

SCHEDULE 3

Amendments to the Civil Partnership Act 2004 and the Civil Partnership Regulations (Northern Ireland) 2005

PART 1

1. The Civil Partnership Act 2004⁽¹⁾ is amended as follows.
2. After section 139 insert—

“Additional information if party not relevant national

139A.—(1) This section applies to a civil partnership notice given to a registrar in accordance with section 139 if one, or each, of the parties to the proposed civil partnership is not a relevant national.

(2) For each party to the proposed civil partnership who is not a relevant national, the notice must be accompanied by whichever of statements A, B or C is applicable to that person.

(3) Statement A is a statement that the person has the appropriate immigration status.

(4) Statement B is a statement that the person holds a relevant visa in respect of the proposed civil partnership.

(5) Statement C is a statement that the person neither—

(a) has the appropriate immigration status, nor

(b) holds a relevant visa in respect of the proposed civil partnership.

(6) If the notice is accompanied by the statement referred to in the first column of an entry in this table, the notice must also be accompanied by the information and photographs referred to in the second column of that entry (insofar as that entry is applicable to the parties to the proposed civil partnership)—

| <i>If the notice is accompanied by this statement...</i> | <i>...the notice must also be accompanied by...</i> |
|--|---|
| Statement A (in respect of one or both of the parties to the proposed civil partnership) | For each party in respect of whom statement A is made, details of the particular immigration status which that party has |
| Statement B (in respect of one or both of the parties to the proposed civil partnership) | 1. For each party, a specified photograph of that party 2. For each party in respect of whom statement B is made, details of the relevant visa which that party has |
| Statement C (in respect of one or both of the parties to the proposed civil partnership) | 1. For each party, a specified photograph of that party 2. For each party, the usual address of that party 3. For each party who has previously used any name or names other than the person's name |

⁽¹⁾ 2004 c. 33.

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| | |
|---|---|
| <i>If the notice is accompanied by this statement....</i> | <i>...the notice must also be accompanied by....</i> |
| | stated in the civil partnership notice, a statement of the other name or names |
| | 4. For each party who currently uses, or has previously used, an alias or aliases, a statement of the alias or aliases. |

(7) If the notice is accompanied by more than one of statements A, B and C, subsection (6) must be complied with in relation to each of those statements; but where the notice is accompanied by statements B and C, subsection (6) does not require the notice to be accompanied by more than one specified photograph of each party.

(8) If the notice is accompanied by statement C for a party to the proposed civil partnership—

- (a) the notice may also be accompanied by a statement (“statement D”) of that person’s immigration position in the United Kingdom;
- (b) if the notice is accompanied by statement D for a party to the proposed civil partnership, the person may provide the registrar with details of his or her immigration position in the United Kingdom; and
- (c) if any such details are provided, the registrar must record them.

(9) In this section and section 139B—

- (a) a reference—
 - (i) to a person having the appropriate immigration status, or
 - (ii) to a person holding a relevant visa,

is to be construed in accordance with section 49 of the 2014 Act;

- (b) a reference to the particular immigration status which a person has is a reference to the immigration status set out in any of paragraphs (a) to (c) of section 49(2) of that Act which the person has;
- (c) a reference to a person’s immigration position in the United Kingdom includes a reference to the person’s not being entitled to be in the United Kingdom.

(10) In this section “specified photograph” means a photograph that is in accordance with regulations made by the Secretary of State under section 54(2) of, and paragraph 3 of Schedule 5 to, the 2014 Act (and for this purpose “photograph” includes other kinds of images).

Additional evidence if party not relevant national

139B.—(1) If a civil partnership notice to which section 139A applies (“the notice”) is accompanied by statement A (referred to in section 139A(3)), and accordingly is also accompanied by details of the particular immigration status which a party to the proposed civil partnership has, the notice must also be accompanied by specified evidence of that status.

(2) If the notice is accompanied by statement B (referred to in section 139A(4)), the notice must also be accompanied by specified evidence of the holding of the relevant visa by the party to the proposed civil partnership.

(3) If, in accordance with section 139A(6), the notice is accompanied by the usual address of a party to the proposed civil partnership, the notice must also be accompanied by specified evidence that it is that party’s usual address.

(4) If the notice is accompanied by statement D (referred to in section 139A(8)), the notice may also be accompanied by evidence of the person’s immigration position in the United Kingdom.

