



Marriage (Scotland) Act 1977

1977 CHAPTER 15

FORBIDDEN DEGREES

2 Marriage of related persons.

[^{F1}(1) Subject to subsection (1A), a marriage between persons who are related to each other in a forbidden degree is void if solemnised—

- (a) in Scotland; or
- (b) at a time when either party is domiciled in Scotland.

(1ZA) For the purposes of subsection (1), a person is related to another person in a forbidden degree if related to that person in a degree specified in Schedule 1.]

[^{F2}(1A) [^{F3}A person who is related to another person in a degree specified in paragraph 2 of Schedule 1 (relationships by affinity) is not related to that person in a forbidden degree] 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)]

[^{F5}(1C) For the purposes of paragraph 2 of Schedule 1, “spouse” means—

- (a) in the case of a marriage between persons of different sexes, a wife in relation to her husband or a husband in relation to his wife; and
- (b) in the case of a marriage between persons of the same sex, one of the parties to the marriage in relation to the other.]

(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; . . . ^{F6}
- (b) ^{F6}

Status: Point in time view as at 16/12/2014.

Changes to legislation: Marriage (Scotland) Act 1977, Forbidden degrees is up to date with all changes known to be in force on or before 06 August 2024. 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)

- (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.
- [^{F7}(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.]
- [^{F8}(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.]
- [^{F9}(6) [^{F10}Subsection (1A)] above and [^{F11}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 [^{F12}subsection (1C)(a) as it applies to paragraph 2 of Schedule 1] to a [^{F13}... wife or ^{F13}... husband of the relevant person includes (respectively) any [^{F13}... husband or ^{F13}... wife of the relevant person.
- [This section and Schedule 1 to this Act have effect as if any reference in paragraphs ^{F14}(7A) 1 and 2 of that Schedule to a [^{F15}parent] within any of the degrees of relationship specified [^{F16}... 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).]
- [^{F17}(8)]

Textual Amendments

- F1** S. 2(1)(1ZA) substituted for s. 2(1) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), ss. 1\(2\)\(a\)](#), 36; S.S.I. 2014/287, art. 3, sch.
- 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** Words in s. 2(1A) substituted (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), ss. 1\(2\)\(b\)](#), 36; S.S.I. 2014/287, art. 3, sch.
- 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(1C) inserted (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), ss. 1\(2\)\(c\)](#), 36; S.S.I. 2014/287, art. 3, sch.
- F6** 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](#)
- F7** 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](#)
- F8** 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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- F9** 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
- 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)(i)**
- F11** 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)**
- F12** Words in s. 2(7) substituted (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 1(2)(d)(i)**, 36; S.S.I. 2014/287, art. 3, sch.
- F13** Word in s. 2(7) repealed (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 1(2)(d)(ii)**, 36; S.S.I. 2014/287, art. 3, sch.
- F14** 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**
- F15** Word in s. 2(7A) substituted (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 1(2)(e)(i)**, 36; S.S.I. 2014/287, art. 3, sch.
- F16** Words in s. 2(7A) repealed (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), **ss. 1(2)(e)(ii)**, 36; S.S.I. 2014/287, art. 3, sch.
- F17** 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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