

IMMIGRATION ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Marriage and Civil Partnership

Chapter 1: Referral and Investigation of Proposed Marriages and Civil Partnerships

Section 48: Decision whether to investigate

218. *Subsection (1)* provides that the section applies if a superintendent registrar refers a proposed marriage to the Secretary of State under section 28H of the Marriage Act 1949 (“the 1949 Act”), or a registration authority refers a proposed civil partnership to the Secretary of State under section 12A of the Civil Partnership Act 2004. Sections 28H and 12A are inserted by Schedule 4 to the Act.
219. *Subsection (2)* requires the Secretary of State to decide whether to investigate whether a proposed marriage or civil partnership referred to the Secretary of State is a sham, as defined by section 55. (That definition refers to sections 24 and 24A of the 1999 Act, which are amended by section 56.)
220. *Subsection (3)* prevents the Secretary of State from conducting an investigation unless the conditions set out in subsection (4) (Condition A) and subsection (5) (Condition B) are met.
221. *Subsection (4)* provides that Condition A is met if the Secretary of State is satisfied that one or both parties to the proposed marriage or civil partnership is not an exempt person, as defined by section 49.
222. *Subsection (5)* provides that Condition B is met if the Secretary of State has reasonable grounds for suspecting the proposed marriage or civil partnership is a sham.
223. *Subsection (6)* requires that, in deciding whether to conduct an investigation, the Secretary of State has regard to any guidance published by the Secretary of State for that purpose.
224. *Subsection (7)* requires the Secretary of State to give notice of the decision whether to conduct an investigation to both parties to the proposed marriage and to the superintendent registrar who referred it.
225. *Subsection (8)* requires the Secretary of State to give notice of the decision whether to conduct an investigation to both parties to the proposed civil partnership and to the registration authority who referred it and, if different, the registration authority responsible for issuing the civil partnership schedule.
226. *Subsection (9)* requires the Secretary of State to make and give notice of the decision whether to conduct an investigation within the 28-day period for giving notice of marriage following civil preliminaries for which section 31 of the 1949 Act (as amended by paragraph 10 of Schedule 4) will provide, or within the 28-day period for giving

*These notes refer to the Immigration Act 2014 (c.22)
which received Royal Assent on 14 May 2014*

notice of civil partnership for which section 11 of the Civil Partnership Act 2004 (as amended by paragraph 22 of Schedule 4) will provide.

Section 49: Exempt persons

227. *Subsection (1)* provides for three categories of persons who are exempt from the referral and investigation scheme: subsection (1)(a) a relevant national as defined in section 55 (British citizen, EEA national or Swiss national); subsection (1)(b) on the basis of having the appropriate immigration status, as defined in subsection (2); and subsection (1)(c) on the basis that the person holds a relevant visa, as defined in regulations made under subsection (4).
228. *Subsection (2)* provides that a person has the appropriate immigration status if they fall into one of three categories: a non-EEA national with an EU law right of permanent residence in the UK; a person exempt from immigration control as defined in regulations made under subsection (3); or a person who has settled status in the UK, as defined in section 33(2A) of the 1971 Act.
229. *Subsection (3)* provides for the question whether a person is exempt from immigration control (and therefore an exempt person under subsections (1)(b) and (2)(b)) to be determined in accordance with regulations made by the Secretary of State.
230. *Subsection (4)* provides for regulations to be made by the Secretary of State specifying what kinds of visa or other authorisation constitute a relevant visa for the purpose of being an exempt person under subsection (1)(c).
231. *Subsection (5)* limits the types of visa or other authorisation which may be specified in the regulations in subsection (4) to those which are granted for the purpose of enabling a person to enter or remain in the UK to marry or form a civil partnership.

Section 50: Conduct of investigation

232. *Subsection (1)* requires that any investigation of whether a proposed marriage or civil partnership is a sham must be conducted in accordance with any regulations made by the Secretary of State for that purpose.
233. *Subsection (2)* requires that in any investigation of whether a proposed marriage or civil partnership is a sham, regard must be had to any guidance published by the Secretary of State for that purpose.
234. *Subsection (3)* provides that, where the Secretary of State decides to investigate whether a proposed marriage or civil partnership is a sham, the relevant parties are required to comply with any requirements specified in regulations if notified by the Secretary of State that they must do so.
235. *Subsection (4)* provides that the Secretary of State must decide as part of the investigation whether both of the parties to the proposed marriage or civil partnership have complied with the investigation (“the compliance question”).
236. *Subsection (5)* provides that the compliance question is to be decided in accordance with any regulations made by the Secretary of State for that purpose. The first regulations made under this subsection and subsection (1) are subject to the affirmative resolution procedure (see section 74(2)).
237. *Subsection (6)* provides that the compliance question is to be decided with regard to any guidance published by the Secretary of State for that purpose.
238. *Subsection (7)* requires the Secretary of State to decide the compliance question and give notice of the decision to both parties to the proposed marriage or civil partnership, and to the superintendent registrar or the registration authority who referred it to the Secretary of State, and if different, the registration authority responsible for issuing the civil partnership schedule, within a 70 day period.

