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*Changes to legislation: There are currently no known outstanding effects for the Marriage (Prohibited Degrees of Relationship) Act 1986, SCHEDULE 2. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 2

Section 2.

#### AMENDMENTS OF MARRIAGE (SCOTLAND) ACT 1977

- 1 The Marriage (Scotland) Act 1977 shall be amended as follows.
- 2 In section 2 (prohibited degrees for marriage of related persons)—
- (a) at the beginning of subsection (1) there shall be inserted the words “Subject to subsections (1A) and (1B) below,”;
  - (b) after subsection (1) there shall be inserted the following subsections—
    - “(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.
    - (1B) 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 2A 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 both parties to the marriage have attained the age of 21 and the marriage is solemnized—
      - (a) in the case of a man marrying the mother of a former wife of his, after the death of both the former wife and the former wife’s father;
      - (b) in the case of a man marrying a former wife of his son, after the death of both his son and his son’s mother;
      - (c) in the case of a woman marrying the father of a former husband of hers, after the death of both the former husband and the former husband’s mother;
      - (d) in the case of a woman marrying a former husband of her daughter, after the death of both her daughter and her daughter’s father.” and
  - (c) after subsection (4) there shall be inserted the following new subsection—
    - “(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

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- (a) and (b) of subsection (1A) above are fulfilled in relation to the intended marriage.”.
- 3 In section 3(1) (notice of intention to marry), after paragraph (c) there shall be inserted the following paragraph—
- “(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.”.
- 4 In section 5 (objections to marriage)-
- (a) at the beginning of subsection (3) there shall be inserted the words “Subject to subsection (3A) below,”;
- (b) after subsection (3) there shall be inserted the following subsection—
- “(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.”; and
- (c) in subsection (4), for the words “subsection (3) above” there shall be substituted the words “this section”.
- 5 In section 6(1) (the Marriage Schedule), after “5(3)(b)” there shall be inserted “or (3A)”.
- 6 In section 7(1) (marriage outside Scotland where a party resides in Scotland), for the words “(a) and (b)” there shall be substituted the words “(a), (b) and (d)”.
- 7 For paragraph 2 of Schedule 1 (relationships by affinity) there shall be substituted the following paragraphs—
- “2 —*Relationships by affinity referred to in section 2(1A)*
- 2A —*Relationships by affinity referred to in section 2(1B)*

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