



# Immigration Act 2014

## 2014 CHAPTER 22

### PART 4

#### MARRIAGE AND CIVIL PARTNERSHIP

### CHAPTER 1

#### REFERRAL AND INVESTIGATION OF PROPOSED MARRIAGES AND CIVIL PARTNERSHIPS

##### *Investigation*

#### **48 Decision whether to investigate**

- (1) This section applies if—
  - (a) a superintendent registrar refers a proposed marriage to the Secretary of State under section 28H of the Marriage Act 1949, or
  - (b) a registration authority refers a proposed civil partnership to the Secretary of State under section 12A of the Civil Partnership Act 2004.
- (2) The Secretary of State must decide whether to investigate whether the proposed marriage or civil partnership is a sham.
- (3) The Secretary of State may not decide to conduct such an investigation unless conditions A and B are met.
- (4) Condition A is met if the Secretary of State is satisfied that—
  - (a) only one of the parties to the proposed marriage or civil partnership is an exempt person, or
  - (b) neither of the parties are exempt persons.
- (5) Condition B is met if the Secretary of State has reasonable grounds for suspecting that the proposed marriage or civil partnership is a sham.

- (6) In making the decision whether to investigate, regard must be had to any guidance published by the Secretary of State for this purpose.
- (7) In the case of a proposed marriage, the Secretary of State must give notice of the decision made under this section to—
  - (a) both of the parties to the proposed marriage, and
  - (b) the superintendent registrar who referred the proposed marriage to the Secretary of State.
- (8) In the case of a proposed civil partnership, the Secretary of State must give notice of the decision made under this section to—
  - (a) both of the parties to the proposed civil partnership,
  - (b) the registration authority who referred the proposed civil partnership to the Secretary of State, and
  - (c) if different, the registration authority responsible for issuing the civil partnership schedule under section 14(1) of the Civil Partnership Act 2004 in relation to the proposed civil partnership.
- (9) The Secretary of State must make the decision, and give the notice, required by this section within the relevant statutory period.

#### **49 Exempt persons**

- (1) A person who is a party to a proposed marriage or civil partnership is an exempt person if the person—
  - (a) is a relevant national;
  - (b) has the appropriate immigration status; or
  - (c) holds a relevant visa in respect of the proposed marriage or civil partnership.
- (2) A person has the appropriate immigration status if the person—
  - (a) has a right of permanent residence in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972;
  - (b) is exempt from immigration control; or
  - (c) is settled in the United Kingdom (within the meaning of the Immigration Act 1971 — see section 33(2A) of that Act).
- (3) The question of whether a person is exempt from immigration control is to be determined in accordance with regulations made for this purpose by the Secretary of State.
- (4) A person holds a relevant visa if the person holds a visa or other authorisation that is of a kind specified for this purpose in regulations made by the Secretary of State.
- (5) The Secretary of State may not specify a visa or other authorisation under subsection (4) unless the Secretary of State considers that the purpose of issuing that kind of visa or authorisation is, or includes, enabling a person to enter or remain in the United Kingdom to marry or form a civil partnership.

## 50 Conduct of investigation

- (1) An investigation must be conducted in accordance with any regulations made by the Secretary of State for this purpose.
- (2) In conducting an investigation, regard must also be had to any guidance published by the Secretary of State for this purpose.
- (3) A relevant party must comply with a requirement specified in regulations made under section 51(4) if—
  - (a) the section 48 notice given to the relevant party states that he or she must do so, or
  - (b) the Secretary of State subsequently notifies the relevant party (orally or in writing) that he or she must do so;and the relevant party must comply with that requirement in the manner stated in the section 48 notice or in the Secretary of State’s notification (if such a manner is stated there).
- (4) As part of an investigation, the Secretary of State must decide whether or not each of the relevant parties has complied with the investigation (the “compliance question”).
- (5) The compliance question must be decided in accordance with any regulations made by the Secretary of State for this purpose.
- (6) In deciding the compliance question, regard must also be had to any guidance published by the Secretary of State for this purpose.
- (7) Within the 70 day period, the Secretary of State must—
  - (a) decide the compliance question; and
  - (b) give notice of that decision to the persons to whom the Secretary of State gave the section 48 notice relating to the proposed marriage or civil partnership.
- (8) If the Secretary of State’s decision is that one or both of the relevant parties have not complied with the investigation, the notice under subsection (7) must include a statement of the Secretary of State’s reasons for reaching that decision.
- (9) Regulations made under this section may, in particular, make provision about—
  - (a) the circumstances in which a relevant party is to be taken to have failed to comply with a relevant requirement;
  - (b) the consequences of a relevant party’s failure to comply with a relevant requirement.
- (10) The provision that may be made under subsection (9)(b) includes provision for the compliance question to be decided (in whole or in part) by reference to a relevant party’s compliance or non-compliance with one or more relevant requirements.
- (11) In this section—

