrar General shall make the Scottish list available for public inspection (at such locations, by such means and in such forms as the Registrar General thinks fit).

(2F) The Registrar General shall, as soon as practicable after the relevant particulars of a marriage are provided to him under subsection (2C)(b) above, make an entry in the Scottish list containing those particulars.

(2G) An entry in a district list or the Scottish list shall remain in that list until the proposed date of the marriage to which it relates has elapsed.]

(3) Any person claiming that he may have reason to submit an objection to an intended marriage, or to the issue of a certificate under section 7 of this Act to a party to such marriage, may, free of charge and at any time when the registration office is open for public business, inspect any entry relating to the marriage in the marriage notice book.

[<sup>F24</sup>(4) For the purpose of this section, the relevant particulars of a marriage are such particulars, extracted from the marriage notice book, as may be prescribed.]

[<sup>F25</sup>(5) In this section and sections 5 and 6 of this Act, “the district registrar” means—

- (a) where the marriage is to be solemnised in a registration district, the district registrar for that district;
- (b) where the marriage is to be solemnised in Scottish waters—
  - (i) in the case where the marriage is to be solemnised by an approved celebrant, the district registrar to whom the marriage notices or approved certificates in respect of the marriage were submitted;
  - (ii) in the case where the marriage is to be solemnised by an authorised registrar, the district registrar for the registration district of the proposed authorised registrar.]

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### Textual Amendments

- F23** S. 4(2)-(2G) substituted for s. 4(2) (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\), ss. 49\(a\), 63\(2\)](#); [S.S.I. 2006/469, art. 2, schs. 1, 2 \(with art. 4\)](#)
- F24** S. 4(4) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\), ss. 49\(b\), 63\(2\)](#); [S.S.I. 2006/469, art. 2, schs. 1, 2 \(with art. 4\)](#)
- F25** S. 4(5) inserted (1.1.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\), ss. 48\(3\), 63\(2\)](#); [S.S.I. 2006/469, art. 3, sch. 2 \(with art. 4\)](#)

## 5 Objections to marriage.

- (1) Any person may at any time before the solemnisation of a marriage in Scotland submit an objection in writing thereto to the district registrar:

Provided that where the objection is on the ground mentioned in subsection (4)(d) below, it shall <sup>F26</sup>not be treated as submitted until there has also been produced to the registrar] a supporting certificate <sup>F27</sup>attested in the prescribed manner] by a registered medical practitioner.

<sup>F28</sup>(1A) For the purpose of subsection (1) above, an objection which is submitted to the registrar by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.]

- (2) Where the district registrar receives an objection in accordance with subsection (1) above he shall—
- (a) in any case where he is satisfied that the objection relates to no more than a misdescription or inaccuracy in the marriage notice or approved certificate, notify the parties to the marriage of the nature of the objection and make such enquiries into the matter mentioned in it as he thinks fit; and thereafter he shall, subject to the approval of the Registrar General, make any necessary correction to any document relating to the marriage;
  - (b) in any other case—
    - (i) forthwith notify the Registrar General of the objection;
    - (ii) pending consideration of the objection by the Registrar General, suspend the completion or issue of the Marriage Schedule in respect of the marriage;
    - (iii) where, in the case of a marriage to be solemnised by an approved celebrant, the Marriage Schedule has already been issued to the parties, if possible notify that celebrant of the objection and advise him not to solemnise the marriage pending the said consideration.
- (3) <sup>F29</sup>Subject to subsection (3A) below,] if the Registrar General is satisfied, on consideration of an objection of which he has received notification under subsection (2)(b)(i) above, that—
- (a) there is a legal impediment to the marriage, he shall direct the district registrar to take all reasonable steps to ensure that the marriage does not take place and shall notify, or direct the district registrar to notify, the parties to the intended marriage accordingly;
  - (b) there is no legal impediment to the marriage, he shall inform the district registrar to that effect.

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[<sup>F30</sup>(3A) Where—

- (a) an objection of which the Registrar General has received notification under subsection (2)(b)(i) above is on the ground that—
    - (i) the parties are related in a degree specified in paragraph 2 of Schedule 1 to this Act; and
    - (ii) the conditions specified in paragraphs (a) and (b) of section 2(1A) of this Act are not satisfied; and
  - (b) an extract decree of declarator that those conditions are satisfied, granted on an application under section 2(5) of this Act, is produced to the Registrar General, the Registrar General shall inform the district registrar that there is no legal impediment to the marriage on that ground.]
- (4) For the purposes of [<sup>F31</sup>this section] and section 6 of this Act, there is a legal impediment to a marriage where—
- (a) that marriage would be void by virtue of section 2(1) of this Act;
  - (b) one of the parties is, or both are, already married [<sup>F32</sup>or in civil partnership] ;
  - (c) one or both of the parties will be under the age of 16 on the date of solemnisation of the intended marriage;
  - (d) one or both of the parties is or are incapable of understanding the nature of a marriage ceremony or of consenting to marriage;
  - (e) both parties are of the same sex; or
  - (f) one or both of the parties is, or are, not domiciled in Scotland and, on a ground other than one mentioned in paragraphs (a) to (e) above, a marriage in Scotland between the parties would be void *ab initio* according to the law of the domicile of the party or parties as the case may be.
- (5) A person who has submitted an objection in accordance with subsection (1) above may at any time withdraw it:

Provided that the Registrar General shall be entitled to have regard to that objection notwithstanding such withdrawal.

#### Textual Amendments

- F26** Words in s. 5(1) substituted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 50(3)(a)(i)**, 63(2); S.S.I. 2006/469, art. 2, schs. 1, 2 (with art. 4)
- F27** Words in s. 5(1) substituted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 50(3)(a)(ii)**, 63(2); S.S.I. 2006/469, art. 2, schs. 1, 2 (with art. 4)
- F28** S. 5(1A) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 50(3)(b)**, 63(2); S.S.I. 2006/469, art. 2, schs. 1, 2 (with art. 4)
- F29** Words inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, ss. 2, 6\(6\), Sch. 2 para. 4\(a\)\)](#)
- F30** S. 5(3A) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), ss. 2, 6(6), **Sch. 2 para. 4(b)**
- F31** Words substituted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), ss. 2, 6(6), **Sch. 2 para. 4(c)**



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**F32** Words in s. 5(4)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 44](#); [S.S.I. 2005/604](#), arts. 2(c), 4

## 6 The Marriage Schedule.

(1) Where the district registrar has received a marriage notice or approved certificate in respect of each of the parties to a marriage intended to be solemnised in Scotland and is satisfied that there is no legal impediment to the marriage or, as the case may be, is informed by the Registrar General under section 5(3)(b) [<sup>F33</sup>or (3A)] of this Act that there is no such legal impediment, he shall, subject to subsection (2) below, complete a Marriage Schedule in the prescribed form.

[<sup>F34</sup>(1A) Regulations under subsection (1) prescribing the form of the Marriage Schedule may make different provision for different cases or circumstances.]

(2) If a period of more than 3 months has elapsed since the date of receipt (as entered by the district registrar in the marriage notice book) of a marriage notice or an approved certificate in respect of a party to the marriage, the Registrar General may direct that the district registrar shall not complete the Marriage Schedule unless that party submits a new marriage notice or approved certificate to the district registrar.

(3) Subject to subsection (4) below, in the case of a marriage to be solemnised by an approved celebrant, the Marriage Schedule completed in accordance with subsection (1) above shall be issued by the district registrar at the registration office to one or both of the parties to the intended marriage.

(4) The district registrar shall not issue a Marriage Schedule under subsection (3) above—

(a) within 14 days of the date of receipt (as entered by him in the marriage notice book) of a marriage notice in respect of the marriage to which the Marriage Schedule relates, except where—

(i) He has received a written request from one or both of the parties for the issue of the Marriage Schedule on a specified date within the said 14 days stating the reason for the request; and

(ii) he has been authorised to issue the Marriage Schedule on that specified date by the Registrar General;

(b) on a date earlier than 7 days before the date of the intended marriage unless he has been authorised to issue the Marriage Schedule on that earlier date by the Registrar General.

[<sup>F35</sup>(4A) For the purpose of subsection (4)(a)(i) above, a request which is made by electronic means is to be treated as being written if it is received in a form which is legible and capable of being used for subsequent reference.]

