
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 362

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

PART 2

**RECOGNITION AND REFUSAL OF RECOGNITION OF
A JUDGMENT OF A COURT OF A MEMBER STATE**

Refusal of recognition of judgment

5.—(1) Recognition of the validity of a judgment may be refused if the judgment was obtained at a time when it was irreconcilable with a decision determining the question of the subsistence or validity of the marriage—

- (a) previously given by a court of civil jurisdiction in Scotland; or
- (b) previously given by a court elsewhere and recognised or entitled to be recognised in Scotland.

(2) Recognition of the validity of a judgment may be refused if the judgment was obtained at a time when the law of Scotland did not recognise marriages of same sex couples.

(3) Paragraph (2) does not prevent the recognition of a judgment if, at the time the judgment was obtained, the marriage would have been treated as a subsisting civil partnership according to the law of Scotland.

(4) Recognition of the validity of a judgment may be refused if—

- (a) in the case of a judgment obtained by means of proceedings, it was obtained—
 - (i) without such steps having been taken for giving notice of the proceedings to a spouse as, having regard to the nature of the proceedings and all the circumstances, should reasonably have been taken; or
 - (ii) without a spouse having been given (for any reason other than lack of notice) such opportunity to take part in the proceedings as, having regard to those matters, that spouse should reasonably have been given; or

- (b) in the case of a judgment obtained otherwise than by means of proceedings, there is no official document certifying the judgment is effective under the law of the country in which it was obtained; or

- (c) in either case, recognition of the judgment would be manifestly contrary to public policy.

(5) In this regulation “official”, in relation to a document certifying that a judgment is effective under the law of any country, means issued by a person or a body appointed or recognised for the purpose under that law.