*These notes refer to the Immigration Act 2014 (c.22)
which received Royal Assent on 14 May 2014*

239. *Subsection (8)* requires the Secretary of State to give reasons for reaching a decision that one or both of the relevant parties to the proposed marriage or civil partnership have not complied with the investigation.
240. *Subsection (9)* provides that regulations made under this section may in particular deal with: (a) the circumstances in which a relevant party, as defined in subsection (11), is to be taken to have failed to comply with a relevant requirement, as also defined in subsection (11); and (b) the consequences of a relevant party's failure to comply with a relevant requirement.
241. *Subsection (10)* allows the compliance question to be decided by reference to a relevant party's compliance with one or more relevant requirements.
242. *Subsection (11)* defines particular terms used in this section.

Section 51: Investigations: supplementary

243. *Subsection (1)* provides that a notice given by the Secretary of State under section 48 that the Secretary of State has decided to investigate whether a proposed marriage or civil partnership is a sham must include notice that the compliance question must be decided within a period of 70 days from the date on which the couple gave notice; notice of the date on which that period will end; notice that the couple may be required to comply with requirements imposed as part of the investigation; and information prescribed under subsection (3) about the investigation.
244. *Subsection (2)* allows a notice given under section 48 to include such other information as the Secretary of State considers appropriate.
245. *Subsection (3)* contains an enabling power for the Secretary of State to prescribe in regulations what information must be included in the section 48 notice and provides that this may include information about the conduct of an investigation; the requirements with which the parties to the proposed marriage or civil partnership must comply; the consequences of failing to comply with those or any other requirements; the possible outcomes of the investigation; and the consequences of those outcomes.
246. *Subsection (4)* allows the Secretary of State, by regulations, to specify requirements relating to the investigation which may be imposed on the parties to a proposed marriage or civil partnership in accordance with section 50(3). The first regulations made under this subsection and subsection (3) are subject to the affirmative resolution procedure (see section 74(2)).
247. *Subsection (5)* enables regulations made by the Secretary of State under subsection (4) to specify in particular, a requirement on an individual(s) to make contact in a particular way within a particular time period (including by telephone); a requirement for the couple to be present at a particular place at a particular time; to be visited at home; to be interviewed; and to provide information, photographs and evidence.
248. *Subsection (6)* provides that the Secretary of State's powers in relation to marriages or civil partnership suspected to be a sham (including any powers of investigation) remain unaffected by the referral and investigation scheme.
249. *Subsection (7)* defines particular terms used in section 50 and in this section.

Section 52: Referral of proposed marriages and civil partnerships in England and Wales

250. This section gives effect to Schedule 4, which makes further provision for the referral to the Secretary of State of proposed marriages and civil partnerships in England and Wales.

Schedule 4: Referral of proposed marriages and civil partnerships in England and Wales

Part 1: Marriage

Introduction

251. *Paragraph 1* provides that the 1949 Act is amended in accordance with Part 1 of Schedule 4.

Supply of additional information and evidence

252. *Paragraph 2* amends section 27 of the 1949 Act to require a person giving notice of marriage to give their date of birth.
253. *Paragraph 3* inserts a new section 27ZA (entry of particulars in notice book: compliance with requirements) to instruct a superintendent registrar not to enter particulars relating to a marriage where various requirements imposed under the 1949 Act or the 2004 Act (including, in particular, requirements inserted into those Acts by this Act) have not been complied with.
254. *Paragraph 4* inserts a new section 27E (additional information if party not relevant national) into the 1949 Act. Section 27E does not apply to a proposed marriage under section 39A of the 1949 Act (marriage of former civil partners one of whom has changed sex). Where applicable, section 27E requires that, if either or both parties giving notice are not relevant nationals (British citizens, EEA nationals or Swiss nationals) they must declare that (i) they have the appropriate immigration status under section 49(2) (and, if so, what that is); (ii) they have a relevant visa under section 49(4) (and, if so, what that is); or (iii) they have neither the appropriate immigration status nor a relevant visa. Where either or both parties do not have the appropriate immigration status or a relevant visa, it also provides that the notice may be accompanied by a statement of their immigration position in the UK.
255. The new section 27E also requires that, where one or both parties has a relevant visa, both parties must provide specified photographs of themselves.
256. The new section 27E also requires that where one or both parties declare that they have neither the appropriate immigration status nor a relevant visa, both parties must provide specified photographs of themselves; their usual address; if their usual address is outside the UK, an address in the UK at which they can be contacted by post; and, information about any other names previously used, and any aliases previously or currently used.
257. *Paragraph 5* amends section 28 of the 1949 Act to require the parties to declare that the information and evidence provided with the notice is true.
258. *Paragraph 6* amends section 28A (power to require evidence) of the 1949 Act and *paragraph 7* inserts new section 28B (provision of evidence), section 28C (additional evidence if party not relevant national), section 28D (change of usual address or UK contact address), section 28E (rejection of false information or evidence), section 28F (amendment of notice and evidence provisions) and section 28G (specified evidence).
259. The new section 28B (provision of evidence) requires that a notice of marriage under section 27 of the 1949 Act must be accompanied by evidence, specified in regulations made under the new section 28G, of the person's name and surname, date of birth, place of residence and nationality. Section 28B(2) requires a person giving notice of marriage to provide evidence of whether he or she has previously been married or formed a civil partnership and, if so, as to the ending of the marriage or civil partnership.
260. The new section 28C (additional evidence if party not relevant national) requires that, where either party is not a relevant national (British citizen, EEA national or Swiss national) a notice of marriage under section 27 of the 1949 Act must be accompanied

