

# **MARRIAGE AND CIVIL PARTNERSHIP (SCOTLAND) ACT 2014**

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## **EXPLANATORY NOTES**

### **SCHEDULES**

#### ***Schedule 1: Jurisdiction in proceedings relating to same sex marriages***

##### **Nullity of marriage**

235. Paragraph 5(1) of Schedule 1B provides that the Court of Session is able to deal with declarators of nullity of a same marriage where (a) the Scottish courts have jurisdiction under regulations made under paragraph 2 of Schedule 1B or (b) no court has jurisdiction under the regulations and either party to the marriage is (i) domiciled in Scotland when the action is raised or (ii) dead and at death had been domiciled in Scotland or had been habitually resident in Scotland for a year immediately preceding the death.
236. Under paragraph 5(2), the sheriff court has jurisdiction in these cases when either (a) or (b) above is met and either party to the marriage:
- was resident in the sheriffdom for a period of 40 days before the court action is raised; or
  - had been resident in the sheriffdom for at least 40 days ending not more than 40 days before the court action is raised and has no known residence in Scotland when the action is raised.
237. In addition, Edinburgh sheriff court has jurisdiction if the couple married in Scotland, no court has jurisdiction under regulations made under paragraph 2 of Schedule 1B and it appears to the court in the interests of justice for it to deal with the case. This is referred to in paragraph 222 above as “jurisdiction of last resort”.