(5) Subject to subsections (6) and (7) below and section [<sup>F36</sup>23A] of this Act, a religious marriage may be solemnised only on the date and at the place specified in the Marriage Schedule.

(6) Subject to subsection (7) below, if, for any reason, the marriage cannot be solemnised on the date or at the place so specified and a new date or place is fixed for the marriage, the district registrar shall—

(a) issue another Marriage Schedule under subsection (3) above, in lieu of that already issued, specifying that new date or place; or

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- (b) substitute, or direct the approved celebrant to substitute, that new date or place in the Marriage Schedule already issued.
- (7) Subsection (6) above shall not apply in a case where the new date fixed for the marriage is more than 3 months after the date for the marriage as specified in the Marriage Schedule already issued or where the new place so fixed is in a different registration district [<sup>F37</sup>, is in Scottish waters instead of a registration district or is in a registration district instead of Scottish waters ], but in such a case the Registrar General may, according to the circumstances, direct—
- (a) the district registrar <sup>F38</sup>... to proceed as in paragraph (a) or (b) (whichever the Registrar General considers the more appropriate) of subsection (6) above; or
- (b) each party to the marriage to submit to the said district registrar a new marriage notice or approved certificate.

#### Textual Amendments

- F33** Words inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\), ss. 2, 6\(6\), Sch. 2 para. 5](#)
- F34** S. 6(1A) inserted (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), ss. 18\(2\)\(a\), 36; S.S.I. 2014/212, art. 2, sch.](#) (as amended (1.9.2014) by [S.S.I. 2014/218, art. 2\(3\), sch.](#))
- F35** S. 6(4A) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\), ss. 50\(4\), 63\(2\); S.S.I. 2006/469, art. 2, schs. 1, 2 \(with art. 4\)](#)
- F36** Words substituted (*retrospectively*) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\), s. 22\(1\)\(a\)\(2\)](#)
- F37** Words in s. 6(7) inserted (1.1.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\), ss. 48\(4\)\(a\), 63\(2\); S.S.I. 2006/469, art. 3, sch. 2 \(with art. 4\)](#)
- F38** Words in s. 6(7)(a) repealed (1.1.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\), ss. 48\(4\)\(b\), 63\(2\); S.S.I. 2006/469, art. 3, sch. 2 \(with art. 4\)](#)

## 7 Marriage outside Scotland where a party resides in Scotland.

- (1) Where a person residing in Scotland is a party to a marriage intended to be solemnised in—
- (a) England or Wales with a party residing in England or Wales and desires; or
- (b) any country, territory or place outside Great Britain, and, for the purpose of complying with the law in force in that country, territory or place, is required to obtain from a competent authority in Scotland,
- a certificate in respect of his legal capacity to marry, he may submit, in the form and with the fee and documents specified in section 3(1) [<sup>F39</sup>(a), [<sup>F40</sup> (aa), ] (b) and (d)] of this Act, notice of intention to marry to the district registrar for the district in which he resides (the said registrar being in this section referred to as the “appropriate registrar”) as if it were intended that the marriage should be solemnised in that district, and sections 3(2) [<sup>F41</sup>, (3) and (4A) to (4C)] and 4 of this Act shall apply accordingly.
- (2) The appropriate registrar shall, if satisfied (after consultation, if the appropriate registrar considers it necessary, with the Registrar General) that a person who has by virtue of subsection (1) above submitted a marriage notice to him is not subject to any legal incapacity (in terms of Scots law) which would prevent his marrying, issue to that person a certificate in the prescribed form that he is not known to be subject to any such incapacity:

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Provided that the certificate shall not be issued earlier than 14 days after the date of receipt (as entered by the appropriate registrar in the marriage notice book) of the marriage notice.

- (3) Any person may, at any time before a certificate is issued under subsection (2) above, submit to the appropriate registrar an objection in writing to such issue; and the objection shall be taken into account by the appropriate registrar in deciding whether, in respect of the person to whom the certificate would be issued, he is satisfied as mentioned in the said subsection (2).

[<sup>F42</sup>(4) For the purpose of subsection (3) above, an objection which is submitted by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.]

#### Textual Amendments

- F39** Words substituted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\), ss. 2, 6\(6\), Sch. 2 para. 6](#)
- F40** Word in s. 7(1) inserted (21.5.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), ss. 19, 36; S.S.I. 2014/121, art. 2\(b\)](#)
- F41** Words in s. 7(1) substituted (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), ss. 17\(3\), 36; S.S.I. 2014/212, art. 2, sch.](#) (as amended (1.9.2014) by [S.S.I. 2014/218, art. 2\(3\), sch.](#))
- F42** S. 7(4) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\), ss. 50\(5\), 63\(2\); S.S.I. 2006/469, art. 2, schs. 1, 2 \(with art. 4\)](#)

### PERSONS WHO MAY SOLEMNISE MARRIAGE

#### 8 Persons who may solemnise marriage.

- (1) [<sup>F43</sup>Subject to section 23A of this Act,] a marriage [<sup>F44</sup>between persons of different sexes] may be solemnised by and only by—
- (a) a person who is—
- (i) a minister [<sup>F45</sup>or deacon] of the Church of Scotland; or
  - (ii) a minister, clergyman, pastor, [<sup>F46</sup>priest or other celebrant of a religious or belief body] prescribed by regulations made by the Secretary of State, or who, not being one of the foregoing, is recognised by a [<sup>F47</sup>religious or belief body] so prescribed as entitled to solemnise [<sup>F48</sup>marriage between persons of different sexes] on its behalf; or
  - (iii) registered under section 9 of this Act [<sup>F49</sup>to solemnise marriage between persons of different sexes]; or
  - (iv) temporarily authorised under section 12 of this Act [<sup>F50</sup>to solemnise marriage between persons of different sexes]; or
- (b) a person who is a district registrar or assistant registrar appointed under section 17 of this Act.

- [<sup>F51</sup>(1A) The Scottish Ministers may prescribe a religious or belief body under subsection (1) (a)(ii) only if—
- (a) the body requests them to do so; and

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- (b) the Scottish Ministers are satisfied that the body meets the qualifying requirements.
- (1B) Subject to section 23A, a marriage between persons of the same sex may be solemnised by and only by—
- (a) a person who is—
- (i) a minister, clergyman, pastor, priest or other celebrant of a religious or belief body prescribed by regulations made by the Scottish Ministers, or who, not being one of the foregoing, is recognised by a religious or belief body so prescribed as entitled to solemnise marriage between persons of the same sex on its behalf;
  - (ii) registered under section 9 to solemnise marriage between persons of the same sex; or
  - (iii) temporarily authorised under section 12 to solemnise marriage between persons of the same sex; or
- (b) a person who is a district registrar or assistant registrar appointed under section 17.
- (1C) The Scottish Ministers may prescribe a religious or belief body under subsection (1B)
- (a)(i) only if—
- (a) the body requests them to do so; and
  - (b) the Scottish Ministers are satisfied that the body meets the qualifying requirements.
- (1D) For the avoidance of doubt, nothing in subsection (1B)(a) or (1C)(a)—
- (a) imposes a duty on any religious or belief body to make a request referred to in subsection (1C)(a);
  - (b) imposes a duty on any such body to nominate under section 9 any of its members to be registered as empowered to solemnise marriages between persons of the same sex;
  - (c) imposes a duty on any person to apply for temporary authorisation under section 12 to solemnise marriages between persons of the same sex;
  - (d) imposes a duty on any person who is an approved celebrant in relation to marriages between persons of the same sex to solemnise such marriages.
- (1E) In subsections (1A)(b) and (1C)(b), the “qualifying requirements” are such requirements as may be set out in regulations made by the Scottish Ministers.
- (1F) Regulations under subsection (1E)—
- (a) may make different provision for different cases or circumstances;
  - (b) may include transitional and saving provision.
- (1G) Regulations under subsection (1)(a)(ii), (1B)(a)(i) or (1E) are subject to the negative procedure.]
- (2) In this Act—
- (a) any such person as is mentioned in subsection (1)(a) above is referred to as an “approved celebrant”, and a marriage solemnised by an approved celebrant is referred to as a “religious marriage”;
  - (b) any such person as is mentioned in subsection (1)(b) above is referred to as an “authorised registrar”, and a marriage solemnised by an authorised registrar is referred to as a “civil marriage”.

