
STATUTORY INSTRUMENTS

2014 No. 543

**JUDGMENTS, ENGLAND AND WALES
FAMILY LAW, ENGLAND AND WALES**

**The Marriage (Same Sex Couples) (Jurisdiction
and Recognition of Judgments) Regulations 2014**

Made - - - - *6th March 2014*
Coming into force - - *13th March 2014*

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by paragraph 5 of Schedule A1 to the Domicile and Matrimonial Proceedings Act 1973 ^{M1}. In accordance with paragraph 5(6) of Schedule A1 to that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Marginal Citations

M1 1973 c. 45. Schedule A1 was inserted by Schedule 4 to the [Marriage \(Same Sex Couples\) Act 2013](#) (c.30).

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014 and shall come into force on 13th March 2014.

(2) These Regulations extend to England and Wales only.

PART 2

Jurisdiction

Jurisdiction

2. The court has jurisdiction in proceedings for the divorce of, or annulment of the marriage of, a same sex couple or for the judicial separation of a married same sex couple where [^{F1}on the date of the application] —

- (a) [^{F2}both parties to the marriage] are habitually resident in England and Wales;
- (b) [^{F3}both parties to the marriage] were last habitually resident in England and Wales and one of [^{F4}them] continues to reside there;
- (c) the respondent is habitually resident in England and Wales;
- [^{F5}(ca) in a joint application only, either of the parties to the marriage is habitually resident in England and Wales;]
- (d) the [^{F6}applicant] is habitually resident in England and Wales and has resided there for at least one year immediately [^{F7}before the application was made];
- (e) the [^{F8}applicant] is domiciled and habitually resident in England and Wales and has resided there for at least six months immediately [^{F9}before the application was made]; or
- (f) [^{F10}both parties to the marriage] are domiciled in England and Wales.

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| F1 | Words in reg. 2 inserted (31.12.2020) by The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/495) , regs. 1, 6(2)(a) (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1) |
| F2 | Words in reg. 2(a) substituted (31.12.2020) by The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/495) , regs. 1, 6(2)(b) (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1) |
| F3 | Words in reg. 2(b) substituted (31.12.2020) by The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/495) , regs. 1, 6(2)(b) (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1) |
| F4 | Word in reg. 2(b) substituted (31.12.2020) by The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/495) , regs. 1, 6(2)(c) (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1) |
| F5 | Reg. 2(ca) inserted (6.4.2022) by The Divorce, Dissolution and Separation Act 2020 (Consequential Amendments) Regulations 2022 (S.I. 2022/237) , reg. 1(2) , Sch. para. 8 ; S.I. 2022/283, reg. 2 |
| F6 | Word in reg. 2(d) substituted (31.12.2020) by The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/495) , regs. 1, 6(2)(d) (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1) |
| F7 | Words in reg. 2(d) substituted (31.12.2020) by The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/495) , regs. 1, 6(2)(e) (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1) |
| F8 | Word in reg. 2(e) substituted (31.12.2020) by The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/495) , regs. 1, 6(2)(d) (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1) |
| F9 | Words in reg. 2(e) substituted (31.12.2020) by The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/495) , regs. 1, 6(2)(e) (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1) |

F10 Words in reg. 2(f) substituted (31.12.2020) by *The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/495), regs. 1, **6(2)(b)** (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1)

PART 3

Recognition and Refusal of Recognition of Judgments

Interpretation and application of Part 3

F113.

F11 Regs. 3-9 omitted (31.12.2020) by virtue of *The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/495), regs. 1, **6(3)** (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1)

Recognition of a judgment

F114.

F11 Regs. 3-9 omitted (31.12.2020) by virtue of *The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/495), regs. 1, **6(3)** (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1)

Refusal of recognition of a judgment

F115.

F11 Regs. 3-9 omitted (31.12.2020) by virtue of *The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/495), regs. 1, **6(3)** (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1)

Jurisdiction and review

F116.

F11 Regs. 3-9 omitted (31.12.2020) by virtue of *The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/495), regs. 1, **6(3)** (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1)

F117.

F11 Regs. 3-9 omitted (31.12.2020) by virtue of *The Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/495), regs. 1, **6(3)** (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the *The Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014*. (See end of Document for details)

Differences in applicable law

F118.

F11 Regs. 3-9 omitted (31.12.2020) by virtue of [The Civil Partnership and Marriage \(Same Sex Couples\) \(Jurisdiction and Judgments\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/495\)](#), regs. 1, **6(3)** (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1)

Stay of proceedings

F119.

F11 Regs. 3-9 omitted (31.12.2020) by virtue of [The Civil Partnership and Marriage \(Same Sex Couples\) \(Jurisdiction and Judgments\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/495\)](#), regs. 1, **6(3)** (with reg. 7); 2020 c. 1, Sch. 5 para. 1(1)

Signed by authority of the Lord Chancellor

Ministry of Justice

Simon Hughes
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are to make corresponding provision, as far as is possible in domestic law, for marriages of same sex couples as to the jurisdiction and recognition elements of Council Regulation (EC) 2201/2003 for proceedings for the divorce of, or annulment of a marriage of, a same sex couple or the judicial separation of a married same sex couple as regards the law of England and Wales.

The Regulations apply to all marriages of same sex couples, including those registered outside England and Wales, entitled to be treated as marriages, by virtue of the Marriage (Same Sex Couples) Act 2013 (c.30) (“the 2013 Act”).

Regulation 2 provides that the court will have jurisdiction in proceedings for the divorce of, or annulment of a marriage of, a same sex couple or the judicial separation of a married same sex couple if the couple meet the criteria set out in sub paragraphs (a) to (f).

Regulations 3 and 4 provide that if a court of an EU member State (other than the United Kingdom) gives judgment in respect of the divorce of, or annulment of a marriage of, a same sex couple or the judicial separation of a married same sex couple, that judgment must be recognised in England and Wales unless any of the matters in regulation 5 apply.

Regulation 5(1) provides that the court shall refuse to recognise a judgment of a court of a member State if that judgment was obtained at a time when it was irreconcilable with a decision of a court of England and Wales or a judgment of a court of another member State, if that judgment was capable of recognition in England and Wales, in respect of the same marriage of a same sex couple.

Regulations 5(2) and 5(3) provide that the court shall refuse to recognise a judgment of a court of a member State if that judgment was obtained at a time when the law of England and Wales did not recognise marriages of same sex couples. However, regulation 5(3) provides that regulation 5(2) will not apply where the marriage of a same sex couple would have been entitled to be treated as a subsisting civil partnership by the law of England and Wales at the time the judgment was obtained.

Regulations 5(4) and 5(5) provide that the court shall refuse to recognise a judgment of a court of a member State if: that judgment was obtained without steps being taken to notify a spouse of the proceedings or without a spouse having been given the chance to take part in proceedings; there is no official document as to the validity of the judgment; or the recognition of the judgment would be manifestly contrary to public policy in England and Wales.

Regulations 6 and 7 prevent a court in England and Wales from reviewing the jurisdiction of the court of the member State that made the original judgment and from reviewing the substance of that judgment.

Regulation 8 ensures that a judgment is recognised notwithstanding that there might well have been a different outcome if the law of England and Wales had been applied to the facts of the case. Regulation 9 allows the court to stay proceedings for recognition of a judgment when there is an appeal outstanding against that judgment.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014.