

MARRIAGE AND CIVIL PARTNERSHIP (SCOTLAND) ACT 2014

EXPLANATORY NOTES

SCHEDULES

Schedule 1: Jurisdiction in proceedings relating to same sex marriages

Divorce or separation

230. Paragraph 3(1) of Schedule 1B provides that the Court of Session is able to deal with divorce or separation cases relating to same sex marriage either (a) where the Scottish courts have jurisdiction because of regulations made under paragraph 2 of the Schedule or (b) when no court has jurisdiction under the regulations and either of the married same sex couple is domiciled in Scotland when the case starts.
231. Under paragraph 3(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
 - either party 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.
232. 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 to be 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”.