“70 day period” means the period of 70 days beginning with the day on which the relevant statutory period begins;

“investigation” means an investigation, conducted following a decision by the Secretary of State under section 48, whether a proposed marriage or civil partnership is a sham;

“relevant party” means a person who is a party to a proposed marriage or civil partnership that is the subject of an investigation;

“relevant requirement” means any requirement imposed by law, including a requirement imposed by or in accordance with—

- (a) subsection (3);
- (b) section 27E, 28B or 28C of the Marriage Act 1949;
- (c) regulations under section 28D of that Act;
- (d) section 8A, or any of sections 9 to 9B, of the Civil Partnership Act 2004.

## **51 Investigations: supplementary**

- (1) A section 48 notice which states that the Secretary of State has decided to investigate whether a proposed marriage or civil partnership is a sham must include—
  - (a) notice that the compliance question must be decided within the period of 70 days mentioned in section 50(7);
  - (b) notice of the date on which that period will end;
  - (c) notice that a relevant party may be required to comply with one or more requirements imposed by the Secretary of State subsequently in accordance with section 50(3); and
  - (d) prescribed information about the investigation.
- (2) The section 48 notice may also include such other information as the Secretary of State considers appropriate.
- (3) For the purposes of subsection (1)(d) “prescribed information” means information prescribed by the Secretary of State by regulations; and the information that may be prescribed includes information about—
  - (a) the conduct of the investigation;
  - (b) requirements with which the relevant parties must comply in relation to the investigation;
  - (c) the consequence of a failure to comply with those or any other requirements;
  - (d) the possible outcomes of the investigation;
  - (e) the consequences of those outcomes.
- (4) The Secretary of State may, by regulations, specify requirements relating to the conduct of investigations which may be imposed on a relevant party by the section 48 notice or by the Secretary of State subsequently in accordance with section 50(3).
- (5) Regulations made under subsection (4) may, in particular, specify any of the following requirements—
  - (a) a requirement to make contact with a particular person or description of persons in a particular way (including by telephoning a particular number) within a particular time period;
  - (b) a requirement to be present at a particular place at a particular time;
  - (c) a requirement to be visited at home;
  - (d) a requirement to be interviewed;
  - (e) a requirement to provide information (whether orally or in writing);
  - (f) a requirement to provide photographs;
  - (g) a requirement to provide evidence.
- (6) The provisions of this Part, and any investigation or other steps taken under those provisions (including the decision of the compliance question), do not limit the powers of the Secretary of State in relation to marriages or civil partnerships that are, or are

suspected to be, a sham (including any powers to investigate such marriages or civil partnerships).

- (7) In this section “investigation”, “relevant party” and “compliance question” have the same meanings as in section 50.

### *Referral*

## **52 Referral of proposed marriages and civil partnerships in England and Wales**

Schedule 4 (referral of proposed marriages and civil partnerships in England and Wales) has effect.

### *Scotland and Northern Ireland*

## **53 Extension of scheme to Scotland and Northern Ireland**

- (1) The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate for extending the referral and investigation scheme to any of the following—
- (a) proposed marriages under the law of Scotland;
  - (b) proposed civil partnerships under the law of Scotland;
  - (c) proposed marriages under the law of Northern Ireland;
  - (d) proposed civil partnerships under the law of Northern Ireland.
- (2) An order under this section may—
- (a) make provision having a similar effect to the provision made by section 58, Schedule 4, or Parts 1, 2 and 4 of Schedule 6;
  - (b) confer functions on any person;
  - (c) amend, repeal or revoke any enactment (including an enactment contained in this Act).
- (3) The power under subsection (2)(b) to confer functions includes power to impose a duty of referral on persons exercising functions in Scotland or Northern Ireland in relation to marriage or civil partnership.
- (4) But an order under this section may not impose that or any other duty, or otherwise confer functions, on—
- (a) the Scottish Ministers,
  - (b) the First Minister and deputy First Minister in Northern Ireland,
  - (c) a Northern Ireland Minister, or
  - (d) a Northern Ireland department.
- (5) In this section—
- “duty of referral” means a duty to refer a proposed marriage or proposed civil partnership to the Secretary of State in a case where—
    - (a) one of the parties is not an exempt person, or
    - (b) both of the parties are not exempt persons;
  - “enactment” includes—

- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
- (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
- (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation;

“referral and investigation scheme” means the provision made by sections 48 to 51.

