



# Marriage (Scotland) Act 1977

## 1977 CHAPTER 15

### MINIMUM AGE FOR MARRIAGE

#### **1 Minimum age for marriage.**

- (1) No person domiciled in Scotland may marry before he attains the age of 16.
- (2) A marriage solemnised in Scotland between persons either of whom is under the age of 16 shall be void.

### FORBIDDEN DEGREES

#### **2 Marriage of related persons.**

- (1) <sup>[F1]</sup>Subject to subsections (1A) and (1B) 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.

<sup>[F2]</sup>(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.

(1B) 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 2A 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 both parties to the marriage have attained the age of 21 and the marriage is solemnized—

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- (a) in the case of a man marrying the mother of a former wife of his, after the death of both the former wife and the former wife's father;
  - (b) in the case of a man marrying a former wife of his son, after the death of both his son and his son's mother;
  - (c) in the case of a woman marrying the father of a former husband of hers, after the death of both the former husband and the former husband's mother;
  - (d) in the case of a woman marrying a former husband of her daughter, after the death of both her daughter and her daughter's father.]
- (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; . . . <sup>F3</sup>
  - (b) . . . . . <sup>F3</sup>
- (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
  - (b) any rule of law that a marriage may not be contracted between persons either of whom is married to a third person.
- [<sup>F4</sup>(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.]
- [<sup>F5</sup>(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.]

#### 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** S. 2(1A)(1B) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 2, [Sch. 2 para. 2\(b\)](#)
- F3** 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](#)
- F4** 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](#)
- F5** S. 2(5) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 2, [Sch. 2 para. 2\(c\)](#)

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## PRELIMINARIES TO REGULAR MARRIAGE

### 3 Notice of intention to marry.

- (1) Subject to subsections (2) to (4) below, each of the parties to a marriage intended to be solemnised in Scotland shall submit to the district registrar a notice, in the prescribed form, of intention to marry (in this Act referred to as a “marriage notice”) accompanied by the prescribed fee, his birth certificate and—
  - (a) if he has previously been married and the marriage has been dissolved, a copy of the decree of divorce, dissolution or annulment;
  - (b) in the case of a widow or widower, the death certificate of the former spouse;
  - (c) in any case where a certificate is required under subsection (5) below, that certificate.
  - [<sup>F6</sup>(d) where he is related to the other party in a degree specified in paragraph 2 of Schedule 1 to this Act, a declaration in the prescribed form stating—
    - (i) the degree of relationship; and
    - (ii) that 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.]
- (2) If a party is unable to submit his birth certificate or any document referred to in paragraph (a) or (b) of subsection (1) above, he may in lieu thereof make a declaration stating that for reasons specified in that declaration it is impracticable for him to submit that certificate or document; and he shall provide the district registrar with such—
  - (a) information in respect of the matters to which such certificate or document would have related; and
  - (b) documentary evidence in support of that information,as the district registrar may require.
- (3) If any document submitted under subsection (1) above is written in a language other than English, the party submitting it shall attach to that document a translation of it in English certified by the translator as a correct translation.
- (4) Where a party to a marriage intended to be solemnised in Scotland is residing in another part of the United Kingdom, he may submit to the district registrar a valid certificate for marriage (in this Act referred to as an “approved certificate”) issued in that other part; and where that party so submits an approved certificate, he need not, unless the Registrar General so directs, comply with the other provisions of this section.
- (5) A party to a marriage intended to be solemnised in Scotland who is not domiciled in any part of the United Kingdom is required, if practicable, to submit under subsection (1)(c) above a certificate, issued by a competent authority in the state in which the party is domiciled, to the effect that he is not known to be subject to any legal incapacity (in terms of the law of that state) which would prevent his marrying:  
Provided that such a party—
  - (i) may, where under the law of the state in which he is domiciled his personal law is that of another foreign state, submit in lieu of the said certificate a like certificate issued by a competent authority in that other state;
  - (ii) need not submit a certificate under paragraph (c) of subsection (1) above [<sup>F7</sup>(a)] if he has been resident in the United Kingdom for a period of 2 or more years

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immediately before the date on which he submits a marriage notice under that subsection in respect of the said marriage [<sup>F8</sup>or (b) if no such certificate has been issued only by reason of the fact that the validity of a divorce or annulment granted by a court of civil jurisdiction in Scotland or entitled to recognition in Scotland under section 44 or 45 of the Family Law Act 1986 is not recognised in the state in which the certificate would otherwise have been issued.]