by evidence, specified in regulations made under the new section 28G, that they have the appropriate immigration status under section 49(2) or a relevant visa under section 49(4), if either is the case. Where the notice is not accompanied by this evidence, it requires that the notice be accompanied by specified photographs of both parties; their usual address and specified evidence of this; if their usual address is outside the UK, an address in the UK at which they can be contacted by post; and information about any other names previously used, and any aliases previously or currently used.

261. The new section 28D (change of usual address or UK contact address) requires that, once notice has been given, any change of usual address or UK contact address (where such an address has been provided), must be notified by the couple to the Secretary of State, according to regulations subject to the negative resolution procedure.
262. The new section 28E (rejection of false information or evidence) provides that a superintendent registrar may reject any information, photograph or evidence provided in giving notice under section 27 of the 1949 Act, in particular where they have reasonable grounds for suspecting that the information, photograph or evidence is false. If any information, photograph or evidence is rejected, the superintendent registrar may proceed as if it had not been provided.
263. The new section 28F (amendment of notice and evidence provisions) provides that, subject to consultation with the Registrar General, the Secretary of State may, by order subject to the affirmative procedure, amend the information or evidence required to give notice of marriage under section 27 of the 1949 Act and make consequential amendments, including to primary legislation.
264. The new section 28G (specified evidence) provides for the Registrar General to make regulations, with the approval of the Secretary of State, about specified evidence for the purposes of section 8, 16 or 28B. Section 28G also provides that, subject to consultation with the Registrar General, the Secretary of State may make regulations, subject to the negative resolution procedure, about specified evidence for the purposes of new section 28C. The regulations under this section may make provision for example for the kind of evidence to be supplied, the form in which it is to be supplied, and the manner in which it is to be supplied.

Referral to Secretary of State

265. *Paragraph 8* inserts a new section 28H (referral of proposed marriage to Secretary of State) in the 1949 Act. This requires the superintendent registrar, when notice of marriage is given under section 27 of the 1949 Act, to decide whether both parties to the proposed marriage are exempt persons under section 49(1) (unless the marriage is one to which section 39A of the 1949 Act applies because it is a marriage between former civil partners, one of whom has changed sex). Where the superintendent registrar decides that one or both of the parties is not an exempt person, the registrar must refer the proposed marriage to the Secretary of State. The registrar must also refer the marriage if one or both of the parties is not a British citizen, EEA national or Swiss national and evidence required under new section 28C(2) or (3) has not been provided. They must do so in accordance with regulations about the form, manner and timing of the referral (and the information to be included with it) made by the Secretary of State (after consulting the Registrar General), subject to the negative resolution procedure. The superintendent registrar must also notify the parties that the proposed marriage must be referred to the Secretary of State, what this means and of any requirements in regulations under new section 28D about notifying the Secretary of State of any change in usual or UK contact address.
266. *Paragraph 9* inserts Schedule 3A (modifications if proposed marriage referred under section 28H) before Schedule 4 to the 1949 Act. This provides that the duty placed on the superintendent registrar under section 31(2) of the 1949 Act to issue a certificate for marriage does not apply unless and until one of five events occurs. Event 1 occurs where the Secretary of State has given the superintendent registrar notice under section 48(7)

of a decision not to investigate; event 2 occurs where the statutory 28 day period has ended and the Secretary of State has not given the superintendent registrar notice under section 48(7); event 3 occurs where the Secretary of State has given the superintendent registrar notice under section 50(7) that the parties to the referred marriage have complied with the investigation; event 4 occurs where the 70 day period has ended and the Secretary of State has not given the superintendent registrar notice under section 50(7); and event 5 occurs if the Secretary of State gives the superintendent registrar notice that the duty under section 31(2) of the 1949 Act applies.

267. *Paragraph 9* also extends the notice period to 70 days if the Secretary of State gives the superintendent registrar notice under section 48(7) of a decision to investigate whether a referred marriage is a sham. Where a proposed marriage is referred to the Secretary of State, the statutory notice period (whether 28 or 70 days) can be shortened by the Secretary of State in exceptional circumstances, in which case the Secretary of State must notify the applicant and the superintendent registrar of the reduced period, enabling the superintendent registrar to issue a certificate in respect of the referred marriage under section 31(2) of the 1949 Act.