#### **54 Supplementary provision**

- (1) This section applies if the referral and investigation scheme is extended by an order under section 53 (an “extension order”).
- (2) The Secretary of State may make administrative regulations in connection with the application of the scheme—
  - (a) to proposed marriages or civil partnerships under the law of Scotland (insofar as the scheme is extended to them), and
  - (b) to proposed marriages or civil partnerships under the law of Northern Ireland (insofar as the scheme is extended to them).
- (3) For that purpose “administrative regulations” means regulations of any kind set out in Schedule 5 (sham marriage and civil partnership: administrative regulations).
- (4) The Secretary of State may by order make provision about—
  - (a) the information that must or may be given, or
  - (b) the matters in respect of which evidence 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.
- (5) An order under subsection (4) may amend, repeal or revoke any enactment (including an enactment contained in this Act or in provision made by an extension order or an order under subsection (4)).
- (6) If an extension order makes provision (“information disclosure provision”) having similar effect to the provision made by paragraph 2 of Schedule 6 about the disclosure of information for immigration purposes, the Secretary of State may by order specify other immigration purposes (in addition to those specified in provision made by an extension order or in any provision made under this subsection) for which information may be disclosed under the information disclosure provision.
- (7) The Secretary of State must consult—
  - (a) the Registrar General for Scotland before making administrative regulations, or an order under subsection (4), in relation to proposed marriages or civil partnerships under the law of Scotland;
  - (b) the Registrar General for Northern Ireland before making administrative regulations, or an order under subsection (4), in relation to proposed marriages or civil partnerships under the law of Northern Ireland.
- (8) Expressions used in this section or Schedule 5 that are also used in section 53 have the same meanings in this section or Schedule 5 as in section 53.

## CHAPTER 2

### SHAM MARRIAGE AND CIVIL PARTNERSHIP

#### 55 Meaning of “sham marriage” and “sham civil partnership”

- (1) The Immigration and Asylum Act 1999 is amended in accordance with this section.
- (2) In section 24 (duty to report suspicious marriages), for subsection (5) substitute—
  - “(5) A marriage (whether or not it is void) is a “sham marriage” if—
    - (a) either, or both, of the parties to the marriage is not a relevant national,
    - (b) there is no genuine relationship between the parties to the marriage, and
    - (c) either, or both, of the parties to the marriage enter into the marriage for one or more of these purposes—
      - (i) avoiding the effect of one or more provisions of United Kingdom immigration law or the immigration rules;
      - (ii) enabling a party to the marriage to obtain a right conferred by that law or those rules to reside in the United Kingdom.
- (6) In subsection (5)—

“relevant national” means—

  - (a) a British citizen,
  - (b) a national of an EEA State other than the United Kingdom, or
  - (c) a national of Switzerland;

“United Kingdom immigration law” includes any subordinate legislation concerning the right of relevant nationals to move between and reside in member States.”.
- (3) In section 24A (duty to report suspicious civil partnerships), for subsection (5) substitute—
  - “(5) A civil partnership (whether or not it is void) is a “sham civil partnership” if—
    - (a) either, or both, of the parties to the civil partnership is not a relevant national,
    - (b) there is no genuine relationship between the parties to the civil partnership, and
    - (c) either, or both, of the parties to the civil partnership enter into the civil partnership for one or more of these purposes—
      - (i) avoiding the effect of one or more provisions of United Kingdom immigration law or the immigration rules;
      - (ii) enabling a party to the civil partnership to obtain a right conferred by that law or those rules to reside in the United Kingdom.
- (5A) In subsection (5)—

“relevant national” means—

  - (a) a British citizen,
  - (b) a national of an EEA State other than the United Kingdom, or
  - (c) a national of Switzerland;

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“United Kingdom immigration law” includes any subordinate legislation concerning the right of relevant nationals to move between and reside in member States.”.