#### Textual Amendments

- F6** S. 3(1)(d) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 2, [Sch. 2 para. 3](#)
- F7** Word inserted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(6), [Sch. 1 para. 21\(a\)](#)
- F8** Words added by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(6), [Sch. 1 para. 21\(b\)](#)

#### 4 Marriage notice book and list of intended marriages.

- (1) On receipt of a marriage notice or an approved certificate in respect of a party to an intended marriage, the district registrar shall forthwith enter such particulars, extracted from such notice or certificate, as may be prescribed, together with the date of receipt by him of such notice or certificate, in a book (in this Act referred to as “the marriage notice book”) supplied to him for that purpose by the Registrar General.
- (2) The district registrar shall, in relation to each intended marriage in respect of which he has received a marriage notice or an approved certificate, and as soon as practicable after such receipt, make an entry giving the names of the parties to, and the proposed date of, that marriage in a list which he shall display in a conspicuous place at the registration office; and such entry shall remain so displayed until the said date has elapsed.
- (3) Any person claiming that he may have reason to submit an objection to an intended marriage, or to the issue of a certificate under section 7 of this Act to a party to such marriage, may, free of charge and at any time when the registration office is open for public business, inspect any entry relating to the marriage in the marriage notice book.

#### 5 Objections to marriage.

- (1) Any person may at any time before the solemnisation of a marriage in Scotland submit an objection in writing thereto to the district registrar:

Provided that where the objection is on the ground mentioned in subsection (4)(d) below, it shall be accompanied by a supporting certificate signed by a registered medical practitioner.

- (2) Where the district registrar receives an objection in accordance with subsection (1) above he shall—
  - (a) in any case where he is satisfied that the objection relates to no more than a misdescription or inaccuracy in the marriage notice or approved certificate, notify the parties to the marriage of the nature of the objection and make such enquiries into the matter mentioned in it as he thinks fit; and thereafter he shall, subject to the approval of the Registrar General, make any necessary correction to any document relating to the marriage;
  - (b) in any other case—

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- (i) forthwith notify the Registrar General of the objection;
  - (ii) pending consideration of the objection by the Registrar General, suspend the completion or issue of the Marriage Schedule in respect of the marriage;
  - (iii) where, in the case of a marriage to be solemnised by an approved celebrant, the Marriage Schedule has already been issued to the parties, if possible notify that celebrant of the objection and advise him not to solemnise the marriage pending the said consideration.
- (3) <sup>F9</sup>Subject to subsection (3A) below, if the Registrar General is satisfied, on consideration of an objection of which he has received notification under subsection (2)(b)(i) above, that—
- (a) there is a legal impediment to the marriage, he shall direct the district registrar to take all reasonable steps to ensure that the marriage does not take place and shall notify, or direct the district registrar to notify, the parties to the intended marriage accordingly;
  - (b) there is no legal impediment to the marriage, he shall inform the district registrar to that effect.

<sup>F10</sup>(3A) Where—

- (a) an objection of which the Registrar General has received notification under subsection (2)(b)(i) above is on the ground that—
    - (i) the parties are related in a degree specified in paragraph 2 of Schedule 1 to this Act; and
    - (ii) the conditions specified in paragraphs (a) and (b) of section 2(1A) of this Act are not satisfied; and
  - (b) an extract decree of declarator that those conditions are satisfied, granted on an application under section 2(5) of this Act, is produced to the Registrar General, the Registrar General shall inform the district registrar that there is no legal impediment to the marriage on that ground.]
- (4) For the purposes of <sup>F11</sup>this section] and section 6 of this Act, there is a legal impediment to a marriage where—
- (a) that marriage would be void by virtue of section 2(1) of this Act;
  - (b) one of the parties is, or both are, already married;
  - (c) one or both of the parties will be under the age of 16 on the date of solemnisation of the intended marriage;
  - (d) one or both of the parties is or are incapable of understanding the nature of a marriage ceremony or of consenting to marriage;
  - (e) both parties are of the same sex; or
  - (f) one or both of the parties is, or are, not domiciled in Scotland and, on a ground other than one mentioned in paragraphs (a) to (e) above, a marriage in Scotland between the parties would be void *ab initio* according to the law of the domicile of the party or parties as the case may be.

- (5) A person who has submitted an objection in accordance with subsection (1) above may at any time withdraw it:

Provided that the Registrar General shall be entitled to have regard to that objection notwithstanding such withdrawal.

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### Textual Amendments

- F9** Words inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, ss. 2, 6\(6\), Sch. 2 para. 4\(a\)\)](#)
- F10** S. 5(3A) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\), ss. 2, 6\(6\), Sch. 2 para. 4\(b\)](#)
- F11** Words substituted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\), ss. 2, 6\(6\), Sch. 2 para. 4\(c\)](#)