Notice period

268. *Paragraph 10* amends the notice period in section 31 of the 1949 Act (marriage under certificate without licence) from 15 days to 28 days. Paragraph 10 also requires, for a proposed marriage referred to the Secretary of State under new section 28H, any application for a reduction in the notice period to be submitted to the Secretary of State and for the decision to be made by the Secretary of State and notified to the applicant and the superintendent registrar, in accordance with regulations made by the Secretary of State after consultation with the Registrar General.

Marriage referred to Secretary of State: issue of certificates

269. *Paragraph 11* inserts a new section 31ZA (notice of marriage: false information or evidence) in the 1949 Act.
270. The new section 31ZA provides that, where notice of marriage has been given under section 27 of the 1949 Act, the superintendent registrar may refuse to issue the certificate where they have reasonable grounds for suspecting that an incorrect decision was made because false information or evidence was provided.

Certificates

271. *Paragraph 12* amends section 35 (marriage in registration district in which neither party resides) of the 1949 Act, to allow non-EEA nationals to marry in any Anglican place of worship that Church preliminaries would have allowed, notwithstanding that such couples must now complete civil rather than Church preliminaries.

One party resident in Scotland

272. *Paragraph 13* provides that where one party is resident in England and the other party is resident in Scotland notice may be given in accordance with section 27 and the other provisions of the 1949 Act.

Proof of certain matters not necessary to validity of marriages

273. *Paragraph 14* amends section 48 (proof of certain matters not necessary to validity of marriages) of the 1949 Act to include any of the five events listed in paragraph 2(2) to (6) of Schedule 3A (modification if proposed marriage referred under section 28H) to the 1949 Act.

Regulations etc

274. *Paragraph 15* provides that regulations or orders made under the 1949 Act may make provision for different cases.

Offences

275. *Paragraph 16* amends the relevant period in section 75 of the 1949 Act (offences relating to solemnization of marriages) from 15 days to 28 days.

Relevant nationals

276. *Paragraph 17* amends section 78 (interpretation of the 1949 Act) to add relevant definitions.

Part 2: Civil Partnership

Introduction

277. *Paragraph 18* provides that the Civil Partnership Act 2004 is amended as follows.

Supply of additional information and evidence

278. *Paragraph 19* amends section 8 of the Civil Partnership Act 2004 to include in the declaration to be included with the notice of proposed civil partnership a statement that the proposed civil partner believes that all the information in the notice and the information and evidence supplied with it are true.
279. *Paragraph 20* inserts a new section 8A (additional information if party not relevant national) into the Civil Partnership Act 2004. Section 8A does not apply to a proposed civil partnership under Schedule 3 to the Civil Partnership Act 2004 (civil partnership between former spouses one of whom has changed sex). Where applicable, section 8A requires that, if either or both parties giving notice of a proposed civil partnership are not relevant nationals (British citizens, EEA nationals or Swiss nationals), they must declare that (i) they have the appropriate immigration status under section 49(2) (and, if so, what that is); (ii) they have a relevant visa under section 49(4) (and, if so, what that is); or (iii) they have neither the appropriate immigration status nor a relevant visa. Where either or both parties do not have the appropriate immigration status or a relevant visa, it also provides for the notice to be accompanied by a statement of their immigration position in the UK.
280. The new section 8A also requires that, where one or both parties has a relevant visa, both parties must provide specified photographs of themselves.
281. The new section 8A also requires, that where one or both parties declare that they have neither the appropriate immigration status nor a relevant visa, both parties must provide specified photographs of themselves; their usual address; if their usual address is outside the UK, an address in the UK at which they can be contacted by post; and information about any other names previously used, and any aliases previously or currently used.
282. *Paragraph 21* substitutes for section 9 (evidence) of the Civil Partnership Act 2004 a new section 9, new section 9A (additional evidence if party not relevant national), new section 9B (change of usual address or UK contact address), new section 9C (rejection of false information or evidence), new section 9D (amendment of notice and evidence provisions), new section 9E (specified evidence) and new section 9F (recording of information in the register: compliance with requirements).
283. The new section 9 (evidence) requires that a notice of proposed civil partnership under section 8 must be accompanied by evidence, specified in regulations made under the new section 9E, of the person's name and surname, date of birth, place of residence,

*These notes refer to the Immigration Act 2014 (c.22)
which received Royal Assent on 14 May 2014*

nationality and whether the person has previously formed a civil partnership or been married and, if so, as to the ending of the civil partnership or marriage.