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### Textual Amendments

- F43** Words inserted (*retrospectively*) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\)](#), [s. 22\(1\)\(b\)\(2\)](#)
- F44** Words in s. 8(1) inserted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [ss. 12\(2\)\(a\)\(i\)](#), 36; S.S.I. 2014/212, art. 2, sch. (with art. 3) (as amended (1.9.2014) by S.S.I. 2014/218, art. 2, Sch.); S.S.I. 2014/287, art. 3, sch. (with art. 4)
- F45** Words in s. 8(1)(a)(i) inserted (21.5.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [ss. 20](#), 36; S.S.I. 2014/121, art. 2(c)
- F46** Words in s. 8(1)(a)(ii) substituted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [s. 12\(2\)\(a\)\(ii\)\(A\)](#), 36; S.S.I. 2014/212, art. 2, sch. (with art. 3) (as amended (1.9.2014) by S.S.I. 2014/218, art. 2, Sch.); S.S.I. 2014/287, art. 3, sch. (with art. 4)
- F47** Words in s. 8(1)(a)(ii) substituted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [s. 12\(2\)\(a\)\(ii\)\(B\)](#), 36; S.S.I. 2014/212, art. 2, sch. (with art. 3) (as amended (1.9.2014) by S.S.I. 2014/218, art. 2, Sch.); S.S.I. 2014/287, art. 3, sch. (with art. 4)
- F48** Words in s. 8(1)(a)(ii) substituted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [s. 12\(2\)\(a\)\(ii\)\(C\)](#), 36; S.S.I. 2014/212, art. 2, sch. (with art. 3) (as amended (1.9.2014) by S.S.I. 2014/218, art. 2, Sch.); S.S.I. 2014/287, art. 3, sch. (with art. 4)
- F49** Words in s. 8(1)(a)(iii) inserted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [ss. 12\(2\)\(a\)\(iii\)](#), 36; S.S.I. 2014/212, art. 2, sch. (with art. 3) (as amended (1.9.2014) by S.S.I. 2014/218, art. 2, Sch.); S.S.I. 2014/287, art. 3, sch. (with art. 4)
- F50** Words in s. 8(1)(a)(iv) inserted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [ss. 12\(2\)\(a\)\(iv\)](#), 36; S.S.I. 2014/212, art. 2, sch. (with art. 3) (as amended (1.9.2014) by S.S.I. 2014/218, art. 2, Sch.); S.S.I. 2014/287, art. 3, sch. (with art. 4)
- F51** S. 8(1A)-(1G) inserted (1.9.2014 for specified purposes, 16.12.2014 for specified purposes) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [ss. 12\(2\)\(b\)](#), 36; S.S.I. 2014/212, art. 2, sch. (with art. 3) (as amended (1.9.2014) by S.S.I. 2014/218, art. 2, Sch.); S.S.I. 2014/287, art. 3, sch. (with art. 4)

## RELIGIOUS MARRIAGES

### 9 Registration of nominated persons as celebrants.

- (1) A religious body, not being—
  - (a) the Church of Scotland; or
  - (b) prescribed by virtue of section 8(1)(a)(ii) of this Act,may nominate to the Registrar General any of its members who it desires should be registered under this section as empowered to solemnise marriages  
F52 .....
- (2) The Registrar General shall reject a nomination made under subsection (1) above if in his opinion—
  - (a) the nominating body is not a religious body; or
  - (b) the marriage ceremony used by that body is not of an appropriate form; or

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- (c) the nominee is not a fit and proper person to solemnise a marriage; or
- (d) there are already registered under this section sufficient members of the same religious body as the nominee to meet the needs of that body.

[<sup>F53</sup>(2A) In subsection (2)(e), the “qualifying requirements” are such requirements as may be set out in regulations made by the Scottish Ministers.

(2B) Regulations under subsection (2A)—

- (a) may make different provision for different cases or circumstances;
- (b) may include transitional and saving provision.

(2C) Regulations under subsection (2A) are subject to the negative procedure.]

(3) For the purposes of subsection (2)(b) above, a marriage ceremony is of an appropriate form if it includes, and is in no way inconsistent with—

- (a) a declaration by the parties, in the presence of each other, the celebrant and two witnesses, that they accept each other as husband and wife; and
- (b) a declaration by the celebrant, after the declaration mentioned in paragraph (a) of this subsection, that the parties are then husband and wife,

and the Registrar General may, before deciding whether to accept or reject a nomination, require the nominating body to produce to him in writing the form of words used at its marriage ceremonies.

(4) Where the Registrar General accepts a nomination made to him under subsection (1) above, he—

- (a) shall determine the period during which the nominee shall be empowered to solemnise marriages, being a period of not more than 3 years; and
- (b) may determine that the nominee shall be empowered to solemnise marriages only in such area as the Registrar General may specify,

and may make his acceptance subject to such other conditions as he thinks fit:

Provided that nothing in paragraph (a) above shall preclude the Registrar General from accepting a further nomination of that nominee, in accordance with this section, to take effect at any time after the end of the period determined by the Registrar General under the said paragraph (a).

(5) The Registrar General shall—

- (a) where he accepts a nomination made to him under subsection (1) above—
  - (i) so inform the nominee and the nominating body, specifying the period during which the acceptance shall have effect and any condition to which the acceptance is subject;
  - (ii) enter the name of the nominee, the nominating body and such other particulars as he deems appropriate in a register which he shall establish and maintain and which shall be made available for public inspection at all reasonable times without charge;
- (b) where he rejects the nomination, by notice in writing inform the nominating body of the reasons for that rejection.

[<sup>F54</sup>(5A) For the purpose of subsection (5)(b) above, notice which is given by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.]

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- (6) The nominating body may, if aggrieved by a rejection under this section, within 28 days of receiving notice of that rejection, appeal to the Secretary of State, and on any such appeal the Secretary of State may direct the Registrar General to accept the nomination or may confirm its rejection and shall inform the nominating body of his direction or confirmation, as the case may be, and the reason for it; and such direction or confirmation shall be final:

Provided that if a reason given for a confirmation of the rejection of a nomination is that the nominating body is not a religious body, that body may, within 42 days of receiving notice of the confirmation, appeal against the confirmation to the Court of Session and seek the determination of that court as to whether the body is a religious body; and if—

- (a) the court determine that the nominating body is a religious body; and
- (b) the said reason was the only reason given for the confirmation, that determination shall be given effect to by the Registrar General as if it were a direction under this subsection to accept the nomination.

#### Textual Amendments

- F52** Words in s. 9(1) repealed (1.10.2006) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 1(1), [Sch. 9](#) (with regs. 44-46)
- F53** S. 9(2A)-(2C) inserted (1.9.2014 for specified purposes) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [ss. 13\(2\)\(e\)](#), 36; S.S.I. 2014/212, art. 2, sch. (as amended (1.9.2014) by S.S.I. 2014/218, art. 2(3), sch.)
- F54** S. 9(5A) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), [ss. 50\(6\)](#), 63(2); S.S.I. 2006/469, art. 2, schs. 1, 2 (with art. 4)

## 10 Removal of celebrant's name from register.

- (1) Subject to the provisions of this section, the Registrar General may remove the name of a person registered under section 9 of this Act from the register on the ground that—
- (a) that person has requested that his name should be so removed; or
  - (b) the body which nominated that person under section 9(1) of this Act no longer desires that he should be so registered; or
  - (c) the marriage ceremony used by the said body is no longer of an appropriate form within the meaning of section 9(3) of this Act; or
  - (d) that person—
    - (i) has, while registered as an approved celebrant, been convicted of an offence under this Act; or
    - (ii) has, for the purpose of profit or gain, been carrying on a business of solemnising marriages; or
    - (iii) is not a fit and proper person to solemnise marriages; or
    - (iv) for any other reason, should not be so registered.
- (2) The Registrar General shall not remove the name of a person from the register on any ground mentioned in subsection (1)(d) above unless he has given to that person at least 21 days notice in writing of his intention to do so.