(5) If subsection (1) or (2) applies to the notice, and the notice is not accompanied by the specified evidence required by that subsection, the notice must be accompanied by—

- (a) photographs and addresses of the kinds referred to in paragraphs 1 and 2 in the relevant entry in section 139A(6);
- (b) as respects the usual address of each party that is provided in accordance with subparagraph (a), specified evidence that the address provided is that party’s usual address; and
- (c) names and aliases of the kinds referred to in paragraphs 3 and 4 in the relevant entry in section 139A(6) (insofar as those paragraphs are applicable to the parties to the proposed civil partnership).

(6) In this section—

“relevant entry in section 139A(6)” means the second column of the last entry in the table in section 139A(6);

“specified evidence” means evidence that is in accordance with regulations made by the Secretary of State under section 54(2) of, and paragraph 3 of Schedule 5 to, the 2014 Act.

Declaration to accompany information and evidence

139C. Where information and evidence accompany the civil partnership notice in accordance with sections 139A and 139B that information and evidence must also be accompanied by a declaration in writing and signed by the party who makes it that the party believes all of the information and evidence accompanying the notice to be true.

Rejection of false information or evidence

139D.—(1) A registrar may reject—

- (a) any information or photograph provided under section 139A or 139B,
- (b) any evidence provided under section 139B, or
- (c) any evidence relating to a party’s nationality provided in accordance with section 141,

if (in particular) the registrar has reasonable grounds for suspecting that the information, photograph or evidence is false.

(2) If the registrar rejects any information, photograph or evidence, the registrar may proceed under this Act as if the rejected information, photograph or evidence had not been provided.

(3) This section does not limit the powers of the registrar to reject anything provided under any other statutory provision⁽²⁾.

(2) “statutory provision” is defined by section 160 of the Civil Partnership Act (c. 2004 c. 33) to have the same meaning as in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (NI c. 33)

Referral of proposed civil partnership to the Secretary of State

139E.—(1) On every occasion when a civil partnership notice is given under section 139, a registrar must decide whether or not each of the parties to the proposed civil partnership is an exempt person.

(2) In making a decision under subsection (1) about a party to a proposed civil partnership, a registrar may rely on any advice given in relation to that decision by the Secretary of State.

(3) In a case where—

- (a) section 139A applies to the civil partnership notice, and
- (b) specified evidence required by section 139B(1) or (2) in relation to a party to the proposed civil partnership is not produced in accordance with that section,

the registrar must decide that that party to the proposed civil partnership is not an exempt person.

(4) If the registrar decides that either of the parties is not an exempt person, or that both of the parties are not exempt persons, the registrar must—

- (a) refer the proposed civil partnership to the Secretary of State;
- (b) notify the parties to the proposed civil partnership that the proposed civil partnership must be referred to the Secretary of State;
- (c) give the parties to the proposed civil partnership prescribed information about—
 - (i) the effects of the referral;
 - (ii) the requirement under regulations to notify the Secretary of State of changes of address.

(5) The registrar must act in accordance with regulations when complying with the duty in subsection (4)(a) to refer a proposed civil partnership to the Secretary of State.

(6) If the registrar refers the proposed civil partnership to the Secretary of State, this Act has effect in relation to the proposed civil partnership subject to the modifications in Schedule 13A.

(7) In this section—

- (a) a reference to a person being an exempt person has the same meaning as in section 49 of the 2014 Act;
- (b) “prescribed information” means information prescribed in regulations;
- (c) “regulations” means regulations made by the Secretary of State under section 54(2) of, and Schedule 5 to, the 2014 Act.”

3. After Schedule 13 (civil partnership of persons under 18) insert—

“SCHEDULE 13A

section 139E(6)

Modifications if proposed civil partnership referred under section 139E

Introduction

1.—(1) These are the modifications subject to which this Act has effect if the registrar refers a proposed civil partnership to the Secretary of State.

(2) In this Schedule “referred civil partnership” means the proposed civil partnership referred to the Secretary of State.

No civil partnership schedule to be issued until decision about investigation etc

2.—(1) The duty under section 143 to complete a civil partnership schedule in respect of the referred civil partnership does not apply unless and until one of the following events occurs.

