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## STATUTORY INSTRUMENTS

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### 2015 No. 404

## The Sham Marriage and Civil Partnership (Scotland and Northern Ireland) (Administrative) Regulations 2015

### PART 5

#### Referrals

#### Application of Part

14. This Part applies where—

- (a) a district registrar is required to refer a proposed marriage under the law of Scotland to the Secretary of State under section 3F(5)(a) of the 1977 Act <sup>M1</sup>,
- (b) a district registrar is required to refer a proposed civil partnership under the law of Scotland to the Secretary of State under section 88F(5)(a) of the 2004 Act <sup>M2</sup>,
- (c) a registrar is required to refer a proposed marriage under the law of Northern Ireland to the Secretary of State under Article 3E(4)(a) of the 2003 Order <sup>M3</sup>,
- (d) a registrar is required to refer a proposed civil partnership under the law of Northern Ireland to the Secretary of State under section 139E(4)(a) of the 2004 Act <sup>M4</sup>.

#### Marginal Citations

**M1** 1977 c. 15; section 3F is inserted by paragraph 2 of Schedule 1 to the Scotland Order (S.I. 2015/396).

**M2** 2004 c. 33; section 88F is inserted by paragraph 2 of Schedule 3 to the Scotland Order.

**M3** S.I. 2003/413 (N.I. 3); Article 3E is inserted by paragraph 3 of Schedule 1 to the Northern Ireland Order (S.I. 2015/395).

**M4** Section 139E is inserted by paragraph 2 of Schedule 3 to the Northern Ireland Order.

#### Timing of referral

15. As soon as practicable after (as the case may be)—

- (a) the district registrar has entered the particulars of the proposed marriage in the marriage notice book under section 4(1) of the 1977 Act <sup>M5</sup>,
- (b) the district registrar has entered the particulars of the proposed civil partnership in the civil partnership book under section 89(1) of the 2004 Act <sup>M6</sup>,
- (c) the registrar has entered the particulars of the proposed marriage in the marriage notice book under Article 4(1) of the 2003 Order <sup>M7</sup>,
- (d) the registrar has entered the particulars of the proposed civil partnership in the civil partnership notice book under section 140(1) of the 2004 Act <sup>M8</sup>,

he or she must refer the proposed marriage or civil partnership to the Secretary of State.

### Marginal Citations

- M5** Relevant amendments are made to section 4 (insertion of subsection (6)) by paragraph 4 of Schedule 1 to the Scotland Order.
- M6** Relevant amendments are made to section 89 (insertion of subsection (5)) by paragraph 4 of Schedule 3 to the Scotland Order.
- M7** Relevant amendments are made to Article 4 (insertion of paragraphs (2A) and (2B)) by paragraph 5 of Schedule 1 to the Northern Ireland Order.
- M8** Relevant amendments are made to section 140 (insertion of subsections (2A) and (2B)) by paragraph 4 of Schedule 3 to the Northern Ireland Order.

### Manner of referral

16.—(1) A referral may be made—

- (a) by transmitting it electronically, or
- (b) (where that is not possible) by sending it by postal service,

in such form as the district registrar or (as the case may be) the registrar agrees with the Secretary of State.

(2) In this regulation “transmitting it electronically” includes transmitting it by email.

### Information to be sent with referral by a district registrar (Scotland)

17.—(1) Where a proposed marriage or civil partnership is referred to the Secretary of State under the provision mentioned in regulation 14(a) or (b), it must include the information set out in paragraph (2) in respect of each party.

(2) The information mentioned in paragraph (1) is—

- (a) the date of receipt of the marriage notice as entered by the district registrar in the marriage notice book or (as the case may be) date of receipt of the notice of proposed civil partnership as entered by the district registrar in the civil partnership book,
- (b) the registration office of the district registrar to whom notice was submitted,
- (c) the number assigned to the registration district for which the registration office mentioned in sub-paragraph (b) is provided<sup>M9</sup>,
- (d) the number assigned to the marriage notice in the marriage notice book or (as the case may be) the notice of proposed civil partnership in the civil partnership book,
- (e) whether it is a civil or religious or belief marriage or (as the case may be) a civil registration or religious or belief civil partnership,
- (f) whether, in the case of a marriage, it is a second marriage ceremony,
- (g) the party's full name including—
  - (i) any prefix or suffix where one is provided,
  - (ii) forename or forenames, and
  - (iii) surname or surnames,
- (h) the party's forename or forenames as it appears or they appear on his or her birth certificate (if different to those mentioned in sub-paragraph (g)(ii) and where a birth certificate is provided),