*Status: Point in time view as at 01/09/2014.*

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- [<sup>F55</sup>(2A) For the purpose of subsection (2) above, notice which is given by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.]
- (3) The Registrar General shall—
- (a) in the notice given under subsection (2) above, specify the ground of removal and call upon the said person to show cause, within the period specified in the notice, why his name should not be removed from the register; and
  - (b) consider any representations made to him within the said period by that person.
- (4) Where a person's name has been removed from the register on any of the grounds mentioned in paragraphs (c) and (d) of subsection (1) above, that person or the body which nominated him under section 9(1) of this Act may, if aggrieved by the removal, within 28 days of receiving notice of the removal appeal to the Secretary of State, and on any such appeal the Secretary of State may give such direction as he thinks proper to the Registrar General as to the removal from, or restoration to, the register of that name; and such direction shall be final.
- (5) Where a person has received a notice in pursuance of subsection (2) above, he shall not solemnise a marriage unless and until his name is restored to the register or, as the case may be, the Registrar General has decided not to remove his name from the register.

#### Textual Amendments

**F55** S. 10(2A) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 50(7)**, 63(2); S.S.I. 2006/469, art. 2, schs. 1, 2 (with art. 4)

## 11 Alterations to register maintained under s. 9.

A body registered in pursuance of section 9(5)(a)(ii) of this Act shall notify the Registrar General of any of the following events (if practicable, within 21 days of its occurrence)—

- (a) any change in the name or the address of the body or any amalgamation with any other religious body, giving the name and address of any approved celebrant who is a member of the body so registered;
- (b) the death of an approved celebrant who is a member of the body so registered;
- (c) any change of name, address or designation of an approved celebrant who is a member of the body so registered;
- (d) the cessation of an approved celebrant who is a member of the body so registered from exercising the functions of an approved celebrant, giving his name and address;

and the Registrar General shall, on receipt of any such notification, make whatever alteration to the register maintained by him under section 9 of this Act as he considers necessary or desirable.



*Status: Point in time view as at 01/09/2014.*

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## 12 Temporary authorisation of celebrants.

[<sup>F56</sup>(1)] The Registrar General may, in accordance with such terms and conditions as may be specified in the authorisation, grant to any person a temporary written authorisation to solemnise—

- (a) a marriage or marriages specified in the authorisation; or
- (b) marriages during such period as shall be specified in the authorisation:

<sup>F57</sup> ...

[<sup>F58</sup>(1A)] The Registrar General may grant an authorisation to a person under subsection (1) only if satisfied that the religious or belief body of which the person is a member meets the qualifying requirements.

(1B) An authorisation under subsection (1)(b) may be granted in relation to—

- (a) only marriages between persons of different sexes;
- (b) only marriages between persons of the same sex; or
- (c) both.

(1C) The Registrar General may grant an authorisation to a person under subsection (1)(b) to solemnise marriages between persons of the same sex only if the religious or belief body of which the person is a member—

- (a) is prescribed by virtue of section 8(1B)(a)(i); or
- (b) has nominated members (whether or not including that person) under section 9(1A) to solemnise marriages between persons of the same sex.

(1D) In subsection (1A), the “qualifying requirements” are such requirements as may be set out in regulations made by the Scottish Ministers.

(1E) Regulations under subsection (1D)—

- (a) may make different provision for different cases or circumstances;
- (b) may include transitional and saving provision.

(1F) Regulations under subsection (1D) are subject to the negative procedure.]

[<sup>F59</sup>(2)] For the purpose of subsection (1) above, an authorisation which is issued by electronic means is to be treated as written if it is received in a form which is legible and capable of being used for subsequent reference.]

### Textual Amendments

**F56** S. 12(1): s. 12 renumbered as s. 12(1) (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), ss. 50(8)(a), 63(2); S.S.I. 2006/469, art. 2, schs. 1, 2 (with art. 4)

**F57** Words in S. 12 repealed (1.10.2006) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 1(1), [Sch. 9](#) (with regs. 44-46)

**F58** S. 12(1A)-(1F) inserted (1.9.2014 for specified purposes, 16.12.2014 for specified purposes) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [ss. 14\(2\)\(b\)](#), 36; S.S.I. 2014/212, art. 2, sch. (as amended (1.9.2014) by S.S.I. 2014/218, art. 2(3), Sch.); S.S.I. 2014/287, art. 3, sch.

**F59** S. 12(2) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), [ss. 50\(8\)\(b\)](#), 63(2); S.S.I. 2006/469, art. 2, schs. 1, 2 (with art. 4)

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### 13 Preliminaries to solemnisation of religious marriages.

- (1) A marriage shall not be solemnised by an approved celebrant unless—
- (a) the parties produce to him before the marriage ceremony a Marriage Schedule, in respect of the marriage, issued in accordance with this Act;
  - (b) both parties to the marriage are present; and
  - (c) two persons professing to be 16 years of age or over are present as witnesses.
- (2) . . . . . <sup>F60</sup>

#### Textual Amendments

**F60** S. 13(2)(3) repealed (*retrospectively*) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\)](#), s. 22(1)(2), [Sch. 3](#)

### 14 Form of ceremony to be used by approved celebrant.

An approved celebrant who is a person specified—

- (a) in section 8(1)(a)(i) or (ii) of this Act shall not solemnise a marriage except in accordance with a form of ceremony recognised by the religious body to which he belongs as sufficient for the solemnisation of marriages;
- (b) in section 8(1)(a)(iii) or (iv) of this Act shall not solemnise a marriage except in accordance with a form of ceremony which includes and is in no way inconsistent with the declarations specified in section 9(3) of this Act.

### 15 Registration of religious marriages.

- (1) Immediately after the solemnisation of the marriage the Marriage Schedule shall be signed by the parties contracting the marriage, by both witnesses present thereat and by the approved celebrant.
  - (2) The parties to the marriage shall, within 3 days thereafter, deliver the Marriage Schedule, or send it by post or arrange that it is delivered, to the district registrar.
  - (3) As soon as possible after receipt of the Marriage Schedule, the district registrar shall cause the particulars as set forth in that Schedule to be entered in the register of marriages kept by him; and subject to subsection (4) below, he shall not register a religious marriage unless and until he receives a duly signed Marriage Schedule in respect of that marriage.
  - (4) Where the Registrar General is satisfied that a marriage has been properly solemnised and that the Marriage Schedule in respect of the marriage has been duly signed but has been lost or destroyed, he may direct the district registrar to complete an exact copy of the original Marriage Schedule and, so far as practicable, to arrange for its signature by those persons who signed the original Schedule; and as soon as possible thereafter, the district registrar shall cause the particulars as set forth in that copy to be entered in the register of marriages kept by him.
- [<sup>F61</sup>(5) In this section and section 16 of this Act, “the district registrar” means—
- (a) where the marriage has been solemnised in a registration district, the district registrar for that district;

*Status: Point in time view as at 01/09/2014.*

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- (b) where the marriage has been solemnised in Scottish waters, the district registrar who issued the Marriage Schedule in respect of the marriage.]

#### Textual Amendments

**F61** S. 15(5) inserted (1.1.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\), ss. 48\(5\), 63\(2\)](#); S.S.I. 2006/469, art. 3, sch. 2 (with art. 4)

### 16 Registrar's power to require delivery of Marriage Schedule.

- (1) Where after the expiration of 21 days from the date of marriage as entered in the Marriage Schedule that Schedule has not been delivered to the district registrar, he may serve a notice in the prescribed form on either of the parties to the marriage requiring that party within 8 days from the date of service of the notice to deliver the said Schedule, or send it by post, to the district registrar.
- (2) If any party on whom a notice has been served in pursuance of subsection (1) above fails to comply with the notice, the district registrar may serve on that party a second notice in the prescribed form requiring that party to attend personally at the registration office of the district registrar, within 8 days from the date of service of the second notice, for the purpose of delivering the Marriage Schedule to the district registrar to enable him to register the marriage.

## CIVIL MARRIAGES

### 17 Appointment of authorised registrars.

For the purpose of affording reasonable facilities for the solemnisation of civil marriages throughout Scotland, the Registrar General—

- (a) shall appoint such number of district registrars as he thinks necessary; and  
(b) may, in respect of any district for which he has appointed a district registrar under paragraph (a) above, appoint one or more assistant registrars,  
as persons who may solemnise marriages:

F62 ...