## **56 Duty to report suspicious marriages and civil partnerships**

- (1) The Immigration and Asylum Act 1999 is amended in accordance with this section.
- (2) In section 24 (duty to report suspicious marriages), in subsection (1)—
  - (a) after paragraph (a) insert—
    - “(aa) a superintendent registrar, or registrar of births, deaths and marriages, who receives information in advance of a person giving such a notice,”;
  - (b) at the end of paragraph (c), omit “or”;
  - (c) after paragraph (c) insert—
    - “(ca) a district registrar who receives information in advance of a person submitting such a notice or certificate,”;
  - (d) after paragraph (d) insert “or
    - (da) a registrar or deputy registrar who receives information in advance of a person giving such a notice,”.
- (3) In section 24A (duty to report suspicious civil partnerships), in subsection (1)—
  - (a) after paragraph (a) insert—
    - “(aa) a registration authority that receives information in advance of a person giving such a notice,”;
  - (b) at the end of paragraph (c), omit “or”;
  - (c) after paragraph (c) insert—
    - “(ca) a district registrar who receives information in advance of a person giving such a notice,”;
  - (d) after paragraph (d) insert “or
    - (da) a registrar who receives information in advance of a person giving such a notice,”.

## **CHAPTER 3**

### OTHER PROVISIONS

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

## **57 Solemnization of marriage according to rites of Church of England**

- (1) The Marriage Act 1949 is amended in accordance with this section.
- (2) In section 5 (methods of authorising marriages)—
  - (a) at the beginning insert—
    - “(1)”;
  - (b) in the words after paragraph (d), for “except that paragraph (a)” substitute—
    - “(2) Subsection (1)(a)”;



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

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- (c) at the end insert—
- “(3) In a case where one or both of the persons whose marriage is to be solemnized is not a relevant national—
- (a) subsection (1)(a) shall not apply unless the banns are published in accordance with section 14 (whether or not the banns are also published otherwise);
- (b) subsection (1)(c) shall not apply.”.
- (3) In section 8 (notice to clergy before publication of banns)—
- (a) at the beginning insert—
- “(1”;
- (b) for “delivered to him a notice” substitute “delivered to him—
- (a) a notice”;
- (c) at the end insert “, and
- (b) specified evidence that both of the persons are relevant nationals.
- (2) In this section “specified evidence” means evidence that is in accordance with regulations made under section 28G.”.
- (4) In section 16 (provisions as to common licences), before subsection (2) insert—
- “(1C) A common licence shall not be granted unless the persons to be married deliver to the person granting the licence specified evidence that both of the persons are relevant nationals.
- (1D) For that purpose “specified evidence” means evidence that is in accordance with regulations made under section 28G.”.

## **58 Requirement as to giving of notice of marriage or civil partnership**

- (1) Section 19 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (procedure for marriage in England and Wales) is amended in accordance with subsections (2) and (3).
- (2) For subsection (1) substitute—
- “(1) This section applies to a marriage that is to be solemnised on the authority of certificates issued by a superintendent registrar under Part 3 of the Marriage Act 1949 (the “1949 Act”) unless each party to the marriage falls within exception A or exception B.
- (1A) A party to the marriage falls within exception A if the person is a relevant national.
- (1B) A party to the marriage falls within exception B if—
- (a) the person is exempt from immigration control, and
- (b) the notice of marriage is accompanied by the specified evidence required by section 28C(2) of the 1949 Act that the person is exempt from immigration control.”.
- (3) For subsection (4) substitute—

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

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“(4) In this section—

- (a) a reference to a person being a relevant national, or being exempt from immigration control, has the same meaning as in section 49 of the Immigration Act 2014;
- (b) “notice of marriage” means a notice of marriage given under section 27 of the 1949 Act.”.

(4) Schedule 23 to the Civil Partnership Act 2004 (immigration control and formation of civil partnerships) is amended in accordance with subsections (5) to (9).

(5) Before paragraph 1 insert—

- “A1 (1) Part 2 of this Schedule applies to a civil partnership that is to be formed in England and Wales by signing a civil partnership schedule unless each party to the civil partnership falls within exception A or exception B.
- (2) A party to the civil partnership falls within exception A if the person is a relevant national.
- (3) 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 specified evidence required by section 9A(2) that the person is exempt from immigration control.
- (4) In this paragraph, a reference to a person being a relevant national, or being exempt from immigration control, has the same meaning as in section 49 of the Immigration Act 2014.”.