284. The new section 9A (additional evidence if party not relevant national) requires that, where either or both parties are not relevant nationals (British citizens, EEA nationals or Swiss nationals), a notice of proposed civil partnership under section 8 must be accompanied by evidence, specified in regulations made under the new section 9E, that they have the appropriate immigration status under section 49(2) or a relevant visa under section 49(4), if either is the case. Where the notice is not accompanied by this evidence, it requires the notice to be accompanied by specified photographs of both parties; their usual address and specified evidence of this; if their usual address is outside the UK, an address in the UK at which they can be contacted by post; and information about any other names previously used, and any aliases previously or currently used.
285. The new section 9B (change of usual address or UK contact address) requires that, once notice has been given, any change of usual address or UK contact address (where such an address has been provided), must be notified by the couple to the Secretary of State, according to regulations.
286. The new section 9C (rejection of false information or evidence) provides that a registration authority may reject any information, photograph or evidence provided in giving notice under section 8 where they have reasonable grounds for suspecting that the information, photograph or evidence is false. If any information, photograph or evidence is rejected, the registration authority may proceed as if it had not been provided.
287. The new section 9D (amendment of notice and evidence provisions) provides that, subject to consultation with the Registrar General, the Secretary of State may by order amend the information or evidence required to give notice of civil partnership under section 8.
288. The new section 9E (specified evidence) provides for the Registrar General to make regulations, with the approval of the Secretary of State, about specified evidence for the purpose of section 9. It also provides that, subject to consultation with the Registrar General, the Secretary of State may make regulations about specified evidence for the purposes of new section 9A. The regulations under this section may make provision for example for the kind of evidence to be supplied, the form in which it is to be supplied, and the manner in which it is to be supplied.
289. The new section 9F (recording of information in the register: compliance with requirements) instructs a registration authority not to enter information relating to a proposed civil partnership where various requirements imposed under the Civil Partnership Act 2004 (including, in particular, requirements inserted into that Act by this Act) have not been complied with.

Notice period

290. *Paragraph 22* increases the notice period in section 11 of the Civil Partnership Act 2004 (meaning of the “waiting period”) from 15 days to 28 days.
291. *Paragraph 23* requires, for a proposed civil partnership referred to the Secretary of State under section 12A, any application for a reduction in the notice period to be submitted to the Secretary of State and for the decision to be made by the Secretary of State and notified to the applicant and the registration authority, in accordance with regulations made by the Secretary of State after consultation with the Registrar General.

Referral to Secretary of State

292. *Paragraph 24* inserts a new section 12A (referral of proposed civil partnership to Secretary of State) into the Civil Partnership Act 2004. This requires the registration authority, when notice of proposed civil partnership is given under section 8, to

decide whether both parties to the proposed civil partnership are exempt persons under section 49(1) (unless the civil partnership is one to which Schedule 3 to the Civil Partnership Act 2004 applies because it is between former spouses, one of whom has changed sex). Where the registration authority decides that one or both of the parties is not an exempt person, they must refer the proposed civil partnership to the Secretary of State. The registration authority must also refer the proposed civil partnership if one or both of the parties is not a British citizen, EEA national or Swiss national and evidence required under new section 9A(2) or (3) has not been provided. They must do so in accordance with regulations about the form, manner and timing of the referral (and the information to be included with it) made by the Secretary of State (after consulting the Registrar General). The registration authority must also notify the parties that the proposed civil partnership must be referred to the Secretary of State, what this means and how they must notify the Secretary of State of any change in usual or UK contact address.

293. *Paragraph 25* inserts Schedule 3A (modifications if proposed civil partnership referred under section 12A) after Schedule 3 to the Civil Partnership Act 2004. This provides that the duty under section 14(1) on a registration authority to issue a civil partnership schedule does not apply unless and until one of five events occurs. Event 1 occurs where the Secretary of State has given the registration authority notice under section 48(8) of a decision not to investigate; event 2 occurs where the statutory 28 day period has ended and the Secretary of State has not given the registration authority notice under section 48(8); event 3 occurs where the Secretary of State has given the registration authority notice under section 50(7) that the parties to the referred civil partnership have complied with the investigation; event 4 occurs where the 70 day period has ended and the Secretary of State has not given the registration authority notice under section 50(7); and event 5 occurs if the Secretary of State gives the registration authority notice that the duty under section 14(1) of the Civil Partnership Act 2004 applies.
294. *Paragraph 25* also extends the notice period to 70 days if the Secretary of State gives the registration authority notice under section 48(8) of a decision to investigate a referred civil partnership as a sham. Where a proposed civil partnership is referred to the Secretary of State, the statutory notice period (whether 28 or 70 days) can be shortened by the Secretary of State in exceptional circumstances, in which case the Secretary of State must notify the applicant and the registration authority of the reduced period, enabling the registration authority to issue a certificate in respect of the referred civil partnership under section 14(1) of the Civil Partnership Act 2004.

Civil partnership referred to Secretary of State: issue of civil partnership schedule

295. *Paragraph 26* inserts a new section 14A (notice of proposed civil partnership: false information or evidence) in the Civil Partnership Act 2004.
296. The new section 14A provides that, where notice of a proposed civil partnership has been given under section 8, the registration authority may refuse to issue the civil partnership schedule where there are reasonable grounds for suspecting that an incorrect decision was made because false information or evidence was provided.