#### Textual Amendments

**F62** Words in S. 17 repealed (1.10.2006) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\), reg. 1\(1\), Sch. 9](#) (with regs. 44-46)

### 18 Places at which civil marriages may be solemnised.

- (1) Subject to the provisions of this section, an authorised registrar shall solemnise a civil marriage
- [<sup>F63</sup>(a)] in his registration office ; <sup>F64</sup>...
- [<sup>F65</sup>(aa)] at an appropriate place in the registration district of the authorised registrar; or
- (ab) with the approval of the Registrar General, at—
- (i) the registration office of another authorised registrar;

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(ii) an appropriate place in the registration district of another authorised registrar; or

(iii) an appropriate place in Scottish waters.]

F<sup>66</sup>(b) .....

F<sup>67</sup>(c) .....

[<sup>F68</sup>(1A) In this section—

“appropriate place” means a place which—

(a) the parties to the intended marriage and the local registration authority agree is to be the place of solemnisation; and

(b) is not religious premises;

“local registration authority” means—

(a) the local registration authority for the registration district which includes the place; or

(b) where the place is in Scottish waters, the local registration authority for the authorised registrar's registration district;

“religious premises” means premises which—

(a) are used solely or mainly for religious purposes; or

(b) have been so used and have not subsequently been used solely or mainly for other purposes.]

F<sup>69</sup>(2) .....

F<sup>69</sup>(3) .....

F<sup>69</sup>(4) .....

F<sup>69</sup>(5) .....

F<sup>69</sup>(6) .....

F<sup>69</sup>(7) .....

F<sup>69</sup>(8) .....

**Textual Amendments**

- F63** Word “a” in s. 18(1) inserted (25.4.2002) by 2002 asp 8, **s. 1(2)(a)(i)**; S.S.I. 2002/184, **art. 2**
- F64** Word in s. 18(1)(a) repealed (1.1.2007) by Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14), **ss. 48(6)(a)(i)**, 63(2); S.S.I. 2006/469, art. 3, sch. 2 (with art. 4)
- F65** S. 18(1)(aa)(ab) inserted (1.9.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 21(2)(a)(i)**, 36; S.S.I. 2014/212, art. 2, sch. (as amended (1.9.2014) by S.S.I. 2014/218, art. 2(3), sch.)
- F66** S. 18(1)(b) repealed (1.9.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 21(2)(a)(ii)**, 36; S.S.I. 2014/212, art. 2, sch. (as amended (1.9.2014) by S.S.I. 2014/218, art. 2(3), sch.)
- F67** S. 18(1)(c) repealed (1.9.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 21(2)(a)(iii)**, 36; S.S.I. 2014/212, art. 2, sch. (as amended (1.9.2014) by S.S.I. 2014/218, art. 2(3), sch.)
- F68** S. 18(1A) inserted (1.9.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 21(2)(b)**, 36; S.S.I. 2014/212, art. 2, sch. (as amended (1.9.2014) by S.S.I. 2014/218, art. 2(3), sch.)
- F69** S. 18(2)-(8) repealed (1.9.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 21(2)(c)**, 36; S.S.I. 2014/212, art. 2, sch. (as amended (1.9.2014) by S.S.I. 2014/218, art. 2(3), sch.)

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<sup>F70</sup>**18A Approved places**

.....

**Textual Amendments**

**F70** S. 18A repealed (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), **ss. 21(3)**, **36**; [S.S.I. 2014/212](#), **art. 2**, **sch.** (as amended (1.9.2014) by [S.S.I. 2014/218](#), **art. 2(3)**, **Sch.**)

**19 Marriage ceremony and registration of marriage.**

- (1) An authorised registrar shall not solemnise a marriage within 14 days of the date of receipt (as entered in the marriage notice book) of a marriage notice in respect of that marriage, unless—
- (a) he has received a written request from one or both of the parties to solemnise the marriage on a specified earlier date stating the reason for the request, and
  - (b) he has been authorised to solemnise the marriage on that earlier date by the Registrar General.

[<sup>F71</sup>(1A) For the purpose of subsection (1) above, a request which is made by electronic means is to be treated as written if it is received in a form which is legible and capable of being used for subsequent reference.]

- (2) A marriage shall not be solemnised by an authorised registrar unless—
- (a) he has available to him at the time of the ceremony a Marriage Schedule, in respect of the marriage, completed in accordance with this Act and the prescribed fee for the marriage has been paid;
  - (b) both parties to the marriage are present; and
  - (c) two persons professing to be 16 years of age or over are present as witnesses.
- (3) Immediately after the solemnisation of the marriage the Marriage Schedule shall be signed by the parties contracting the marriage, by both witnesses present thereat and by the authorised registrar who solemnised it.

- (4) As soon as possible after the Marriage Schedule has been signed in accordance with subsection (3) above—

[<sup>F72</sup>(a) in a case where the marriage has been solemnised by the authorised registrar—

- (i) in his registration office;
- (ii) [<sup>F73</sup>at an appropriate place (within the meaning given by section 18) in the registration district of the authorised registrar; or]

<sup>F74</sup>(iii) .....

(iv) [<sup>F75</sup>at an appropriate place (within the meaning given by section 18)] in Scottish waters,

that authorised registrar;”]

[<sup>F72</sup>(b) in a case where the marriage has been solemnised by the authorised registrar—

- (i) in the registration office of another authorised registrar; or
- (ii) at an [<sup>F76</sup>appropriate place (within the meaning given by section 18)] in the district of another authorised registrar,

that other authorised registrar,]

shall cause the particulars as set forth in that Schedule to be entered in the register of marriages kept by him.

*Status: Point in time view as at 01/09/2014.*

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F77(5) .....

#### Subordinate Legislation Made

- P3** S. 19: for previous exercises of this power see Index to Government Orders.  
**P4** S. 19(2): s. 25 (with ss. 3(1), 19(2) and 26) power exercised (12.12.1991) by [S.I.1991/2816](#).

#### Textual Amendments

- F71** S. 19(1A) inserted (1.10.2006 for specified purposes. 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 50(9)**, 63(2); [S.S.I. 2006/469](#), **art. 2**, schs. 1, 2 (with **art. 4**)
- F72** S. 19(4)(a)(b) substituted (1.1.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 48(8)(a)**, 63(2); [S.S.I. 2006/469](#), **art. 3**, sch. 2 (with **art. 4**)
- F73** S. 19(4)(a)(ii) substituted (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), **ss. 21(4)(a)(i)**, 36; [S.S.I. 2014/212](#), **art. 2**, sch. (as amended (1.9.2014) by [S.S.I. 2014/218](#), **art. 2(3)**, sch.)
- F74** S. 19(4)(a)(iii) repealed (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), **ss. 21(4)(a)(ii)**, 36; [S.S.I. 2014/212](#), **art. 2**, sch. (as amended (1.9.2014) by [S.S.I. 2014/218](#), **art. 2(3)**, sch.)
- F75** Words in s. 19(4)(a)(iv) substituted (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), **ss. 21(4)(a)(iii)**, 36; [S.S.I. 2014/212](#), **art. 2**, sch. (as amended (1.9.2014) by [S.S.I. 2014/218](#), **art. 2(3)**, sch.)
- F76** Words in s. 19(4)(b)(ii) substituted (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), **ss. 21(4)(b)**, 36; [S.S.I. 2014/212](#), **art. 2**, sch. (as amended (1.9.2014) by [S.S.I. 2014/218](#), **art. 2(3)**, sch.)
- F77** S. 19(5) repealed (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), **ss. 21(4)(c)**, 36; [S.S.I. 2014/212](#), **art. 2**, sch. (as amended (1.9.2014) by [S.S.I. 2014/218](#), **art. 2(3)**, sch.)

#### Modifications etc. (not altering text)

- C4** By [S.I. 1993/3152](#), **art. 2(2)** it is provided (1.4.1994) that the fee payable under s. 19(2) shall be £40.00.