## 6 The Marriage Schedule.

- (1) Where the district registrar has received a marriage notice or approved certificate in respect of each of the parties to a marriage intended to be solemnised in Scotland and is satisfied that there is no legal impediment to the marriage or, as the case may be, is informed by the Registrar General under section 5(3)(b) [<sup>F12</sup>or (3A)] of this Act that there is no such legal impediment, he shall, subject to subsection (2) below, complete a Marriage Schedule in the prescribed form.
- (2) If a period of more than 3 months has elapsed since the date of receipt (as entered by the district registrar in the marriage notice book) of a marriage notice or an approved certificate in respect of a party to the marriage, the Registrar General may direct that the district registrar shall not complete the Marriage Schedule unless that party submits a new marriage notice or approved certificate to the district registrar.
- (3) Subject to subsection (4) below, in the case of a marriage to be solemnised by an approved celebrant, the Marriage Schedule completed in accordance with subsection (1) above shall be issued by the district registrar at the registration office to one or both of the parties to the intended marriage.
- (4) The district registrar shall not issue a Marriage Schedule under subsection (3) above—
  - (a) within 14 days of the date of receipt (as entered by him in the marriage notice book) of a marriage notice in respect of the marriage to which the Marriage Schedule relates, except where—
    - (i) He has received a written request from one or both of the parties for the issue of the Marriage Schedule on a specified date within the said 14 days stating the reason for the request; and
    - (ii) he has been authorised to issue the Marriage Schedule on that specified date by the Registrar General;
  - (b) on a date earlier than 7 days before the date of the intended marriage unless he has been authorised to issue the Marriage Schedule on that earlier date by the Registrar General.
- (5) Subject to subsections (6) and (7) below and section [<sup>F13</sup>23A] of this Act, a religious marriage may be solemnised only on the date and at the place specified in the Marriage Schedule.
- (6) Subject to subsection (7) below, if, for any reason, the marriage cannot be solemnised on the date or at the place so specified and a new date or place is fixed for the marriage, the district registrar shall—
  - (a) issue another Marriage Schedule under subsection (3) above, in lieu of that already issued, specifying that new date or place; or

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- (b) substitute, or direct the approved celebrant to substitute, that new date or place in the Marriage Schedule already issued.
- (7) Subsection (6) above shall not apply in a case where the new date fixed for the marriage is more than 3 months after the date for the marriage as specified in the Marriage Schedule already issued or where the new place so fixed is in a different registration district, but in such a case the Registrar General may, according to the circumstances, direct—
- (a) the district registrar for the district in which the marriage is to be solemnised to proceed as in paragraph (a) or (b) (whichever the Registrar General considers the more appropriate) of subsection (6) above; or
  - (b) each party to the marriage to submit to the said district registrar a new marriage notice or approved certificate.

#### Textual Amendments

**F12** Words inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\), ss. 2, 6\(6\), Sch. 2 para. 5](#)

**F13** Words substituted (*retrospectively*) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\), s. 22\(1\)\(a\)\(2\)](#)

## 7 Marriage outside Scotland where a party resides in Scotland.

- (1) Where a person residing in Scotland is a party to a marriage intended to be solemnised in—
- (a) England or Wales with a party residing in England or Wales and desires; or
  - (b) any country, territory or place outside Great Britain, and, for the purpose of complying with the law in force in that country, territory or place, is required to obtain from a competent authority in Scotland,
- a certificate in respect of his legal capacity to marry, he may submit, in the form and with the fee and documents specified in section 3(1) [<sup>F14</sup>(a), (b) and (d)] of this Act, notice of intention to marry to the district registrar for the district in which he resides (the said registrar being in this section referred to as the “appropriate registrar”) as if it were intended that the marriage should be solemnised in that district, and sections 3(2) and (3) and 4 of this Act shall apply accordingly.
- (2) The appropriate registrar shall, if satisfied (after consultation, if the appropriate registrar considers it necessary, with the Registrar General) that a person who has by virtue of subsection (1) above submitted a marriage notice to him is not subject to any legal incapacity (in terms of Scots law) which would prevent his marrying, issue to that person a certificate in the prescribed form that he is not known to be subject to any such incapacity:
- Provided that the certificate shall not be issued earlier than 14 days after the date of receipt (as entered by the appropriate registrar in the marriage notice book) of the marriage notice.
- (3) Any person may, at any time before a certificate is issued under subsection (2) above, submit to the appropriate registrar an objection in writing to such issue; and the objection shall be taken into account by the appropriate registrar in deciding whether, in respect of the person to whom the certificate would be issued, he is satisfied as mentioned in the said subsection (2).

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### Textual Amendments

**F14** Words substituted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), ss. 2, 6(6), [Sch. 2 para. 6](#)

## PERSONS WHO MAY SOLEMNISE MARRIAGE

### 8 Persons who may solemnise marriage.

- (1) [<sup>F15</sup>Subject to section 23A of this Act,] a marriage may be solemnised by and only by—
- (a) a person who is—
    - (i) a minister of the Church of Scotland; or
    - (ii) a minister, clergyman, pastor, or priest of a religious body prescribed by regulations made by the Secretary of State, or who, not being one of the foregoing, is recognised by a religious body so prescribed as entitled to solemnise marriages on its behalf; or
    - (iii) registered under section 9 of this Act; or
    - (iv) temporarily authorised under section 12 of this Act; or
  - (b) a person who is a district registrar or assistant registrar appointed under section 17 of this Act.
- (2) In this Act—
- (a) any such person as is mentioned in subsection (1)(a) above is referred to as an “approved celebrant”, and a marriage solemnised by an approved celebrant is referred to as a “religious marriage”;
  - (b) any such person as is mentioned in subsection (1)(b) above is referred to as an “authorised registrar”, and a marriage solemnised by an authorised registrar is referred to as a “civil marriage”.

