

Status: Point in time view as at 01/03/2015.

Changes to legislation: Immigration Act 2014, Paragraph 9 is up to date with all changes known to be in force on or before 16 September 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)

SCHEDULES

SCHEDULE 4

REFERRAL OF PROPOSED MARRIAGES AND CIVIL PARTNERSHIPS IN ENGLAND AND WALES

PART 1

MARRIAGE

Referral to Secretary of State

9 Before Schedule 4 insert—

“SCHEDULE
3A

MODIFICATIONS IF PROPOSED MARRIAGE REFERRED UNDER SECTION 28H

Introduction

- 1 (1) These are the modifications subject to which this Act has effect if the superintendent registrar refers a proposed marriage to the Secretary of State.
- (2) In this Schedule—
 - “2014 Act” means the Immigration Act 2014;
 - “referred marriage” means the proposed marriage referred to the Secretary of State.

No certificate to be issued until decision about investigation etc

- 2 (1) The duty under section 31(2) to issue a certificate in respect of the referred marriage does not apply unless and until one of the following events occurs.
- (2) Event 1 occurs if—
 - (a) the Secretary of State gives the superintendent registrar the section 48 notice, and
 - (b) that notice is of a decision not to investigate whether the referred marriage is a sham.
- (3) Event 2 occurs if—
 - (a) the relevant statutory period ends, and
 - (b) the Secretary of State has not given the superintendent registrar the section 48 notice.
- (4) Event 3 occurs if—

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- (a) the Secretary of State gives the superintendent registrar the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred marriage is a sham,
 - (c) the Secretary of State gives the superintendent registrar the section 50 notice, and
 - (d) that notice is of a decision that both of the parties to the referred marriage have complied with the investigation.
- (5) Event 4 occurs if—
- (a) the 70 day period ends, and
 - (b) the Secretary of State has not given the superintendent registrar the section 50 notice.
- (6) Event 5 occurs if the Secretary of State gives the superintendent registrar notice that the duty under section 31(2) is applicable.
- (7) The Secretary of State may give a notice for that purpose only if—
- (a) the Secretary of State has given the superintendent registrar the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred marriage is a sham,
 - (c) the Secretary of State has given the superintendent registrar the section 50 notice, and
 - (d) that notice is of a decision that one or both of the parties to the referred marriage have not complied with the investigation.
- (8) This paragraph applies in addition to any other requirements applicable to the issue of the certificate.
- (9) This paragraph is subject to paragraph 4.
- (10) In this paragraph—
- “70 day period” has the same meaning as in section 50 of the 2014 Act;
 - “relevant statutory period” has the same meaning as in section 48 of the 2014 Act;
 - “section 48 notice” means notice under section 48(7) of the 2014 Act;
 - “section 50 notice” means notice under section 50(7) of the 2014 Act.

Marriage to be investigated: extension of waiting period to 70 days

- 3 (1) The modifications in this paragraph have effect if the Secretary of State gives the superintendent registrar notice under section 48(7) of the 2014 Act of a decision to investigate whether the referred marriage is a sham.
- (2) Section 31(2): the reference to the said period of 28 days has effect as a reference to the relevant 70 day period.
- (3) Section 31(4A)(a): the reference to the period of 28 days has effect as a reference to the relevant 70 day period.

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- (4) Section 31(5A) and (5C): the reference to the 28 day period has effect as a reference to the relevant 70 day period.
- (5) Section 31(5B) does not apply.
- (6) Section 75(3)(a): the reference to 28 days has effect as a reference to 70 days (and the reference in section 31(5C) to 28 days has effect accordingly).
- (7) In this paragraph “relevant 70 day period” means the period—
 - (a) beginning the day after notice of the proposed marriage is entered in the marriage book in accordance with Part 3 of the Marriage Act 1949, or is entered in an approved electronic form by virtue of section 27(4A) of that Act, and
 - (b) ending at the end of the period of 70 days beginning with that day.

Effect of reducing statutory period

- 4 (1) This paragraph applies if—
 - (a) the Secretary of State gives notice under section 31(5EB) of the grant of an application made under section 31(5A) (reduction of statutory period) in relation to the referred marriage, and
 - (b) that notice is given at a time when the duty under section 31(2) to issue a certificate in respect of the referred marriage has not arisen in accordance with paragraph 2.
- (2) The duty under subsection 31(2) to issue a certificate in respect of the referred marriage arises on the giving of the notice, subject to any other requirements applicable to the issue of the certificate being met.
- (3) But the requirements of paragraph 2 are not applicable in such a case.
- (4) The Secretary of State is not prevented from deciding to conduct, conducting, or continuing, an investigation if a certificate in respect of the referred marriage is issued as mentioned in sub-paragraph (2).
- (5) But in such a case, nothing in the 2014 Act requires the Secretary of State to decide whether to conduct, to conduct, or to continue, an investigation.
- (6) In this paragraph “investigation” means an investigation, conducted following a decision by the Secretary of State under section 48 of the 2014 Act, whether a proposed marriage is a sham.”.

Commencement Information

II Sch. 4 para. 9 in force at 1.3.2015 by S.I. 2015/371, art. 2(1)(f)

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