## 20 Second marriage ceremony.

- (1) Where two persons have gone through a marriage ceremony with each other outside the United Kingdom, whether before or after the commencement of this Act, but they are not, or are unable to prove that they are, validly married to each other in Scots law, an authorised registrar, on an application made to him by those persons, may, subject to the approval of the Registrar General and to subsection (2) below, solemnise their marriage as if they had not already gone through a marriage ceremony with each other.
- (2) Sections 3 to 6 and 18 and 19 of this Act shall apply for the purpose of solemnising a marriage under this section except that—
- (a) there shall be submitted to the authorised registrar a statutory declaration by both parties—
    - (i) stating that they have previously gone through a marriage ceremony with each other; and
    - (ii) specifying the date and place at which, and the circumstances in which, they went through that ceremony;
  - (b) section 5(4)(b) of this Act shall not apply in respect of the parties already being married to each other;

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- (c) the Marriage Schedule shall contain such modifications as the Registrar General may direct to indicate that the parties have previously gone through a marriage ceremony with each other; and
- (d) after the Marriage Schedule has been signed in accordance with section 19(3) of this Act, the authorised registrar shall make an endorsement on it in the following terms—

“The ceremony of marriage between the parties mentioned in this Schedule was performed in pursuance of section 20 of the Marriage (Scotland) Act 1977, following a statutory declaration by them that they had gone through a ceremony of marriage with each other on the day of <sup>F78</sup>... , at

Dated the day of <sup>F78</sup>... ,

(Signature of authorised registrar)”.

#### Textual Amendments

**F78** Word in s. 20(2)(d) repealed (21.5.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), ss. 22, 36; S.S.I. 2014/121, art. 2(d)

### *<sup>F79</sup>Void marriages*

#### Textual Amendments

**F79** S. 20A and cross-heading inserted (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), ss. 2, 46(2); S.S.I. 2006/212, art. 2

## **20A Grounds on which marriage void**

- (1) Where subsection (2) or (3) applies in relation to a marriage solemnised in Scotland, the marriage shall be void.
- (2) This subsection applies if at the time of the marriage ceremony a party to the marriage who was capable of consenting to the marriage purported to give consent but did so by reason only of duress or error.
- (3) This subsection applies if at the time of the marriage ceremony a party to the marriage was incapable of—
  - (a) understanding the nature of marriage; and
  - (b) consenting to the marriage.
- (4) If a party to a marriage purported to give consent to the marriage other than by reason only of duress or error, the marriage shall not be void by reason only of that party's having tacitly withheld consent to the marriage at the time when it was solemnised.
- (5) In this section “error” means—
  - (a) error as to the nature of the ceremony; or
  - (b) a mistaken belief held by a person (“A”) that the other party at the ceremony with whom A purported to enter into a marriage was the person whom A had agreed to marry.]

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## IRREGULAR MARRIAGES

### 21 Registration of irregular marriages.

Where decree of declarator establishing—

- (a) a marriage by cohabitation with habit and repute; or
- (b) a marriage contracted before 1st July 1940 by declaration *de praesentior* by promise *subsequente copula*, has been granted in the Court of Session, the principal clerk of Session shall forthwith cause the decree, the names, designations and addresses of the parties, and the date, as determined by the Court, on which the marriage was constituted to be intimated to the Registrar General, and on receipt of such intimation the Registrar General shall cause the marriage to be registered.

## GENERAL

### 22 Interpreters at marriage ceremony.

- (1) Where the person by whom a marriage is to be solemnised under this Act considers that it is necessary or desirable, he may use the services of an interpreter (not being a party or a witness to the marriage) at the marriage ceremony.
- (2) The interpreter shall—
  - (a) before the marriage ceremony, sign a written statement that he understands, and is able to converse in, any language in respect of which he is to act as interpreter at that ceremony; and
  - (b) immediately after the marriage ceremony, furnish the person solemnising the marriage with a certificate written in English and signed by the interpreter that he has faithfully acted as interpreter at that ceremony.
- (3) Any fee for the services of the interpreter shall be paid by the parties to the marriage.

### 23 Cancellation of entry in register of marriages.

If a marriage in respect of which an entry has been made in a register of marriages is found or declared to be void, the Registrar General shall direct the cancellation of the entry.

### [<sup>F80</sup>23A Validity of registered marriage.

- (1) Subject to sections 1 and 2 of and without prejudice to section 24(1) of this Act, where the particulars of any marriage at the ceremony in respect of which both parties were present are entered in a register of marriages by or at the behest of an appropriate registrar, the validity of that marriage shall not be questioned, in any legal proceedings whatsoever, on the ground of failure to comply with a requirement or restriction imposed by, under or by virtue of this Act.
- (2) In subsection (1) above, “appropriate registrar” means—
  - (a)
  - (b) in any other case, a district registrar.]



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### Textual Amendments

**F80** S. 23A inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\)](#), s. [22\(1\)\(d\)](#)

## 24 Offences.

<sup>F81</sup>(A1) A person (“A”) commits an offence if A purports to enter into a marriage with another person (“B”) knowing that either or both—

- (a) A is already married to or in a civil partnership with a person other than B, or
- (b) B is already married to or in a civil partnership with a person other than A.

(A2) A person who commits an offence under subsection (A1) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine (or both),
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both).]

(1) Any person who—

- (a) falsifies or forges any Marriage Schedule, certificate or declaration issued or made, or purporting to be issued or made, under this Act;
- (b) knowingly uses, or gives or sends to any person as genuine, any false or forged Marriage Schedule, certificate, declaration or other document issued or made, or purporting to be issued or made, or required, under this Act;
- (c) being an approved celebrant, solemnises a marriage without a Marriage Schedule in respect of the marriage, issued in accordance with this Act, being available to him at the time of the marriage ceremony;
- (d) not being an approved celebrant or an authorised registrar, conducts a marriage ceremony in such a way as to lead the parties to the marriage to believe that he is solemnising a valid marriage; <sup>F82</sup> . . .
- (e) being an approved celebrant or an authorised registrar, solemnises a marriage without both parties to the marriage being present<sup>F83</sup>; or]

<sup>F83</sup>(f) being an authorised registrar, solemnises a marriage in a place otherwise than in accordance with section 18(1) of this Act]

shall be guilty of an offence and shall be liable—

- (i) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both;
- (ii) on summary conviction, to a fine not exceeding [<sup>F84</sup>the [<sup>F85</sup>statutory maximum]] or to imprisonment for a term not exceeding 3 months or to both.

(2) Any person who—

- (a) solemnises a marriage in an area in which by virtue of section 9(4)(b) of this Act he is not permitted to solemnise a marriage;
- (b) solemnises a marriage in contravention of section 10(5) of this Act;
- (c) being a person temporarily authorised under section 12(a) of this Act, solemnises a marriage not specified in that authorisation;
- (d) solemnises a marriage in contravention of section 14 of this Act; or
- (e) being a party to a marriage, fails to comply with a notice served under section 16(2) of this Act,

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shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F86</sup>level 3 on the standard scale].

- (3) Summary proceedings for an offence under this Act or, in relation to information supplied under or for the purposes of this Act, section 53(1)(a) of the <sup>M1</sup>Registration of Births, Deaths and Marriages (Scotland) Act 1965, may be commenced at any time within the period of 3 months from the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge or within the period of 12 months from the commission of the offence, whichever period last expires; and subsection (3) of [<sup>F87</sup>section 136 of the Criminal Procedure (Scotland) Act 1995 (time limit for certain offences)] shall have effect for the purposes of this section as it has effect for the purposes of that section.

#### Textual Amendments

- F81** S. 24(A1)(A2) inserted (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [ss. 28\(1\)\(a\)](#), 36; [S.S.I. 2014/212](#), [art. 2](#), [sch.](#) (as amended (1.9.2014) by [S.S.I. 2014/218](#), [art. 2\(3\)](#), [sch.](#))
- F82** Word in s. 24(1)(d) repealed (25.4.2002) by [2002 asp 8](#), [s. 1\(4\)\(a\)](#); [S.S.I. 2002/184](#), [art. 2](#)
- F83** S. 24(1)(f) and word inserted (25.4.2002) by [2002 asp 8](#), [s. 1\(4\)\(b\)](#); [S.S.I. 2002/184](#), [art. 2](#)
- F84** Words in s. 24(1)(ii) substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [s. 289B](#)
- F85** Words in s. 24(1)(ii) substituted (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [ss. 28\(1\)\(b\)](#), 36; [S.S.I. 2014/212](#), [art. 2](#), [sch.](#) (as amended (1.9.2014) by [S.S.I. 2014/218](#), [art. 2\(3\)](#), [Sch.](#))
- F86** Words in s. 24(2) substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F](#), 289G
- F87** Words in s. 24(3) substituted (1.4.1996) by [1995 c. 40](#), [ss. 5](#), 7(2), [Sch. 4 para. 14](#)

#### Marginal Citations

- M1** [1965 c. 49](#).