### Textual Amendments

**F15** Words inserted (*retrospectively*) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\)](#), s. 22(1)(b)(2)

## RELIGIOUS MARRIAGES

### 9 Registration of nominated persons as celebrants.

- (1) A religious body, not being—
- (a) the Church of Scotland; or
  - (b) prescribed by virtue of section 8(1)(a)(ii) of this Act,
- may nominate to the Registrar General any of its members who it desires should be registered under this section as empowered to solemnise marriages:
- Provided that any such nominee must, at the date of his nomination, be 21 years of age or over.
- (2) The Registrar General shall reject a nomination made under subsection (1) above if in his opinion—



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- (a) the nominating body is not a religious body; or
  - (b) the marriage ceremony used by that body is not of an appropriate form; or
  - (c) the nominee is not a fit and proper person to solemnise a marriage; or
  - (d) there are already registered under this section sufficient members of the same religious body as the nominee to meet the needs of that body.
- (3) For the purposes of subsection (2)(b) above, a marriage ceremony is of an appropriate form if it includes, and is in no way inconsistent with—
- (a) a declaration by the parties, in the presence of each other, the celebrant and two witnesses, that they accept each other as husband and wife; and
  - (b) a declaration by the celebrant, after the declaration mentioned in paragraph (a) of this subsection, that the parties are then husband and wife,

and the Registrar General may, before deciding whether to accept or reject a nomination, require the nominating body to produce to him in writing the form of words used at its marriage ceremonies.

- (4) Where the Registrar General accepts a nomination made to him under subsection (1) above, he—
- (a) shall determine the period during which the nominee shall be empowered to solemnise marriages, being a period of not more than 3 years; and
  - (b) may determine that the nominee shall be empowered to solemnise marriages only in such area as the Registrar General may specify,

and may make his acceptance subject to such other conditions as he thinks fit:

Provided that nothing in paragraph (a) above shall preclude the Registrar General from accepting a further nomination of that nominee, in accordance with this section, to take effect at any time after the end of the period determined by the Registrar General under the said paragraph (a).

- (5) The Registrar General shall—
- (a) where he accepts a nomination made to him under subsection (1) above—
    - (i) so inform the nominee and the nominating body, specifying the period during which the acceptance shall have effect and any condition to which the acceptance is subject;
    - (ii) enter the name of the nominee, the nominating body and such other particulars as he deems appropriate in a register which he shall establish and maintain and which shall be made available for public inspection at all reasonable times without charge;
  - (b) where he rejects the nomination, by notice in writing inform the nominating body of the reasons for that rejection.
- (6) The nominating body may, if aggrieved by a rejection under this section, within 28 days of receiving notice of that rejection, appeal to the Secretary of State, and on any such appeal the Secretary of State may direct the Registrar General to accept the nomination or may confirm its rejection and shall inform the nominating body of his direction or confirmation, as the case may be, and the reason for it; and such direction or confirmation shall be final:

Provided that if a reason given for a confirmation of the rejection of a nomination is that the nominating body is not a religious body, that body may, within 42 days of receiving notice of the confirmation, appeal against the confirmation to the Court of

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Session and seek the determination of that court as to whether the body is a religious body; and if—

- (a) the court determine that the nominating body is a religious body; and
- (b) the said reason was the only reason given for the confirmation, that determination shall be given effect to by the Registrar General as if it were a direction under this subsection to accept the nomination.

## **10 Removal of celebrant's name from register.**

- (1) Subject to the provisions of this section, the Registrar General may remove the name of a person registered under section 9 of this Act from the register on the ground that—
  - (a) that person has requested that his name should be so removed; or
  - (b) the body which nominated that person under section 9(1) of this Act no longer desires that he should be so registered; or
  - (c) the marriage ceremony used by the said body is no longer of an appropriate form within the meaning of section 9(3) of this Act; or
  - (d) that person—
    - (i) has, while registered as an approved celebrant, been convicted of an offence under this Act; or
    - (ii) has, for the purpose of profit or gain, been carrying on a business of solemnising marriages; or
    - (iii) is not a fit and proper person to solemnise marriages; or
    - (iv) for any other reason, should not be so registered.
- (2) The Registrar General shall not remove the name of a person from the register on any ground mentioned in subsection (1)(d) above unless he has given to that person at least 21 days notice in writing of his intention to do so.
- (3) The Registrar General shall—
  - (a) in the notice given under subsection (2) above, specify the ground of removal and call upon the said person to show cause, within the period specified in the notice, why his name should not be removed from the register; and
  - (b) consider any representations made to him within the said period by that person.
- (4) Where a person's name has been removed from the register on any of the grounds mentioned in paragraphs (c) and (d) of subsection (1) above, that person or the body which nominated him under section 9(1) of this Act may, if aggrieved by the removal, within 28 days of receiving notice of the removal appeal to the Secretary of State, and on any such appeal the Secretary of State may give such direction as he thinks proper to the Registrar General as to the removal from, or restoration to, the register of that name; and such direction shall be final.
- (5) Where a person has received a notice in pursuance of subsection (2) above, he shall not solemnise a marriage unless and until his name is restored to the register or, as the case may be, the Registrar General has decided not to remove his name from the register.

