



# Marriage (Scotland) Act 1977

## 1977 CHAPTER 15

### 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>F1</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.

*Status: Point in time view as at 01/02/1991.*

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- (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>F2</sup>(a)] if he has been resident in the United Kingdom for a period of 2 or more years immediately before the date on which he submits a marriage notice under that subsection in respect of the said marriage [<sup>F3</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

- F1** S. 3(1)(d) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 2, [Sch. 2 para. 3](#)
- F2** Word inserted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(6), [Sch. 1 para. 21\(a\)](#)
- F3** 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.

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## 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—
- (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>F4</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>F5</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>F6</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;

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- (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.

#### Textual Amendments

- F4** Words inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, ss. 2, 6\(6\), Sch. 2 para. 4\(a\)\)](#)
- F5** 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\(b\)](#)
- F6** 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>F7</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—

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- (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 [F823A] 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
  - (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

- F7** Words inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), ss. 2, 6(6), [Sch. 2 para. 5](#)
- F8** 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) [F9(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

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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

- F9** Words substituted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), ss. 2, 6(6), [Sch. 2 para. 6](#)

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