Relevant nationals

297. *Paragraph 27* amends section 30 of the Civil Partnership Act 2004 to insert a new section 30A (relevant nationals) which defines relevant national.

Regulations and orders

298. *Paragraph 28* amends section 36 of the Civil Partnership Act 2004 to provide for regulations and orders concerning civil partnerships made under the new provisions inserted by this Act to be made by the Secretary of State in consultation with

the Registrar General and subject to the relevant affirmative or negative resolution procedure.

Proof of certain matters not necessary to validity of civil partnership

299. *Paragraph 29* amends section 52 (proof of certain matters not necessary to validity of civil partnership) of the Civil Partnership Act 2004 to include any of the five events listed in paragraph 2(2) to (6) of Schedule 3A (modification if proposed civil partnership referred under section 12A) of the Civil Partnership Act 2004.

Section 53: Extension of scheme to Scotland and Northern Ireland

300. *Subsection (1)* provides an order-making power to make such provision as the Secretary of State considers appropriate to extend the referral and investigation scheme to proposed marriages and civil partnerships in Scotland and Northern Ireland. The order is subject to the affirmative resolution procedure (see section 74(2)).
301. *Subsection (2)* provides that an order under this section can make provision having a similar effect to that made by section 58 (requirement as to giving notice of marriage or civil partnership), Schedule 4 (which contains amendments to the 1949 Act and Civil Partnership Act 2004 relating to referrals under the scheme), or Parts 1, 2 and 4 of Schedule 6 (disclosure of information for immigration purposes); can confer functions on any person; and can amend, repeal or revoke any enactment.
302. *Subsection (3)* provides that an order under this section can impose on registration officials and registration authorities in Scotland and Northern Ireland a duty of referral to the Secretary of State under the scheme.
303. *Subsection (4)* provides that an order under this section may not impose a duty or confer a function on Scottish Ministers or the Northern Ireland Executive.
304. *Subsection (5)* defines particular terms used in this section.

Section 54: Supplementary provision

305. *Subsection (1)* provides that the section applies if the referral and investigation scheme is extended by an order under section 53.
306. *Subsection (2)* provides for administrative regulations to be made by the Secretary of State in relation to the application of the scheme for a) proposed marriages and civil partnerships in Scotland and b) proposed marriages and civil partnerships in Northern Ireland, in so far as the scheme is extended to Scotland and Northern Ireland.
307. *Subsection (3)* defines administrative regulations as those made under Schedule 5 (sham marriages and civil partnership: administrative regulations).
308. *Subsection (4)* provides an order-making power for the Secretary of State to make provision about a) the information or b) the evidence that must or may be given in relation to proposed marriages or civil partnerships under the law of Scotland or Northern Ireland, in cases where one or both of the parties is not a relevant national. The order is subject to the affirmative resolution procedure (see section 74(2)).
309. *Subsection (5)* provides that an order under subsection (4) may amend, repeal or revoke any enactment.
310. *Subsection (6)* provides an order-making power for the Secretary of State to specify 'other immigration purposes' for which information may be disclosed in the event that an extension order makes provision for the disclosure of information for immigration purposes. The order is subject to the affirmative resolution procedure (see section 74(2)).

311. *Subsection (7)* requires the Secretary of State to consult the Registrar General for Scotland and Registrar General for Northern Ireland before making any regulations or an order under this section.
312. *Subsection (8)* applies the definitions in section 53 to expressions used in this section and in Schedule 5 (sham marriage and civil partnership: administrative regulations).

Schedule 5: Sham Marriage and Civil Partnership: Administrative Regulations

Introduction

313. *Paragraph 1* provides that the Schedule sets out the kinds of regulations which can be made by the Secretary of State under section 54. It also includes definitions used in this Schedule.

Notices

314. *Paragraph 2* provides for the Secretary of State to make regulations about the giving of relevant notices and when a relevant notice is presumed to have been received.

Evidence

315. *Paragraph 3* provides for the Secretary of State to make regulations about the supply of evidence in accordance with a relevant evidence provision. The regulations under this section may make provision for example for the kind of evidence to be supplied, the form in which it is to be supplied, and the manner in which it is to be supplied.

Change of address

316. *Paragraph 4* provides for the Secretary of State to make regulations about any change of usual address; UK contact address and any change of UK contact address (where such an address has been provided); and evidence of any address notified. Regulations under this section may also impose a requirement on a person and make provision for the rejection of information or evidence if there are reasonable grounds to suspect it is false.

Referral

317. *Paragraph 5* provides for the Secretary of State to make regulations requiring a person who has a duty to refer a marriage or civil partnership notice to comply with certain requirements, in particular relating to the form, manner or timing of the referral and information, photographs or evidence to be included with the referral. Paragraph 5 also provides for regulations to be made about the information to be provided to the parties about the effects of the referral and of any requirements under regulations made under paragraph 4.