## **11 Alterations to register maintained under s. 9.**

A body registered in pursuance of section 9(5)(a)(ii) of this Act shall notify the Registrar General of any of the following events (if practicable, within 21 days of its occurrence)—

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- (a) any change in the name or the address of the body or any amalgamation with any other religious body, giving the name and address of any approved celebrant who is a member of the body so registered;
- (b) the death of an approved celebrant who is a member of the body so registered;
- (c) any change of name, address or designation of an approved celebrant who is a member of the body so registered;
- (d) the cessation of an approved celebrant who is a member of the body so registered from exercising the functions of an approved celebrant, giving his name and address;

and the Registrar General shall, on receipt of any such notification, make whatever alteration to the register maintained by him under section 9 of this Act as he considers necessary or desirable.

## 12 Temporary authorisation of celebrants.

The Registrar General may, in accordance with such terms and conditions as may be specified in the authorisation, grant to any person a temporary written authorisation to solemnise—

- (a) a marriage or marriages specified in the authorisation; or
- (b) marriages during such period as shall be specified in the authorisation:

Provided that the authorised person must at the date of the granting of the authorisation be 21 years of age or over.

## 13 Preliminaries to solemnisation of religious marriages.

- (1) A marriage shall not be solemnised by an approved celebrant unless—
- (a) the parties produce to him before the marriage ceremony a Marriage Schedule, in respect of the marriage, issued in accordance with this Act;
  - (b) both parties to the marriage are present; and
  - (c) two persons professing to be 16 years of age or over are present as witnesses.
- (2) .....

F16

### Textual Amendments

**F16** S. 13(2)(3) repealed (*retrospectively*) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), s. 22(1)(2), **Sch. 3**

## 14 Form of ceremony to be used by approved celebrant.

An approved celebrant who is a person specified—

- (a) in section 8(1)(a)(i) or (ii) of this Act shall not solemnise a marriage except in accordance with a form of ceremony recognised by the religious body to which he belongs as sufficient for the solemnisation of marriages;
- (b) in section 8(1)(a)(iii) or (iv) of this Act shall not solemnise a marriage except in accordance with a form of ceremony which includes and is in no way inconsistent with the declarations specified in section 9(3) of this Act.

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## **15 Registration of religious marriages.**

- (1) Immediately after the solemnisation of the marriage the Marriage Schedule shall be signed by the parties contracting the marriage, by both witnesses present thereat and by the approved celebrant.
- (2) The parties to the marriage shall, within 3 days thereafter, deliver the Marriage Schedule, or send it by post or arrange that it is delivered, to the district registrar.
- (3) As soon as possible after receipt of the Marriage Schedule, the district registrar shall cause the particulars as set forth in that Schedule to be entered in the register of marriages kept by him; and subject to subsection (4) below, he shall not register a religious marriage unless and until he receives a duly signed Marriage Schedule in respect of that marriage.
- (4) Where the Registrar General is satisfied that a marriage has been properly solemnised and that the Marriage Schedule in respect of the marriage has been duly signed but has been lost or destroyed, he may direct the district registrar to complete an exact copy of the original Marriage Schedule and, so far as practicable, to arrange for its signature by those persons who signed the original Schedule; and as soon as possible thereafter, the district registrar shall cause the particulars as set forth in that copy to be entered in the register of marriages kept by him.

## **16 Registrar's power to require delivery of Marriage Schedule.**

- (1) Where after the expiration of 21 days from the date of marriage as entered in the Marriage Schedule that Schedule has not been delivered to the district registrar, he may serve a notice in the prescribed form on either of the parties to the marriage requiring that party within 8 days from the date of service of the notice to deliver the said Schedule, or send it by post, to the district registrar.
- (2) If any party on whom a notice has been served in pursuance of subsection (1) above fails to comply with the notice, the district registrar may serve on that party a second notice in the prescribed form requiring that party to attend personally at the registration office of the district registrar, within 8 days from the date of service of the second notice, for the purpose of delivering the Marriage Schedule to the district registrar to enable him to register the marriage.

### CIVIL MARRIAGES

## **17 Appointment of authorised registrars.**

For the purpose of affording reasonable facilities for the solemnisation of civil marriages throughout Scotland, the Registrar General—

- (a) shall appoint such number of district registrars as he thinks necessary; and
- (b) may, in respect of any district for which he has appointed a district registrar under paragraph (a) above, appoint one or more assistant registrars,

as persons who may solemnise marriages:

Provided that any person appointed under this section must, at the date of his appointment, be 21 years of age or over.

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## 18 Places at which civil marriages may be solemnised.

