

Changes to legislation: There are currently no known outstanding effects for the Domicile and Matrimonial Proceedings Act 1973, Paragraph 5. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 1B

JURISDICTION IN RELATION TO SAME SEX MARRIAGES (SCOTLAND)

Textual Amendments

- F1** Sch. 1B inserted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 1 para. 1\(4\)](#); [S.S.I. 2014/212, art. 2, Sch.](#) (as amended (1.9.2014) by [S.S.I. 2014/218, art. 2\(3\), Sch.](#)); [S.S.I. 2014/287, art. 3, Sch.](#)

Nullity of marriage

- 5 (1) The Court of Session has jurisdiction to entertain proceedings for declarator of nullity of a same sex marriage if (and only if)—
- ^{F2}(a)
 - (b) ^{F2}... either party to the marriage—
 - (i) is domiciled in Scotland on the date on which the proceedings are begun [^{F3}, or was habitually resident in Scotland throughout the period of one year ending with that date], or
 - (ii) died before that date and either was at death domiciled in Scotland or had been habitually resident in Scotland throughout the period of one year ending with the date of death.
- (2) The sheriff court has jurisdiction to entertain proceedings for declarator of nullity of a same sex marriage if (and only if)—
- (a) the requirements of ^{F4}... sub-paragraph (1) are met, and
 - (b) either party to the marriage—
 - (i) was resident in the sheriffdom for a period of 40 days ending with the date on which the proceedings are begun, or
 - (ii) had been resident in the sheriffdom for a period of not less than 40 days ending not more than 40 days before that date, and has no known residence in Scotland on that date.
- (3) Despite sub-paragraph (2), the sheriff court of the sheriffdom of Lothian and Borders at Edinburgh also has jurisdiction to entertain proceedings for declarator of nullity of a same sex marriage if the following requirements are met—
- (a) the parties married each other in Scotland,
 - (b) no court has, or is recognised as having, jurisdiction ^{F5}..., and
 - (c) it appears to the court to be in the interests of justice to assume jurisdiction in the case.]

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Textual Amendments

- F2** Words in Sch. 1B para. 5(1) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family, Civil Partnership and Marriage \(Same Sex Couples\)\) \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/104\)](#), reg. 1, **sch. 1 para. 1(7)(d)(i)(aa)** (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Sch. 1B para. 5(1) inserted (31.12.2020) by [The Jurisdiction and Judgments \(Family, Civil Partnership and Marriage \(Same Sex Couples\)\) \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/104\)](#), reg. 1, **sch. 1 para. 1(7)(d)(i)(bb)** (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Sch. 1B para. 5(2) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family, Civil Partnership and Marriage \(Same Sex Couples\)\) \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/104\)](#), reg. 1, **sch. 1 para. 1(7)(d)(ii)** (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Sch. 1B para. 5(3) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family, Civil Partnership and Marriage \(Same Sex Couples\)\) \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/104\)](#), reg. 1, **sch. 1 para. 1(7)(d)(iii)** (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1)

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