### [<sup>F88</sup>24A Form, and manner of attestation, of documents

- (1) Regulations prescribing the form of a document may, unless the document requires to be signed, make provision for the document to be electronic rather than paper-based.
- (2) Regulations prescribing the manner in which a document requires to be attested may make different provision for different cases or circumstances.]

#### Textual Amendments

- F88** S. 24A inserted (1.10.2006) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), [ss. 50\(10\)](#), 63(2); [S.S.I. 2006/469](#), [art. 2](#), [sch. 1](#) (with [art. 4](#))

## 25 Regulations.

- (1) Any power to make regulations conferred by this Act shall be exercisable by statutory instrument and no such regulations shall be made by the Registrar General except with the approval of the Secretary of State.

*Status: Point in time view as at 01/09/2014.*

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- (2) Any statutory instrument containing regulations which prescribe fees for the purposes of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The <sup>M2</sup>Statutory Instruments Act 1946 shall apply to a statutory instrument containing regulations made for the purposes of this Act by the Registrar General as if the regulations had been made by a Minister of the Crown.

#### Subordinate Legislation Made

**P5** S. 25: s. 25 (with ss. 3(1), 19(2) and 26) power exercised (12.12.1991) by [S.I.1991/2816](#).

**P6** S. 25: for previous exercises of this power see Index to Government Orders.

#### Marginal Citations

**M2** 1946 c. 36.

## 26 Interpretation.

- (1) Except where the context otherwise requires and subject to [<sup>F89</sup> subsections (2) and (2A)] below, expressions used in this Act and in the <sup>M3</sup>Registration of Births, Deaths, and Marriages (Scotland) Act 1965 have the same meanings in this Act as in that Act.

- (2) In this Act, except where the context otherwise requires—

[<sup>F90</sup>“annulment” includes any decree or declarator of nullity of marriage, however expressed.]

“approved celebrant” has the meaning assigned to it by section 8(2)(a) of this Act;

“authorised registrar” has the meaning assigned to it by section 8(2)(b) of this Act;

<sup>F91</sup>  
...

“name” includes surname;

“prescribed” means prescribed by regulations made by the Registrar General;

“religious body” means an organised group of people meeting regularly for common religious worship.

[<sup>F92</sup>“Scottish waters” means the area comprising such of the internal waters and territorial sea of the United Kingdom as are within Scotland (“Scotland” having the meaning given by section 126(1) and (2) of the Scotland Act 1998 (c. 46)), other than any area which is part of a registration district;

“vessel” includes any—

(a) vehicle; or

(b) other structure.]

[<sup>F93</sup>(2A) For the purposes of this Act—

- (a) the seaward boundary of a registration district which extends into the sea shall, subject to paragraph (b) below, be the low water mark of the ordinary spring tide;

- (b) a vessel which is below the low water mark of the ordinary spring tide is to be regarded as [<sup>F94</sup>a place within a registration district if the vessel] is—

- (i) positioned adjacent to land which is within the district;

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- (ii) affixed to the land for the purpose of maintaining its position; and
  - (iii) so positioned for the purpose of enabling access to and from the land;
  - (c) a jetty or similar structure which is partly above the low water mark of the ordinary spring tide and partly below that mark is to be regarded as being wholly above that mark.]
- (3) Except where the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

#### Subordinate Legislation Made

- P7** S. 26: s. 25 (with ss. 3(1), 19(2) and 26) power exercised (12.12.1991) by [S.I.1991/2816](#).  
**P8** S. 26: for previous exercises of this power see Index to Government Orders.

#### Textual Amendments

- F89** Words in s. 26(1) substituted (1.10.2006) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), [ss. 48\(9\)\(a\)](#), 63(2); S.S.I. 2006/469, art. 2, sch. 1 (with art. 4)  
**F90** Definition inserted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), [ss. 68\(1\), 69\(6\)](#), [Sch. 1 para. 22](#)  
**F91** Words in s. 26(2) repealed (1.1.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), [ss. 48\(9\)\(b\)\(i\)](#), 63(2); S.S.I. 2006/469, art. 3, sch. 2 (with art. 4)  
**F92** Words in s. 26(2) inserted (1.10.2006) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), [ss. 48\(9\)\(b\)\(ii\)](#), 63(2); S.S.I. 2006/469, art. 2, sch. 1 (with art. 4)  
**F93** S. 26(2A) inserted (1.10.2006) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), [ss. 48\(9\)\(c\)](#), 63(2); S.S.I. 2006/469, art. 2, sch. 1 (with art. 4)  
**F94** Words in s. 26(2A)(b) substituted (1.9.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [ss. 21\(5\)](#), 36; S.S.I. 2014/212, art. 2, sch. (as amended (1.9.2014) by S.S.I. 2014/218, art. 2(3), sch.)

#### Marginal Citations

- M3** 1965 c. 49.

## 27 Transitional and saving provisions.

- (1) Where, before the commencement of this Act—
- (a) proclamation of banns or publication of notice has been applied for by one or both of the parties to; or
  - (b) a licence has been granted by a sheriff in respect of, an intended marriage in accordance with an enactment repealed by this Act, then the marriage shall proceed in accordance with the enactments repealed by this Act as if they had not been so repealed:
- Provided that this subsection shall cease to have effect in respect of the marriage if—
- (i) a certificate of proclamation of banns or publication of notice issued in respect of the said application; or
  - (ii) the said licence, ceases to be valid in accordance with any enactment so repealed.
- (2) Any form used, and any requirement as to the particulars to be entered in any form used, for the purposes of any enactment repealed by this Act shall continue in force as though prescribed under this Act until other forms or particulars are so prescribed.

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- (3) Nothing in this Act shall affect the validity of any marriage solemnised or contracted before 1st January 1978.
- (4) Nothing in the foregoing provisions of this section shall be taken as prejudicing the operation of section 38 of the <sup>M4</sup>Interpretation Act 1889 (which relates to the effect of repeals).

#### Marginal Citations

**M4** 1889 c. 63.

### 28 Consequential amendments and repeals.

- (1) The enactments set out in Schedule 2 to this act shall have effect subject to the amendments respectively specified in that Schedule, being amendments consequential on the provisions of this Act.
- (2) The enactments set out in Schedule 3 to this Act are hereby repealed to the extent specified in coloumn 3 of that Schedule.

#### Modifications etc. (not altering text)

**C5** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### 29 Short title, commencement and extent.

- (1) This Act may be cited as the Marriage (Scotland) Act 1977.
- (2) This Act, except this section, shall come into force on 1st January 1978.
- (3) This Act, except this section and, in so far as relating to the <sup>M5</sup>Marriage with Foreigners Act 1906, the <sup>M6</sup>Marriage Act 1939, the <sup>M7</sup>Marriage Act 1949 and the <sup>M8</sup>Marriage (Scotland) Act 1956, section 28, shall extend to Scotland only.

#### Marginal Citations

**M5** 1906 c. 40.

**M6** 1939 c. 33.

**M7** 1949 c. 76.

**M8** 1956 c. 70.

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## SCHEDULES

### SCHEDULE 1

Section 2.