- (1) Subject to the provisions of this section, an authorised registrar shall solemnise a civil marriage in his registration office.
- (2) An authorised registrar may, with the approval of the Registrar General, solemnise a civil marriage in the registration office of another authorised registrar.
- (3) If either of the parties to an intended civil marriage is unable to attend the registration office of an authorised registrar for the solemnisation of the marriage, an authorised registrar may, subject to the following provisions of this section and on reimbursement of any additional expenditure incurred by him by virtue of this subsection, solemnise the marriage—
  - (a) at any place in his registration district other than his registration office; or
  - (b) with the approval of the Registrar General, at any place in any registration district in respect of which there is no authorised registrar.
- (4) The authorised registrar shall not solemnise a marriage at any such place as is described in subsection (3)(a) or (b) above unless—
  - (a) application has been made to him by either of the parties to the intended marriage requesting him to solemnise the marriage at such a place and stating the reason why one of the parties is unable to attend a registration office; and
  - (b) subject to subsection (5) below, he is satisfied on consideration of the application that the party is unable to attend a registration office by reason of serious illness or serious bodily injury and that there is good reason why the marriage cannot be delayed until the party is able to attend a registration office.
- (5) If the authorised registrar is not satisfied as mentioned in subsection (4)(b) above, he shall consult the Registrar General who may direct him to solemnise the marriage in accordance with the application made under subsection (4)(a) above or to refuse so to solemnise it.

VALID FROM 25/04/2002

### <sup>F17</sup>18A Approved places

- (1) The Scottish Ministers may by regulations make provision for or in connection with the approval by local authorities of places in their areas in which civil marriages may be solemnised.
- (2) Regulations under subsection (1) above may in particular include provision as to—
  - (a) the kinds of place in respect of which approvals may be granted;
  - (b) the procedure to be followed in relation to applications for approval;
  - (c) the considerations to be taken into account by a local authority in determining whether to approve any places;
  - (d) the duration and renewal of approvals;
  - (e) the conditions that shall or may be imposed by a local authority on granting or renewing an approval;
  - (f) the determination and charging by local authorities of fees in respect of—
    - (i) applications for the approval of places;
    - (ii) the renewal of approvals; and

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- (iii) the attendance by authorised registrars at places approved under the regulations;
  - (g) the circumstances in which a local authority shall or may revoke or suspend an approval or vary any of the conditions imposed in relation to an approval;
  - (h) the notification to the Registrar General of all approvals granted, renewed, revoked, suspended or varied;
  - (i) the notification to the district registrar for the district in which a place approved under the regulations is situated of all approvals relating to such a place which are granted, renewed, revoked, suspended or varied;
  - (j) the keeping by the Registrar General, district registrars and local authorities of registers of places approved under the regulations; and
  - (k) the issue by the Registrar General of guidance supplementing the provision made by the regulations.
- (3) A person who has made an application under regulations made under subsection (1) above may appeal, by summary application, to the sheriff against any decision made by a local authority in relation to the application (including any decision to revoke or suspend, or to vary any of the conditions imposed in relation to, an approval granted in pursuance of that application).
- (4) An appeal under subsection (3) above may be made only on one or more of the following grounds—
- (a) that the local authority's decision was based on an error of law;
  - (b) that the local authority's decision was based on an incorrect material fact;
  - (c) that the local authority has acted contrary to natural justice; or
  - (d) that the local authority has acted unreasonably in the exercise of its discretion.
- (5) An appeal under subsection (3) above shall not, unless on good cause shown, be considered by the sheriff unless lodged with the sheriff clerk within 28 days of the date on which the local authority made the decision being appealed against.
- (6) In upholding an appeal under subsection (3) above, the sheriff may—
- (a) remit the case with the reasons for the sheriff's decision to the local authority for reconsideration by the local authority of its decision; or
  - (b) reverse or modify the local authority's decision.
- (7) A party to an appeal under subsection (3) above may appeal, on a point of law only, against the decision of the sheriff to the Court of Session within 28 days of the date of that decision.
- (8) Regulations under subsection (1) above may make different provision for different cases or circumstances.
- (9) The power to make regulations under subsection (1) above shall be exercisable by statutory instrument; and, subject to subsection (10) below, any such statutory instrument shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (10) A statutory instrument containing the first regulations under subsection (1) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.]

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### Textual Amendments

F17 S. 18A inserted (25.4.2002) by 2002 asp 8, s. 1(3); S.S.I. 2002/184, art. 2

## 19 Marriage ceremony and registration of marriage.

- (1) An authorised registrar shall not solemnise a marriage within 14 days of the date of receipt (as entered in the marriage notice book) of a marriage notice in respect of that marriage, unless—
  - (a) he has received a written request from one or both of the parties to solemnise the marriage on a specified earlier date stating the reason for the request, and
  - (b) he has been authorised to solemnise the marriage on that earlier date by the Registrar General.
- (2) A marriage shall not be solemnised by an authorised registrar unless—
  - (a) he has available to him at the time of the ceremony a Marriage Schedule, in respect of the marriage, completed in accordance with this Act and the prescribed fee for the marriage has been paid;
  - (b) both parties to the marriage are present; and
  - (c) two persons professing to be 16 years of age or over are present as witnesses.
- (3) Immediately after the solemnisation of the marriage the Marriage Schedule shall be signed by the parties contracting the marriage, by both witnesses present thereat and by the authorised registrar who solemnised it.
- (4) As soon as possible after the Marriage Schedule has been signed in accordance with subsection (3) above—
  - (a) in a case where the marriage has been solemnised in the registration office of the authorised registrar who solemnised it or in any such place as is mentioned in section 18(3) of this Act, that authorised registrar;
  - (b) in a case where the marriage has been solemnised in the registration office of another authorised registrar, that other authorised registrar,shall cause the particulars as set forth in that Schedule to be entered in the register of marriages kept by him.

