

SCHEDULE 1

Article 4

MEANING OF MARRIAGE AND RELATED EXPRESSIONS: SCOTLAND

PART 1

Meaning of marriage and related expressions: Scotland

1.—(1) In the reserved law of Scotland, marriage has the same effect in relation to same sex couples as it has in relation to opposite sex couples.

(2) The reserved law of Scotland (including all Scottish legislation whenever passed or made) has effect in accordance with paragraph (1).

(3) For provision about limitations on the effect of paragraph 1(1) and (2) and paragraphs 2 to 4 of this Schedule, see paragraphs 1 to 3 of Schedule 2.

(4) In this Schedule, the “reserved law of Scotland” means the law of Scotland but not law that would, if contained in an Act of the Scottish Parliament, be within the legislative competence of that Parliament.

(5) In this Schedule, an expression set out in an entry in the first column of this table has the meaning given in the corresponding entry in the second column.

<i>Expression</i>	<i>Meaning</i>
primary legislation	an Act of Parliament
subordinate legislation	any Order in Council, order, rules, regulations, schemes, warrants, byelaws and other instruments made under primary legislation
Scottish legislation	primary legislation and subordinate legislation which forms part of the law of Scotland (whether or not it also forms part of the law of another jurisdiction) but not legislation that would, if contained in an Act of the Scottish Parliament, be within the legislative competence of that Parliament

PART 2

GENERAL INTERPRETATION

Interpretation: existing Scottish legislation

2.—(1) In existing Scottish legislation—

- (a) a reference to marriage is to be read as including a reference to marriage of a same sex couple;
- (b) a reference to a married couple is to be read as including a reference to a married same sex couple;
- (c) a reference to a person who is married is to be read as including a reference to a person who is married to a person of the same sex.

(2) In existing Scottish legislation—

Status: This is the original version (as it was originally made).

- (a) a reference to persons who are not married but are living together as a married couple is to be read as including a reference to a same sex couple who are not married but are living together as a married couple;
 - (b) a reference to a person who is living with another person as if they were married is to be read as including a reference to a person who is living with another person of the same sex as if they were married.
- (3) Where sub-paragraph (1) or (2) requires a reference to be read in a particular way, any related reference (such as a reference to a marriage that has ended, or a reference to a person whose marriage has ended) is to be read accordingly.
- (4) For the purposes of sub-paragraphs (1) to (3) it does not matter how the reference is expressed.
- (5) Sub-paragraph (6) applies to existing Scottish legislation which deals differently with—
- (a) a man and a woman living together as if married; and
 - (b) two men, or two women, living together as if civil partners.
- (6) If two men, or two women, are living together as if married, that legislation applies to them in the way that it would apply to them if they were living together as civil partners.
- (7) This paragraph does not limit paragraph 1(1) or 1(2).

Interpretation: new Scottish legislation

- 3.—(1) This paragraph applies to provision made by—
- (a) this order; or
 - (b) new Scottish legislation.
- (2) The following expressions have the meanings given—
- (a) “husband” includes a man who is married to another man;
 - (b) “wife” includes a woman who is married to another woman;
 - (c) “widower” includes a man whose marriage to another man ended with the other man’s death;
 - (d) “widow” includes a woman whose marriage to another woman ended with the other woman’s death,
- and related expressions are to be construed accordingly.
- (3) A reference to marriage of same sex couples is a reference to—
- (a) marriage between two men; or
 - (b) marriage between two women.
- (4) A reference to a marriage of a same sex couple is a reference to—
- (a) a marriage between two men; or
 - (b) a marriage between two women.
- (5) A reference to a same sex couple who are not married but are living together as a married couple is a reference to—
- (a) two men who are not married but are living together as a married couple; or
 - (b) two women who are not married but are living together as a married couple.
- (6) This paragraph does not limit paragraph 1(1) or (2).

Definitions

4. In this Schedule—

“existing Scottish legislation” means—

- (a) in the case of Scottish legislation that is primary legislation, legislation passed on or before the day on which section 4 of the 2014 Act comes into force;
- (b) in the case of Scottish legislation that is subordinate legislation, legislation that is made on or before that day;

“new Scottish legislation” means—

- (a) in the case of Scottish legislation that is primary legislation, legislation passed after the day on which section 4 of the Marriage and Civil Partnership (Scotland) Act 2014 comes into force;
- (b) in the case of Scottish legislation that is subordinate legislation, legislation that is made after that day.