Applications for shortening of waiting period

318. *Paragraph 6* provides for the Secretary of State to make regulations about the making and granting of applications for the shortening of a waiting period in cases where a proposed Scottish or Northern Ireland marriage or civil partnership is referred to the Secretary of State.

Chapter 2: Sham Marriage and Civil Partnership

Section 55: Meaning of “sham marriage” and “sham civil partnership”

319. This section amends the 1999 Act.
320. *Subsection (2)* substitutes a new section 24(5) in the 1999 Act, which contains a new definition of “sham marriage.” This is a marriage in which either or both of the parties is not a relevant national (British citizen, EEA national or Swiss national); there is no

*These notes refer to the Immigration Act 2014 (c.22)
which received Royal Assent on 14 May 2014*

genuine relationship between the parties; and either or both of the parties is entering into the marriage to avoid the effect of UK immigration law (which is defined to include the regulations concerning the free movement rights of EEA nationals) or the Immigration Rules.

321. *Subsection (3)* substitutes a new section 24A(5) in the 1999 Act, which contains a new definition of “sham civil partnership” in similar terms to that of “sham marriage” contained in the new section 24(5).

Section 56: Duty to report suspicious marriages and civil partnerships

322. This section amends the 1999 Act.
323. *Subsection (2)* amends section 24 of the 1999 Act so that the duty conferred on registration officials to report suspected sham marriages to the Secretary of State applies in respect of information received in advance of a person giving notice of marriage.
324. *Subsection (3)* amends section 24A of the 1999 Act so that the duty conferred on an authorised person within the meaning of the Civil Partnership Act 2004 to report suspected sham civil partnerships to the Secretary of State applies in respect of information received in advance of a person giving notice of civil partnership.

Chapter 3: Other Provisions

Persons not relevant nationals etc: marriage on superintendent registrar’s certificates

Section 57: Solemnization of marriage according to rites of Church of England

325. This section amends the 1949 Act.
326. *Subsection (2)* amends section 5 of the 1949 Act so that, where a couple wish to get married in the Anglican Church and one or both of them is not a relevant national (British citizen, EEA national or Swiss national), the banns process and the common licence process will not be available. In order to get married in the Anglican Church, they will have to obtain superintendent registrar’s certificates (subject to the referral and investigation scheme where applicable), unless the provisions for the Archbishop of Canterbury’s Special Licence or for Anglican preliminaries on board one of HM ships at sea apply.
327. *Subsections (3) and (4)* amend sections 8 and 16 of the 1949 Act so that, where a couple wish to get married in the Anglican Church following the publication of banns, or following the issue of a common licence, they will have to provide the minister (in the case of banns), or the person granting the common licence, with specified evidence that they are British citizens, EEA nationals or Swiss nationals.

Section 58: Requirement as to giving of notice of marriage or civil partnership

328. *Subsection (1)* provides that section 19 of the 2004 Act (procedure for marriage in England and Wales) is amended in accordance with *subsection (2)* and *subsection (3)*.
329. *Subsection (2)* substitutes for section 19(1) of the 2004 Act new subsections 19(1), (1A) and (1B). These provide that the requirement in section 19 to give notice of marriage at a designated register office applies to both parties to a proposed marriage where either of them is not a British citizen, EEA national or Swiss national, unless that non-EEA national is exempt from immigration control (and the notice of marriage is accompanied by specified evidence of this).
330. *Subsection (3)* defines particular terms used in the amended section 19.

*These notes refer to the Immigration Act 2014 (c.22)
which received Royal Assent on 14 May 2014*

331. *Subsection (4)* provides that Schedule 23 to the Civil Partnership Act 2004 (immigration control and formation of civil partnerships) is amended in accordance with subsections (5) to (9).
332. *Subsection (5) and (6)*, together with the consequential amendments in *subsections (7), (8) and (9)*, provide that the requirement in Part 1 of Schedule 23 to give notice of civil partnership at a designated register office applies to both parties to a proposed civil partnership where either of them is not a British citizen, EEA national or Swiss national or exempt from immigration control (and the notice of civil partnership is accompanied by specified evidence of this).

Section 59: Information

333. This section gives effect to Schedule 6 (information).

Schedule 6: Information

Part 1: Disclosure of information etc where proposed marriage or civil partnership referred to Secretary of State

334. *Paragraph 1(1)* provides that the paragraph applies if a superintendent registrar refers a proposed marriage to the Secretary of State under section 28H of the 1949 Act, or a registration authority refers a proposed civil partnership to the Secretary of State under section 12A of the Civil Partnership Act 2004.
335. *Paragraph 1(2)* allows the Secretary of State to disclose relevant information, including supplying a document containing relevant information, to a registration official.
336. *Paragraph 1(3)* defines the meaning of “relevant information” to include the fact that a proposed marriage or civil partnership has been referred; the names of the parties to the proposed marriage or civil partnership; any information included with the referral in accordance with regulations under section 28H of the 1949 Act or section 12A of the Civil Partnership Act 2004; the address of any party notified to the Secretary of State in accordance with the regulations; details of any immigration enforcement action taken by the Secretary of State in respect of a party to the proposed marriage or civil partnership; and details of any immigration decision taken by reference to the marriage or civil partnership.