## 20 Second marriage ceremony.

- (1) Where two persons have gone through a marriage ceremony with each other outside the United Kingdom, whether before or after the commencement of this Act, but they are not, or are unable to prove that they are, validly married to each other in Scots law, an authorised registrar, on an application made to him by those persons, may, subject to the approval of the Registrar General and to subsection (2) below, solemnise their marriage as if they had not already gone through a marriage ceremony with each other.
- (2) Sections 3 to 6 and 18 and 19 of this Act shall apply for the purpose of solemnising a marriage under this section except that—
  - (a) there shall be submitted to the authorised registrar a statutory declaration by both parties—
    - (i) stating that they have previously gone through a marriage ceremony with each other; and

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- (ii) specifying the date and place at which, and the circumstances in which, they went through that ceremony;
- (b) section 5(4)(b) of this Act shall not apply in respect of the parties already being married to each other;
- (c) the Marriage Schedule shall contain such modifications as the Registrar General may direct to indicate that the parties have previously gone through a marriage ceremony with each other; and
- (d) after the Marriage Schedule has been signed in accordance with section 19(3) of this Act, the authorised registrar shall make an endorsement on it in the following terms—

“The ceremony of marriage between the parties mentioned in this Schedule was performed in pursuance of section 20 of the Marriage (Scotland) Act 1977, following a statutory declaration by them that they had gone through a ceremony of marriage with each other on the day of 19 , at

Dated the day of 19 ,

(Signature of authorised registrar)”.

#### IRREGULAR MARRIAGES

### 21 Registration of irregular marriages.

Where decree of declarator establishing—

- (a) a marriage by cohabitation with habit and repute; or
- (b) a marriage contracted before 1st July 1940 by declaration *de praesentior* by promise *subsequente copula*, has been granted in the Court of Session, the principal clerk of Session shall forthwith cause the decree, the names, designations and addresses of the parties, and the date, as determined by the Court, on which the marriage was constituted to be intimated to the Registrar General, and on receipt of such intimation the Registrar General shall cause the marriage to be registered.

#### GENERAL

### 22 Interpreters at marriage ceremony.

- (1) Where the person by whom a marriage is to be solemnised under this Act considers that it is necessary or desirable, he may use the services of an interpreter (not being a party or a witness to the marriage) at the marriage ceremony.
- (2) The interpreter shall—
  - (a) before the marriage ceremony, sign a written statement that he understands, and is able to converse in, any language in respect of which he is to act as interpreter at that ceremony; and
  - (b) immediately after the marriage ceremony, furnish the person solemnising the marriage with a certificate written in English and signed by the interpreter that he has faithfully acted as interpreter at that ceremony.
- (3) Any fee for the services of the interpreter shall be paid by the parties to the marriage.



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## 23 Cancellation of entry in register of marriages.

If a marriage in respect of which an entry has been made in a register of marriages is found or declared to be void, the Registrar General shall direct the cancellation of the entry.

### [<sup>F18</sup>23A Validity of registered marriage.

- (1) Subject to sections 1 and 2 of and without prejudice to section 24(1) of this Act, where the particulars of any marriage at the ceremony in respect of which both parties were present are entered in a register of marriages by or at the behest of an appropriate registrar, the validity of that marriage shall not be questioned, in any legal proceedings whatsoever, on the ground of failure to comply with a requirement or restriction imposed by, under or by virtue of this Act.
- (2) In subsection (1) above, “appropriate registrar” means—
  - (a)
  - (b) in any other case, a district registrar.]

#### Textual Amendments

**F18** S. 23A inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\)](#), s. 22(1)(d)

## 24 Offences.

- (1) Any person who—
  - (a) falsifies or forges any Marriage Schedule, certificate or declaration issued or made, or purporting to be issued or made, under this Act;
  - (b) knowingly uses, or gives or sends to any person as genuine, any false or forged Marriage Schedule, certificate, declaration or other document issued or made, or purporting to be issued or made, or required, under this Act;
  - (c) being an approved celebrant, solemnises a marriage without a Marriage Schedule in respect of the marriage, issued in accordance with this Act, being available to him at the time of the marriage ceremony;
  - (d) not being an approved celebrant or an authorised registrar, conducts a marriage ceremony in such a way as to lead the parties to the marriage to believe that he is solemnising a valid marriage; or
  - (e) being an approved celebrant or an authorised registrar, solemnises a marriage without both parties to the marriage being present,shall be guilty of an offence and shall be liable—
  - (i) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both;
  - (ii) on summary conviction, to a fine not exceeding [<sup>F19</sup>the prescribed sum] or to imprisonment for a term not exceeding 3 months or to both.
- (2) Any person who—
  - (a) solemnises a marriage in an area in which by virtue of section 9(4)(b) of this Act he is not permitted to solemnise a marriage;
  - (b) solemnises a marriage in contravention of section 10(5) of this Act;

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- (c) being a person temporarily authorised under section 12(a) of this Act, solemnises a marriage not specified in that authorisation;
- (d) solemnises a marriage in contravention of section 14 of this Act; or
- (e) being a party to a marriage, fails to comply with a notice served under section 16(2) of this Act,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F20</sup>level 3 on the standard scale].