#### DEGREES OF RELATIONSHIP

<i>Column 1</i>	<i>Column 2</i>
	<i>1.—Relationships by consanguinity</i>
Mother;	Father;
Daughter;	Son;
Father's mother;	Father's father;
Mother's mother;	Mother's father;
Son's daughter;	Son's son;
Daughter's daughter;	Daughter's son;
Sister;	Brother;
Father's sister;	Father's brother;
Mother's sister;	Mother's brother;
Brother's daughter;	Brother's son;
Sister's daughter;	Sister's son;
Father's father's mother;	Father's father's father;
Father's mother's mother;	Father's mother's father;
Mother's father's mother;	Mother's father's father;
Mother's mother's mother;	Mother's mother's father;
Son's son's daughter;	Son's son's son;
Son's daughter's daughter;	Son's daughter's son;
Daughter's son's daughter;	Daughter's son's son;
Daughter's daughter's daughter;	Daughter's daughter's son.
	<i>[<sup>F95</sup>2.—Relationships by affinity referred to in section 2(1A)</i>
Daughter of former wife	Son of former husband
Daughter of former civil partner	Son of former civil partner
Former wife of father	Former husband of mother
Former civil partner of mother	Former civil partner of father
Former wife of father's father	Former husband of father's mother

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Former civil partner of mother’s mother	Former civil partner of mother’s father
Former wife of mother’s father	Former husband of mother’s mother
Former civil partner of father’s mother	Former civil partner of father’s father
Daughter of son of former wife	Son of son of former husband
Daughter of son of former civil partner	Son of son of former civil partner
Daughter of daughter of former wife	on of daughter of former husband
Daughter of daughter of former civil partner	Son of daughter of former civil partner]
	F96
	2A. . . .
F96	F96
. . .	. . .
F96	F96
. . .	. . .

**Textual Amendments**

**F95** Sch. 1 para. 2 substituted (5.12.2005) by [S.S.I. 2005/623, art. 6](#)

**F96** Sch. 1 para. 2A repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\), ss. 1\(b\), 46\(2\); S.S.I. 2006/212, art. 2](#)

SCHEDULE 2

Section 28(1).

CONSEQUENTIAL AMENDMENTS OF OTHER ENACTMENTS

*The Foreign Marriage Act 1892 (c. 23)*

1 . . . . . F97

**Textual Amendments**

**F97** Sch. 2 para. 1 repealed by [Foreign Marriage \(Amendment\) Act 1988 \(c. 44, SIF 49:1\), s. 7\(2\), Sched.](#)

*The Marriage with Foreigners Act 1906 (c. 40)*

2 In section 1(1) (British subject giving notice of intended foreign marriage), for the words “the United Kingdom”, there shall be substituted the words “any part of the United Kingdom other than Scotland”.

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**Modifications etc. (not altering text)**

**C6** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 3 In section 2(1) (provision for regulations in relation to foreigners intending to marry in Britain), for the words “the United Kingdom”, in both places where they occur, there shall be substituted the words “any part of the United Kingdom other than Scotland”.

**Modifications etc. (not altering text)**

**C7** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*The Marriage Act 1949 (c. 76)*

- 4 In section 37(1) (one party resident in Scotland)—
- (a) for paragraph (a) there shall be substituted the following paragraph—
- “(a) the party residing in Scotland may give notice of the intended marriage in accordance with section 7 of the Marriage (Scotland) Act 1977 ;” ;
- (b) for paragraph (c) there shall be substituted the following paragraph—
- “a certificate issued under section 7(2) of the Marriage (Scotland) Act 1977 to a party shall, for the purpose of that party’s intended marriage, have the like force and effect in all respects as a certificate for marriage issued by a superintendent registrar under this Part of this Act ;”.

**Modifications etc. (not altering text)**

**C8** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*The Marriage (Scotland) Act 1956 (c. 70)*

- 5 In section 1 (notice of marriage intended to be solemnised in Scotland)—
- (a) for subsections (1) and (2) there shall be substituted the following subsections—
- “(1) Where one party to a marriage intended to be solemnised in Scotland is residing in England and the other is residing in Scotland, the party residing in England may give notice of the intended marriage to the superintendent registrar of the registration district in which he has resided for the period of seven days immediately before the giving of the notice.



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- (2) Where both parties to a marriage intended to be solemnised in Scotland are residing in England, whether in the same registration district or in different registration districts, and one of the parties has a parent who has his usual residence in Scotland—
- (a) the other party may give notice of the intended marriage to the superintendent registrar of the registration district in which he has resided for the period of seven days immediately before the giving of the notice ;
  - (b) if the parties live in different registration districts, it shall not be necessary for notice of the intended marriage to be given to the superintendent registrar of the other registration district.
- (2A) Section 28(1) of the Marriage Act 1949 (which relates to the declaration to accompany a notice of marriage) shall apply for the purposes of subsections (1) and (2) above as if paragraph (b) of the said section 28(1) required the declaration to state—
- (i) that the person giving the notice has for the period of seven days immediately before the giving of the notice had his usual place of residence within the registration district in which the notice is given ; and
  - (ii) that the marriage is intended to be solemnised in Scotland; and
  - (iii) that the other party to the intended marriage is resident in Scotland, or has a parent who has his usual residence in Scotland, as the case may be.” ;
- (b) in subsection (3), for the words “last preceding subsection” there shall be substituted the words “foregoing provisions of this section”.

**Modifications etc. (not altering text)**

- C9** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*The Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49)*

- 6 In section 11 (general provision as to fees)—
- (a) after the word “Act” where it first occurs there shall be inserted the words “or the Marriage (Scotland) Act 1977” ;
  - (b) for the words “this Act” where they occur for the second time there shall be substituted the words “or under this Act or the Marriage (Scotland) Act 1977”.

**Modifications etc. (not altering text)**

- C10** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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- 7 In section 12 (fees to be accounted for), at the end there shall be added the words “and the Marriage (Scotland) Act 1977.”.

**Modifications etc. (not altering text)**

**C11** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 8 In section 32(1) (provision of registers etc. by Registrar General), at the end there shall be added the words “and the Marriage (Scotland) Act 1977.”.

**Modifications etc. (not altering text)**

**C12** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 9 In section 52 (sending of documents by post), after the word “Act” there shall be inserted the words “or the Marriage (Scotland) Act 1977.”.

**Modifications etc. (not altering text)**

**C13** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

SCHEDULE 3

Section 28(2).

REPEALS

**Modifications etc. (not altering text)**

**C14** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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SCHEDULE 3  
 REPEALS

Section 28(2).

Chapter	Short Title	Extent of Repeal
1567 c. 16. 10 Anne c. 10.	The Marriage Act 1567. The Scottish Episcopalians Act 1711.	The whole Act. Section 7.
4 & 5 Will. 4. c. 28.	The Marriage (Scotland) Act 1834.	The whole Act.
41 & 42 Vict. c. 43.	The Marriage Notice (Scotland) Act 1878.	The whole Act.
48 & 49 Vict. c. 61.	The Secretaries for Scotland Act 1885.	In the Schedule, the entry relating to marriage notices.
6 Edw. 7. c. 40.	The Marriage with Foreigners Act 1906.	Section 5. In the Schedule, the heading "Part I Provisions Applicable Except in Scotland"; and Part II.
8 Edw. 7. c. 26.	The Naval Marriages Act 1908.	The whole Act.
5 & 6 Geo. 5. c. 40.	The Marriage of British Subjects (Facilities) Act 1915.	The whole Act.
6 & 7 Geo. 5. c. 21.	The Marriage of British Subjects (Facilities) Amendment Act 1916.	The whole Act.
9 & 10 Geo. 5. c. 20.	The Scottish Board of Health Act 1919.	Section 4(D)(g).
19 & 20 Geo. 5. c. 26.	The Age of Marriage Act 1929.	The whole Act.
2 & 3 Geo. 6. c. 33.	The Marriage Act 1939.	Section 1. Section 2(2).
2 & 3 Geo. 6. c. 34.	The Marriage (Scotland) Act 1939.	The whole Act.
5 & 6 Geo. 6. c. 20.	The Marriage (Scotland) Act 1942.	The whole Act.
12 & 13 Geo. 6. c. 16.	The Marriage Act 1949.	Section 37(2).
4 & 5 Eliz. 2. c. 70.	The Marriage (Scotland) Act 1956.	Section 1(4). Sections 2 and 3. In section 4, the words from "and the" to the end.
6 & 7 Eliz. 2. c. 64.	The Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958.	Section 17.
8 & 9 Eliz. 2. c. 29.	The Marriage Embling Act 1960.	The whole Act.
1965 c. 49.	The Registration of Births, Deaths and Marriages (Scotland) Act 1965.	Part IV. In section 54, subsection (1)(c) and in subsection (2) the words "(c) or".

**Status:**

Point in time view as at 01/09/2014.

**Changes to legislation:**

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