- (2) Event 1 occurs if—
 - (a) the Secretary of State gives the registrar the section 48 notice, and
 - (b) the notice is of a decision not to investigate whether the referred civil partnership is a sham.
- (3) Event 2 occurs if—
 - (a) the relevant statutory period ends, and
 - (b) the Secretary of State has not given the registrar the section 48 notice.
- (4) Event 3 occurs if—
 - (a) the Secretary of State gives the registrar the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
 - (c) the Secretary of State gives the registrar the section 50 notice, and
 - (d) that notice is of a decision that both of the parties to the referred civil partnership 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 registrar the section 50 notice.
- (6) Event 5 occurs if the Secretary of State gives the registrar notice that the duty under section 143 is applicable.
- (7) The Secretary of State may give a notice for that purpose only if—
 - (a) the Secretary of State has given the registrar the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
 - (c) the Secretary of State has given the registrar the section 50 notice, and
 - (d) that notice is of a decision that one or both of the parties to the referred civil partnership have not complied with the investigation.
- (8) This paragraph applies in addition to any other requirements applicable to the completion of the civil partnership schedule.
- (9) This paragraph is subject to paragraphs 3, 4 and 5.
- (10) In this paragraph—
 - “70 day period” has the same meaning as in section 50(11) of the 2014 Act;
 - “relevant statutory period” has the same meaning as in section 62 of the 2014 Act;
 - “section 48 notice” means notice under section 48(8B)(3) of the 2014 Act;
 - “section 50 notice” means notice under section 50(7) of the 2014 Act.

Civil partnership to be investigated: completion of civil partnership schedule

3.—(1) The modifications in this paragraph have effect if the Secretary of State gives the registrar notice under section 48(8B) of the 2014 Act of a decision to investigate whether the referred civil partnership is a sham.

(3) Section 48(8B) is inserted by paragraph 2 of Schedule 4 to this Order.

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- (2) Section 143, which becomes subsection (1), has effect as if—
- (a) after “proposed civil partners,” there were inserted “but not before the expiry of the relevant 70 day period,”; and
 - (b) after subsection (1) there were inserted—
 - “(2) In this section “relevant 70 day period” means the period—
 - (a) beginning the day on which the record relating to the proposed civil partnership is made in the civil partnership notice book, and
 - (b) ending at the end of the period of 70 days beginning with that day.”
- (3) This paragraph is subject to paragraphs 4 and 5.

Requests to complete the civil partnership schedule before expiry of 70 day period

4.—(1) This paragraph applies if the Secretary of State gives the registrar notice under section 48(8B) of the 2014 Act of a decision to investigate whether the referred civil partnership is a sham.

(2) A party to the referred civil partnership may request the registrar to complete the civil partnership schedule before the expiry of the relevant 70 day period.

(3) That request must—

- (a) be in writing, and
- (b) give the reasons why it is necessary for the civil partnership schedule to be completed before the expiry of the relevant 70 day period.

(4) A registrar may not complete the civil partnership schedule before the expiry of the relevant 70 day period unless authorised to do so by the Registrar General.

(5) The Registrar General may, with the consent of the Secretary of State, authorise the registrar to complete the civil partnership schedule on such date as the Registrar General considers necessary before the expiry of the relevant 70 day period.

(6) But the Secretary of State’s consent is not required if the request is made because a party to the referred civil partnership is gravely ill and not expected to recover

(7) In this paragraph and paragraph 5 “relevant 70 day period” has the same meaning as in section 143 (as modified by paragraph 3).

Effect of reducing statutory period

5.—(1) Where—

(a) the Registrar General has authorised—

- (i) the reduction of the notice period for service of the civil partnership notice under regulation 3(2) of the Civil Partnership Regulations (Northern Ireland) 2005(4),
or
- (ii) the registrar to complete a civil partnership schedule before the expiry of the relevant 70 day period in accordance with paragraph 4; and

(b) the authorisation under sub-paragraph (i) or, as the case may be (ii), of paragraph (a) is given at a time when the duty under section 143 to complete a civil partnership schedule has not arisen in accordance with paragraph 2 or 3,

(4) [S.R. \(NI\) 2005 No. 482](#); paragraph 10 of Schedule 3 to this Order amends paragraph (2) of regulation 3 and inserts new paragraphs (3) and (4). Paragraph (2) of regulation 3 is also amended with effect from 2 March 2015 by [S.I. 2014/297](#).

the duty under section 143 to complete the civil partnership schedule arises on the giving of the authorisation, subject to any other requirements applicable to the completion of the schedule (and in the case of an authorisation mentioned in paragraph (a)(i), any other requirements applicable to the giving of notice) being met.

