

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Part 4 of the Immigration Act 2014 (c. 22) establishes a scheme (“the scheme”) whereby proposed marriages or civil partnerships, where one party is not an exempt person, or both parties are not exempt persons, must be referred to the Secretary of State by the relevant registration authority for the purpose of the Secretary of State deciding whether to investigate whether the proposed marriage or civil partnership is a sham. Those provisions have been extended to Scotland and Northern Ireland by the Referral and Investigation of Proposed Marriages and Civil Partnerships (Scotland) Order 2015 (S.I. 2015/396) and the Referral and Investigation of Proposed Marriages and Civil Partnerships (Northern Ireland and Miscellaneous Provisions) Order 2015 (S.I. 2015/395) (“the Scotland and Northern Ireland Orders”).

These Regulations make administrative provision which supplements the provision made by the Scotland and Northern Ireland Orders.

Regulation 3 enables the Secretary of State to retain, copy or dispose of any evidence that is supplied to her by a party by virtue of these Regulations (see for example regulation 12) or the Proposed Marriages and Civil Partnerships (Conduct of Investigations, etc.) Regulations 2015 (S.I. 2015/397) (see for example regulation 12 of those Regulations).

Part 2 makes provision for the giving of notice by the Secretary of State to a party to a proposed marriage or civil partnership (regulation 4) and to district registrars (in relation to a proposed marriage or civil partnership in Scotland) and registrars (in relation to a proposed marriage or civil partnership in Northern Ireland) (regulation 5). Parties may give notice (where they are required to do so) to the Secretary of State in a variety of ways, but the Secretary of State may require them to give notice in a particular way. Regulation 6 makes provision for presumption of receipt of a notice when it is given in one of the ways mentioned in that regulation.

Part 3 makes provision for the evidence that a party who is not a relevant national must provide when the party gives notice of intention to marry or register a civil partnership (a relevant national is a British citizen or an EEA or Swiss national). Regulation 7 specifies the type of photograph that must be provided. Persons who are exempt from immigration control, are settled in the United Kingdom or are non-EEA nationals with an EU right of permanent residence are exempt persons for the purposes of the scheme. Regulation 8 and Schedule 1 specify the evidence that such a person must provide to show that they are exempt. Persons who have a relevant visa for the purposes of section 49 of the Immigration Act 2014 are also exempt persons and regulation 9 specifies the evidence that they must provide of their visa. Regulation 10 and Schedule 2 specify the evidence that must be provided to evidence the party's usual address (details of which must be provided when they give notice of marriage or civil partnership).

Part 4 makes provision for when a party's usual address changes. A party must give the Secretary of State notice of that change (regulation 11) and also provide evidence of his or her new (usual) address (regulation 12). The evidence that may be provided is the same as that which is required to evidence the party's usual address when giving notice of marriage or civil partnership except that some of the permissible evidence is required to be more recent (paragraph (7) of regulation 12).

Regulation 13 enables the Secretary of State to reject evidence relating to a change of address if she has reasonable grounds for suspecting that it is false. If she does reject it, she may proceed as if that evidence had not been provided, which means that she may decide that the party has not complied with the investigation into whether the proposed marriage or civil partnership is a sham.

Part 5 makes provision for referrals of proposed marriages or civil partnerships by district registrars (Scotland) or registrars (Northern Ireland). By virtue of regulation 15 the district registrar or registrar must refer the proposed marriage or civil partnership to the Secretary of State as soon as practicable after the particulars of the notice of marriage or civil partnership have been

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entered in the marriage or civil partnership notice book. A referral should be made electronically but, where that is not possible, may be made by post (regulation 16). Regulation 17 sets out the information that district registrars in Scotland must include when they refer a proposed marriage or civil partnership. Regulation 18 sets out the information that registrars in Northern Ireland must include when they refer a proposed marriage or civil partnership. The differences reflect the different information that is collected when notice of marriage or civil partnership is given in those places.

Part 6 prescribes the information that a district registrar or registrar must give to the parties when a proposed marriage or civil partnership is referred to the Secretary of State. Regulation 21 prescribes certain information that must be given about the effects of the referral and regulation 22 information about the requirement to notify the Secretary of State about a change of address (see Part 4 above). Regulation 23 requires the Secretary of State to provide district registrars and registrars with details of the numbers, addresses, etc, to which a party must give notice of a change of address or provide evidence of that change. Those details must in turn be provided by district registrars and registrars to the parties to the referred marriage or civil partnership (see regulation 22).

An impact assessment has not been prepared for these Regulations as no impact on the voluntary or private sectors is foreseen. An impact assessment was prepared in respect of the proposals now forming Part 4 of the Immigration Act 2014 and is available at <https://www.gov.uk/government/publications/immigration-bill-part-4-marriage-and-civil-partnership>

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