(6) For paragraph 1(1) substitute—

- “1 (1A) Part 3 of this Schedule applies if—
- (a) two people wish to register in Scotland as civil partners of each other, and
  - (b) one of them is subject to immigration control.
- (1B) Part 4 of this Schedule applies if—
- (a) two people wish to register in Northern Ireland as civil partners of each other, and
  - (b) one of them is subject to immigration control.”.

(7) For paragraph 3 substitute—

“3 This Part of this Schedule applies as mentioned in paragraph A1.”.

(8) For paragraph 8 substitute—

“8 This Part of this Schedule applies as mentioned in paragraph 1(1A).”.

(9) For paragraph 12 substitute—

“12 This Part of this Schedule applies as mentioned in paragraph 1(1B).”.

### *Information*

#### **59 Information**

Schedule 6 (information) has effect.

### *Miscellaneous*

#### **60 Regulations about evidence**

- (1) The Secretary of State may make regulations about evidence relevant to the determination of any of the following questions for a purpose of this Part—
  - (a) whether a person is a relevant national;
  - (b) whether a person has the appropriate immigration status;
  - (c) whether a person has a relevant visa.
- (2) The regulations may, in particular, make provision about—
  - (a) the kind of evidence which is to be supplied;
  - (b) the form in which evidence is to be supplied;
  - (c) the manner in which evidence is to be supplied;
  - (d) the period within which evidence is to be supplied;
  - (e) the supply of further evidence;
  - (f) the sufficiency of evidence supplied;
  - (g) the consequences of failing to supply sufficient evidence in accordance with the regulations (including provision to secure that, in such a case, a particular decision is made or is to be treated as having been made);
  - (h) the retention or copying of evidence supplied.
- (3) The Secretary of State must consult the Registrar General before making regulations under this section.
- (4) In this section “evidence” includes a photograph or other image.

#### **61 Notices**

- (1) The Secretary of State may, by regulations, make provision about the giving of—
  - (a) notices under any provision of this Part;
  - (b) notices relating to the referral of proposed marriages under section 28H of the Marriage Act 1949 which are given under any provision of that Act;
  - (c) notices relating to the referral of proposed civil partnerships under section 12A of the Civil Partnership Act 2004 which are given under any provision of that Act.
- (2) The regulations may, in particular, make provision that a notice given in accordance with the regulations is to be presumed to have been received by the person to whom it is given.
- (3) The Secretary of State must consult the Registrar General before making regulations under this section.

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

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## 62 Interpretation of this Part

- (1) These expressions have the meanings given—
- “exempt person” has the meaning given in section 49;
  - “registrar” means a registrar of births, deaths and marriages;
  - “Registrar General” means the Registrar General for England and Wales;
  - “registration authority” has the same meaning as in the Civil Partnership Act 2004 (see section 28 of that Act);
  - “relevant national” means—
    - (a) a British citizen,
    - (b) a national of an EEA State other than the United Kingdom, or
    - (c) a national of Switzerland;
  - “relevant statutory period” means—
    - (a) in relation to a proposed marriage, the period—
      - (i) 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
      - (ii) ending at the end of the period of 28 days beginning with that day;
    - (b) in relation to a proposed civil partnership, the period—
      - (i) beginning the day after notice of the proposed civil partnership is recorded in the register in accordance with Chapter 1 of Part 2 of the Civil Partnership Act 2004, and
      - (ii) ending at the end of the period of 28 days beginning with that day;
  - “section 48 notice” means a notice given under section 48(7) or (8);
  - “superintendent registrar” means a superintendent registrar of births, deaths and marriages.
- (2) A reference to a person being a party to a proposed marriage or civil partnership is a reference to a person who would be a party to the marriage or civil partnership if it took place as proposed.
- (3) A reference to a proposed marriage or civil partnership being a sham is a reference to a marriage or civil partnership which would (if it took place as proposed) be a sham marriage or sham civil partnership (within the meaning of the Immigration and Asylum Act 1999 — see section 24 or 24A of that Act).
- (4) For provision about the interpretation of the following expressions, see section 49—
- (a) the appropriate immigration status;
  - (b) a relevant visa.
- (5) This section, and the provision mentioned in subsection (4), apply for the purposes of this Part.