



# Family Law (Scotland) Act 2006

## 2006 asp 2

### *Marriage*

#### **3 Abolition of marriage by cohabitation with habit and repute**

- (1) The rule of law by which marriage may be constituted by cohabitation with habit and repute shall cease to have effect.
- (2) Nothing in subsection (1) shall affect the application of the rule in relation to cohabitation with habit and repute where the cohabitation with habit and repute—
  - (a) ended before the commencement of this section (“commencement”);
  - (b) began before, but ended after, commencement; or
  - (c) began before, and continues after, commencement.
- (3) Nothing in subsection (1) shall affect the application of the rule in relation to cohabitation with habit and repute where—
  - (a) the cohabitation with habit and repute began after commencement; and
  - (b) the conditions in subsection (4) are met.
- (4) Those conditions are—
  - (a) that the cohabitation with habit and repute was between two persons, one of whom, (“A”), is domiciled in Scotland;
  - (b) that the person with whom A was cohabiting, (“B”), died domiciled in Scotland;
  - (c) that, before the cohabitation with habit and repute began, A and B purported to enter into a marriage (“the purported marriage”) outwith the United Kingdom;
  - (d) that, in consequence of the purported marriage, A and B believed themselves to be married to each other and continued in that belief until B’s death;
  - (e) that the purported marriage was invalid under the law of the place where the purported marriage was entered into; and
  - (f) that A became aware of the invalidity of the purported marriage only after B’s death.