Part 2: Disclosure of information etc for immigration purposes etc

Disclosures by registration officials

337. *Paragraph 2(1)* allows a registration official to disclose any information or supply any document held to the Secretary of State or to another registration official for a purpose defined in sub-paragraph (2).
338. *Paragraph 2(2)* provides for information to be disclosed for (a) immigration purposes and (b) purposes connected to the referral of proposed marriage and civil partnership notices.
339. *Paragraph 2(3)* defines “immigration purposes” for the purpose of this paragraph.
340. *Paragraph 3* allows a registration official to disclose to another registration official that a suspicion about a marriage or civil partnership has been reported to the Secretary of State under section 24 or 24A of the 1999 Act and the content of that report.

Disclosures by the Secretary of State

341. *Paragraph 4(1)* allows the Secretary of State to disclose any information or supply any document to a registration official for a specified verification purpose defined in sub-paragraph (2).

*These notes refer to the Immigration Act 2014 (c.22)
which received Royal Assent on 14 May 2014*

342. *Paragraph 4(2)* defines specified “verification purposes” used in this paragraph, including the verification of information provided by a person giving notice of marriage or civil partnership; and the verification of the immigration status, and any suspected or actual involvement in immigration offences, of people who contact the registration service in connection with the exercise of a registration function.
343. *Paragraph 4(3)* defines “relevant official” in this paragraph.

Part 3: Disclosure of information etc for prevention of crime etc

344. *Paragraph 5(1)* allows a registration official to disclose any information or supply any information to an eligible person or another registration official in England and Wales for the purpose of crime-fighting.
345. *Paragraph 5(2)* provides for information to be disclosed for crime-fighting purposes if the conditions set out in sub-paragraphs (3) (Condition A) and (4) (Condition B) are met.
346. *Paragraph 5(3)* provides that Condition A is met if the registration official has reasonable grounds for suspecting that a criminal offence has been, is being, or will be committed.
347. *Paragraph 5(4)* provides that Condition B is met if the registration official discloses the information or supplies the document for the purpose of verification of information supplied to another registration official or assisting in the prosecution, investigation, detection or prevention of a criminal offence.
348. *Paragraph 5(5)* defines “eligible person” in this paragraph.

Part 4: General Provisions

Limitations on powers

349. *Paragraph 6* limits powers under this Schedule and provides that this Schedule does not authorise (a) a disclosure in contravention of the Data Protection Act 1998 of personal data not exempt from those provisions or (b) a disclosure prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.

No breach of confidentiality etc

350. *Paragraph 7* provides for disclosure of information authorised by this Schedule not to breach obligations of confidence or restrictions on the disclosure of information.

Retention, copying and disposal of documents

351. *Paragraph 8* permits a person who is supplied with a document under this Schedule to retain it, copy it or dispose of it in an appropriate manner.

Saving for existing powers

352. *Paragraph 9* provides for no limit to be made on any other power to disclose information or supply documents.

Meaning of “registration official”

353. *Paragraph 10* defines “registration official.”

Section 60: Regulations about evidence

354. *Subsection (1)* provides a power for the Secretary of State to make regulations about evidence relevant to the determination, for the purposes of Part 4, of whether a person is a relevant national under section 49(1), whether a person has the appropriate

*These notes refer to the Immigration Act 2014 (c.22)
which received Royal Assent on 14 May 2014*

immigration status under section 49(2), and whether a person has a relevant visa under section 49(4).

355. *Subsection (2)* contains a non-exhaustive list of the types of provision that may be included in the regulations. This includes for example provision about the kind of evidence which is to be supplied, the form in which evidence is to be supplied, and the manner in which evidence is to be supplied.
356. *Subsection (3)* requires the Secretary of State to consult the Registrar General before making any regulations under this section.
357. *Subsection (4)* provides that in this section evidence includes a photograph or other image.

Section 61: Notices

358. *Subsection (1)* provides a power for the Secretary of State to make regulations about the giving of notices under Part 4 and under the amendments made to the 1949 Act and the Civil Partnership Act 2004.
359. *Subsection (2)* provides that such regulations may in particular make provision about the circumstances in which notice is to be presumed to have been received by the person to whom it is given.
360. *Subsection (3)* requires the Secretary of State to consult the Registrar General before making any regulations under this section.

Section 62: Interpretation of this Part

361. *Subsection (1)* defines particular expressions used in Part 4.
362. *Subsections (2) to (5)* make provision about the interpretation of terms in Part 4.