



Marriage (Scotland) Act 1977

1977 CHAPTER 15

PRELIMINARIES TO REGULAR MARRIAGE

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 ^[F1]not be treated as submitted until there has also been produced to the registrar] a supporting certificate ^[F2]attested in the prescribed manner] by a registered medical practitioner.

^[F3](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.

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- (3) [^{F4}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.

[^{F5}(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 [^{F6}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 [^{F7}or in civil partnership [^{F8}other than a qualifying civil partnership with each other]] ;
 - (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;
 - ^{F9}(e)
 - (f) one or both of the parties is, or are, not domiciled in Scotland and, on a ground other [^{F10}than—
 - (i) one mentioned in paragraphs (a) to (d) above; or
 - (ii) the ground that the parties are of the same sex,]
 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.

[^{F11}[^{F12}(6) For the purposes of subsection (4)(b) a “qualifying civil partnership” is—

- (a) a civil partnership which—
 - (i) was registered in—
 - (A) Scotland, or
 - (B) England and Wales or Northern Ireland; and

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- (ii) has not been dissolved, annulled or ended by death; or
 - (b) a civil partnership which is treated under Chapter 2 of Part 5 of the Civil Partnership Act 2004 as having formed by virtue of an overseas relationship being registered and has not been dissolved, annulled or ended by death.]
- (7) A civil partnership which was registered outside the United Kingdom under an Order in Council made under Chapter 1 of Part 5 of the Civil Partnership Act 2004 is to be treated for the purposes of [F13 subsection (6)(a)(i)(A)] as having been registered in Scotland if—
- (a) the parties to the civil partnership elected Scotland as the relevant part of the United Kingdom under the Order; and
 - (b) details of the civil partnership have been sent to the Registrar General of Births, Deaths and Marriages for Scotland.]
- [F14(8) A civil partnership which was registered outside the United Kingdom under an Order in Council made under Chapter 1 of Part 5 of the Civil Partnership Act 2004 is to be treated for the purposes of subsection (6)(a)(i)(B) as having been registered in England and Wales or, as the case may be, Northern Ireland if—
- (a) the parties to the civil partnership elected England and Wales or, as the case may be, Northern Ireland as the relevant part of the United Kingdom under the Order; and
 - (b) details of the civil partnership have been sent to the Registrar General for England and Wales or, as the case may be, the Registrar General in Northern Ireland.]

Textual Amendments

- F1** 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)
- F2** 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)
- F3** 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)
- F4** Words inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, ss. 2, 6\(6\), Sch. 2 para. 4\(a\)\)](#)
- F5** 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)**
- F6** Words substituted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), ss. 2, 6(6), **Sch. 2 para. 4(c)**
- F7** 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
- F8** Words in s. 5(4)(b) inserted (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), **ss. 8(3)(a)**, 36; S.S.I. 2014/287, art. 3, sch.
- F9** S. 5(4)(e) repealed (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), **ss. 2(a)**, 36; S.S.I. 2014/287, art. 3, sch.
- F10** S. 5(4)(f)(i)(ii) substituted for words (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), **ss. 2(b)**, 36; S.S.I. 2014/287, art. 3, sch.
- F11** S. 5(6) substituted (31.10.2015) by [The Qualifying Civil Partnership Modification \(Scotland\) Order 2015 \(S.S.I. 2015/371\)](#), arts. 1, **3(2)**

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- F12** S. 5(6)(7) inserted (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 8(3)(b)**, 36; S.S.I. 2014/287, art. 3, sch.
- F13** Words in s. 5(7) substituted (31.10.2015) by The Qualifying Civil Partnership Modification (Scotland) Order 2015 (S.S.I. 2015/371), arts. 1, **3(3)**
- F14** S. 5(8) inserted (31.10.2015) by The Qualifying Civil Partnership Modification (Scotland) Order 2015 (S.S.I. 2015/371), arts. 1, **3(4)**

Modifications etc. (not altering text)

- C1** S. 5 modified (16.12.2014) by The Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Regulations 2014 (S.S.I. 2014/361), regs. 1, **7(2)**
- C2** S. 5: power to modify conferred (1.6.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), **ss. 4(2)(d)**, 16; S.S.I. 2021/23, reg. 2, sch. (with reg. 3)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 9(2)(e) inserted by [2014 asp 5 s. 13\(2\)\(d\)](#)