(2) But the requirements of paragraph 2 are not applicable in such a case.

(3) The Secretary of State is not prevented from deciding to conduct, conducting or continuing, an investigation if a civil partnership schedule is completed as mentioned in sub-paragraph (1).

(4) But in such a case, nothing in the 2014 Act requires the Secretary of State to decide whether to conduct, or to continue, an investigation.

(5) 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 civil partnership is a sham.”

4. In section 140 (civil partnership notice book), after subsection (2) insert—

“(2A) But the registrar must not enter the particulars relating to the civil partnership in the civil partnership notice book in a case where any of the requirements imposed by or under any of the following provisions of this Act is applicable but not complied with—

- (a) section 139A(2) to (7);
- (b) section 139B(3) or (5);
- (c) section 141 so far as that requirement relates to evidence of nationality;
- (d) paragraph 13 of Schedule 23.

(2B) Where the registrar may not enter the particulars relating to the civil partnership notice book as mentioned in subsection (2A) the parties are to be taken not to have given notice under section 139.”

5. After section 143 (civil partnership schedule) insert—

“Civil partnership notice: false information or evidence

143A.—(1) A registrar may refuse to complete a civil partnership schedule under section 143 (or where one has already been completed, may cancel it) in a case where—

- (a) notice of a proposed civil partnership has been given under section 139, and
- (b) the registrar has reasonable grounds for suspecting that a relevant decision was made incorrectly because of the provision of false information or evidence in or accompanying that notice.

(2) If the registrar refuses to complete (or cancels) a civil partnership schedule under subsection (1), the parties to the proposed civil partnership are to be taken not to have given notice under section 139; but that does not prevent criminal proceedings from being brought against either party, or any other person, in relation to the giving of the notice.

(3) This section does not limit the powers of the registrar to refuse to complete (or, as the case may be, cancel) a civil partnership schedule.

(4) In this section—

“evidence” includes a photograph or other image;

“exempt person” has the same meaning as in section 139E;

“relevant decision” means a decision of a registrar that a party to the proposed civil partnership is an exempt person.”

6. In section 160 (interpretation), in the appropriate places insert—

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- (a) ““2014 Act” means the Immigration Act 2014;”;
 - (b) ““relevant national” has the same meaning as in section 30A(5);”.
7. In section 176 (proof of certain matters not necessary to validity of civil partnership), after paragraph (b) insert—
- “(c) that, in the case of a civil partnership to which Schedule 13A applied, any of the events listed in paragraph 2(2) to (6) of that Schedule occurred;”.
8. In Schedule 23 (immigration control and formation of civil partnerships)—
- (a) in paragraph A1(4)(6) for “paragraph” substitute “Schedule”;
 - (b) for paragraph 1(7) substitute—
 - “1.—(1) Part 3 of this Schedule applies to a civil partnership that is to be formed in Scotland by signing a civil partnership schedule unless each party to the civil partnership falls within exception A or exception B.
 - (2) Part 4 of this Schedule applies to a civil partnership that is to be formed in Northern Ireland by signing a civil partnership schedule unless each party to the civil partnership falls within exception A or exception B.
 - (3) A party to the civil partnership falls within exception A if the person is a relevant national.
 - (4) A party to the civil partnership falls within exception B if—
 - (a) the person is exempt from immigration control, and
 - (b) the notice of civil partnership is accompanied by the evidence required by regulations made under section 54(2) of, and paragraph 3 of Schedule 5 to, the Immigration Act 2014.”;
 - (c) in paragraph 8(8) for “1(1A)” substitute “1(1)”;
 - (d) in paragraph 12 for “1(1B)” substitute “1(2)”.

(5) Section 30A was inserted by section 52 of, and paragraph 27 of Schedule 4 to, the Immigration Act 2014 (c. 22).

(6) Paragraph A1 was inserted by section 58(5) of the Immigration Act 2014.

(7) Paragraph 1(1) was substituted by section 58(6) of the Immigration Act 2014. Those amendments will be commenced immediately before or at the same time as this Order comes into force.

(8) Paragraphs 8 and 12 were substituted by section 58(8) and (9) of the Immigration Act 2014. Those amendments will also be commenced immediately before or at the same as this Order comes into force.