- (3) Summary proceedings for an offence under this Act or, in relation to information supplied under or for the purposes of this Act, section 53(1)(a) of the <sup>M1</sup>Registration of Births, Deaths and Marriages (Scotland) Act 1965, may be commenced at any time within the period of 3 months from the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge or within the period of 12 months from the commission of the offence, whichever period last expires; and subsection (3) of section 331 of the <sup>M2</sup>Criminal Procedure (Scotland) Act 1975 (date of commencement of summary proceedings) shall have effect for the purposes of this section as it has effect for the purposes of that section.

#### Textual Amendments

- F19** Words in s. 24(1)(ii) substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **s. 289B**
- F20** Words in s. 24(2) substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 289F, 289G**

#### Marginal Citations

- M1** 1965 c. 49.
- M2** 1975 c. 21.

## 25 Regulations.

- (1) Any power to make regulations conferred by this Act shall be exercisable by statutory instrument and no such regulations shall be made by the Registrar General except with the approval of the Secretary of State.
- (2) Any statutory instrument containing regulations which prescribe fees for the purposes of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The <sup>M3</sup>Statutory Instruments Act 1946 shall apply to a statutory instrument containing regulations made for the purposes of this Act by the Registrar General as if the regulations had been made by a Minister of the Crown.

#### Marginal Citations

- M3** 1946 c. 36.

## 26 Interpretation.

- (1) Except where the context otherwise requires and subject to subsection (2) below, expressions used in this Act and in the <sup>M4</sup>Registration of Births, Deaths, and Marriages (Scotland) Act 1965 have the same meanings in this Act as in that Act.

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- (2) In this Act, except where the context otherwise requires—
- [<sup>F21</sup>“annulment” includes any decree or declarator of nullity of marriage, however expressed.]
  - “approved celebrant” has the meaning assigned to it by section 8(2)(a) of this Act;
  - “authorised registrar” has the meaning assigned to it by section 8(2)(b) of this Act;
  - “district registrar” means the registrar for the registration district in which the marriage is to be or has been solemnised;
  - “name” includes surname;
  - “prescribed” means prescribed by regulations made by the Registrar General;
  - “religious body” means an organised group of people meeting regularly for common religious worship.
- (3) Except where the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

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#### Textual Amendments

**F21** Definition inserted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(6), [Sch. 1 para. 22](#)

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#### Marginal Citations

**M4** [1965 c. 49](#).

## 27 Transitional and saving provisions.

- (1) Where, before the commencement of this Act—
- (a) proclamation of banns or publication of notice has been applied for by one or both of the parties to; or
  - (b) a licence has been granted by a sheriff in respect of,
- an intended marriage in accordance with an enactment repealed by this Act, then the marriage shall proceed in accordance with the enactments repealed by this Act as if they had not been so repealed:
- Provided that this subsection shall cease to have effect in respect of the marriage if—
- (i) a certificate of proclamation of banns or publication of notice issued in respect of the said application; or
  - (ii) the said licence, ceases to be valid in accordance with any enactment so repealed.
- (2) Any form used, and any requirement as to the particulars to be entered in any form used, for the purposes of any enactment repealed by this Act shall continue in force as though prescribed under this Act until other forms or particulars are so prescribed.
- (3) Nothing in this Act shall affect the validity of any marriage solemnised or contracted before 1st January 1978.
- (4) Nothing in the foregoing provisions of this section shall be taken as prejudicing the operation of section 38 of the <sup>M5</sup>Interpretation Act 1889 (which relates to the effect of repeals).

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#### Marginal Citations

**M5** 1889 c. 63.

## 28 Consequential amendments and repeals.

- (1) The enactments set out in Schedule 2 to this act shall have effect subject to the amendments respectively specified in that Schedule, being amendments consequential on the provisions of this Act.
- (2) The enactments set out in Schedule 3 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

#### Modifications etc. (not altering text)

**C1** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 29 Short title, commencement and extent.

- (1) This Act may be cited as the Marriage (Scotland) Act 1977.
- (2) This Act, except this section, shall come into force on 1st January 1978.
- (3) This Act, except this section and, in so far as relating to the <sup>M6</sup>Marriage with Foreigners Act 1906, the <sup>M7</sup>Marriage Act 1939, the <sup>M8</sup>Marriage Act 1949 and the <sup>M9</sup>Marriage (Scotland) Act 1956, section 28, shall extend to Scotland only.

#### Marginal Citations

**M6** 1906 c. 40.

**M7** 1939 c. 33.

**M8** 1949 c. 76.

**M9** 1956 c. 70.

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