

SCHEDULES

SCHEDULE 2

Section 10

EXTRA-TERRITORIAL MATTERS

PART 1

ENGLISH AND WELSH MARRIAGES OF SAME SEX COUPLES: TREATMENT IN SCOTLAND AND NORTHERN IRELAND

Scotland

- 1 (1) The Secretary of State may, by order, provide that, under the law of Scotland, a marriage of a same sex couple under the law of England and Wales is to be treated as a civil partnership formed under the law of England and Wales (and that, accordingly, the spouses are to be treated as civil partners).
- (2) The Secretary of State may by order—
 - (a) provide for the treatment of a marriage as a civil partnership (by virtue of an order under sub-paragraph (1)) to have effect subject to provision made by the order;
 - (b) specify cases in which a marriage is not to be treated as a civil partnership by virtue of an order under sub-paragraph (1).
- (3) The power conferred by sub-paragraph (1) may only be exercised if marriage of same sex couples is not lawful under the law of Scotland.
- (4) If marriage of same sex couples becomes lawful under the law of Scotland, that does not—
 - (a) affect the validity of any order made under this paragraph; or
 - (b) prevent the revocation of any such order (with or without transitional, transitory or saving provision being made) using the powers conferred by this paragraph.

Northern Ireland

- 2 (1) Under the law of Northern Ireland, a marriage of a same sex couple under the law of England and Wales is to be treated as a civil partnership formed under the law of England and Wales (and accordingly, the spouses are to be treated as civil partners).
- (2) The Secretary of State may by order—
 - (a) provide for the treatment of a marriage as a civil partnership (by virtue of sub-paragraph (1)) to have effect subject to provision made by the order;
 - (b) specify cases in which a marriage is not to be treated as a civil partnership by virtue of sub-paragraph (1).

Contrary provision

- 3 (1) The treatment of a marriage as a civil partnership by virtue of an order under paragraph 1(1), or by virtue of paragraph 2, is subject to—
- (a) any order made under paragraph 1(2) or 2(2), and
 - (b) any other contrary provision made by—
 - (i) the other provisions of this Act,
 - (ii) any other subordinate legislation made under this Act, and
 - (iii) any new UK legislation,
 including any such contrary provision contained in amendments of existing UK legislation.
- (2) In this paragraph—
- “existing UK legislation” means—
- (a) in the case of UK legislation that is primary legislation, legislation passed before the end of the Session in which this Act is passed (excluding this Act), or
 - (b) in the case of UK legislation that is subordinate legislation, legislation made on or before the day on which this Act is passed (excluding legislation made under this Act);
- “new UK legislation” means—
- (a) in the case of UK legislation that is primary legislation, legislation passed after the end of the Session in which this Act is passed, or
 - (b) in the case of UK legislation that is subordinate legislation, legislation made after the day on which this Act is passed.

PART 2**MARRIAGE TREATED AS CIVIL PARTNERSHIP: DISSOLUTION, ANNULMENT OR SEPARATION***Order made in relation to civil partnership: validity in relation to marriage*

- 4 (1) This paragraph applies in a case where a marriage of a same sex couple under the law of England and Wales is—
- (a) by virtue of an order under paragraph 1, treated under the law of Scotland as a civil partnership, or
 - (b) by virtue of paragraph 2, treated under the law of Northern Ireland as a civil partnership.
- (2) If—
- (a) a final order is made in relation to the deemed civil partnership, and
 - (b) the validity of that order is recognised throughout the United Kingdom,
- that order has, throughout the United Kingdom, the same effect in relation to the actual marriage that it has in relation to the deemed civil partnership.
- (3) If—
- (a) a separation order is made in relation to the relevant couple as parties to the deemed civil partnership, and
 - (b) the validity of that order is recognised throughout the United Kingdom,

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

that order has, throughout the United Kingdom, the same effect in relation to the couple as parties to the actual marriage that it has in relation to them as parties to the deemed civil partnership (and has effect in relation to any other persons accordingly).

(4) In this paragraph—

“actual marriage” means the marriage of the same sex couple under the law of England and Wales;

“deemed civil partnership” means the civil partnership which the actual marriage is treated as being;

“final order” means—

(a) the dissolution or annulment of a civil partnership obtained from a court of civil jurisdiction in any part of the United Kingdom;

(b) an overseas dissolution or annulment;

“relevant couple” means the same sex couple who are parties to the actual marriage;

“separation order” means—

(a) a legal separation of the parties to a civil partnership obtained from a court of civil jurisdiction in any part of the United Kingdom;

(b) an overseas legal separation of the parties to a civil partnership.

PART 3

ENGLAND AND WALES: “OVERSEAS RELATIONSHIPS” IN CIVIL PARTNERSHIP ACT 2004

Marriage not an “overseas relationship” in England and Wales

5 (1) The Civil Partnership Act 2004 is amended as follows.

(2) Section 213 (specified relationships): after subsection (1) insert—

“(1A) But, for the purposes of the application of this Act to England and Wales, marriage is not an overseas relationship.”.