



Marriage (Scotland) Act 1977

1977 CHAPTER 15

FORBIDDEN DEGREES

2 Marriage of related persons.

- (1) [^{F1}Subject to [^{F2}subsection (1A)] below,] a marriage between a man and any woman related to him in a degree specified in column 1 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 Schedule shall be void if solemnised—
- (a) in Scotland; or
 - (b) at a time when either party is domiciled in Scotland.

[^{F3}(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.

[^{F4}(1B)]

- (2) For the purposes of this section a degree of relationship exists—
- (a) in the case of a degree specified in paragraph 1 of Schedule 1 to this Act, whether it is of the full blood or the half blood; . . . ^{F5}
 - (b) ^{F5}
- (3) Where a person is related to another person in a degree not specified in Schedule 1 to this Act that degree of relationship shall not, in Scots law, bar a valid marriage between them; but this subsection is without prejudice to—
- (a) the effect which a degree of relationship not so specified may have under the provisions of a system of law other than Scots law in a case where such provisions apply as the law of the place of celebration of a marriage or as the law of a person's domicile; or

Status: Point in time view as at 01/09/2009. This version of this provision has been superseded.

Changes to legislation: Marriage (Scotland) Act 1977, Section 2 is up to date with all changes known to be in force on or before 16 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) any rule of law that a marriage may not be contracted between persons either of whom is married to a third person.

[^{F6}(4) References in this section and in Schedule 1 to this Act to relationships and degrees of relationship shall be construed in accordance with section 1(1) of the Law Reform (Parent and Child) (Scotland) Act 1986.]

[^{F7}(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 (a) and (b) of subsection (1A) above are fulfilled in relation to the intended marriage.]

[^{F8}(6) [^{F9}Subsection (1A)] above and [^{F10}paragraph 2] of Schedule 1 to this Act have effect subject to the following modifications in the case of a party to a marriage whose gender has become the acquired gender under the Gender Recognition Act 2004 (“the relevant person”).

(7) Any reference in those provisions to a former wife or former husband of the relevant person includes (respectively) any former husband or former wife of the relevant person.

[This section and Schedule 1 to this Act have effect as if any reference in paragraphs 1
^{F11}(7A) and 2 of that Schedule to a mother within any of the degrees of relationship specified in either column included a woman who is a parent of a child by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008 (c. 22).]

^{F12}(8)]

Textual Amendments

- F1** Words inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 2, **Sch. 2 para. 2(a)**
- F2** Words in s. 2(1) substituted (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), **ss. 1(a)(i)**, 46(2); [S.S.I. 2006/212](#), art. 2
- F3** S. 2(1A)(1B) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 2, **Sch. 2 para. 2(b)**
- F4** S. 2(1B) repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), **ss. 1(a)(ii)**, 46(2); [S.S.I. 2006/212](#), art. 2
- F5** S. 2(2)(b) and the word “and” preceding it repealed by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 9, 10(2), **Sch. 2**
- F6** S. 2(4) inserted by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 9, 10(1), **Sch. 1 para. 17**
- F7** S. 2(5) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 2, **Sch. 2 para. 2(c)**
- F8** S. 2(6)-(8) inserted (4.4.2005) by [Gender Recognition Act 2004 \(c. 7\)](#), s. 26, **Sch. 4 para. 7**; [S.I. 2005/54](#), art. 2
- F9** Words in s. 2(6) substituted (30.6.2006) by [The Family Law \(Scotland\) Act 2006 \(Consequential Modifications\) Order 2006 \(S.S.I. 2006/384\)](#), arts. 1, **4(a)(i)**
- F10** Words in s. 2(6) substituted (30.6.2006) by [The Family Law \(Scotland\) Act 2006 \(Consequential Modifications\) Order 2006 \(S.S.I. 2006/384\)](#), arts. 1, **4(a)(ii)**
- F11** S. 2(7A) inserted (1.9.2009) by [The Human Fertilisation and Embryology \(Consequential Amendments and Transitional and Saving Provisions\) Order 2009 \(S.I. 2009/1892\)](#), art. 1(1)(a), **Sch. 1 para. 1**

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F12 S. 2(8) repealed (30.6.2006) by The Family Law (Scotland) Act 2006 (Consequential Modifications) Order 2006 (S.S.I. 2006/384), arts. 1, **4(b)**

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