- (i) the party's surname or surnames as it appears or they appear on his or her birth certificate (if different to those mentioned in sub-paragraph (g)(iii) and where a birth certificate is provided),
- (j) any aliases used by the party (currently or in the past, limited to two),
- (k) the party's marital or civil partnership status (including whether he or she has previously been married or registered as a civil partner),
- (l) the party's sex,
- (m) the party's date of birth,
- (n) the party's date of birth indicator,
- (o) the party's country of birth,
- (p) the party's nationality,
- (q) whether the party's birth certificate has been seen by the registrar,
- (r) whether (where applicable) a status document has been seen by the registrar,
- (s) the party's usual address including (where applicable)—
  - (i) name, number or other identifier of dwelling,
  - (ii) street name,
  - (iii) town or city,
  - (iv) county (or equivalent administrative district),
  - (v) post code (or equivalent if outside the United Kingdom),
  - (vi) country,
- (t) the party's email address (where provided),
- (u) the party's telephone numbers (mobile, home and work, where provided),
- (v) the party's passport—
  - (i) number,
  - (ii) date of issue, and
  - (iii) place of issue,
- (w) details of the party's particular immigration status (where provided),
- (x) a description of the evidence provided of the party's particular immigration status (where provided),
- (y) details of the party's relevant visa (where provided),
- (z) a description of the evidence provided of the party's relevant visa (where provided),
- (aa) details of the party's immigration position (where provided),
- (bb) a description of the evidence provided of the party's immigration position (where provided),
- (cc) the place of proposed marriage or civil partnership (including the address),
- (dd) the date of proposed marriage or civil partnership,
- (ee) the names of witnesses to proposed marriage or civil partnership (where provided),
- (ff) whether the district registrar is satisfied, or has been informed by the Registrar General for Scotland, that there is no legal impediment to the marriage or (as the case may be) the registration of the civil partnership (indicated as “Marriage Schedule cleared for issue” or, as the case may be, “civil partnership schedule cleared for issue”),

(gg) whether a report under section 24 or (as the case may be) section 24A of the Immigration and Asylum Act 1999 is to be made.

(3) In paragraph (2)—

“civil marriage” has the same meaning as in section 8(2)(b) of the 1977 Act <sup>M10</sup>,

“civil partnership book” has the same meaning as in section 89(1) of the 2004 Act,

“civil registration” has the same meaning as in section 94A(4) of the 2004 Act <sup>M11</sup>,

“date of birth indicator” means the numbered code assigned to a party's date of birth by the district registrar (being “1”, “2” or “3”) indicating whether the party's date of birth is known, partially known or unknown,

“immigration position” means the statement given (“statement D”) (if any) under section 3A(9) of the 1977 Act <sup>M12</sup> or (as the case may be) section 88A(8) of the 2004 Act <sup>M13</sup> of the party's immigration position in the United Kingdom,

“legal impediment”—

(a) in relation to a marriage, means a legal impediment within the meaning of section 5(4) of the 1977 Act <sup>M14</sup>, and

(b) in relation to a civil partnership, means a legal impediment within the meaning of section 92(6) of the 2004 Act,

“marriage notice” has the same meaning as in section 3(1) of the 1977 Act <sup>M15</sup>,

“marriage notice book” has the same meaning as in section 4(1) of the 1977 Act,

“notice of proposed civil partnership” has the same meaning as in section 88(1) of the 2004 Act <sup>M16</sup>,

“registration district” has the same meaning as in the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (“1965 Act”) (see section 5) <sup>M17</sup>,

“registration office” has the same meaning as in the 1965 Act (see section 8) <sup>M18</sup>,

“religious or belief marriage” has the same meaning as in section 8(2)(a) of the 1977 Act <sup>M19</sup>,

“religious or belief civil partnership” has the same meaning as in section 94A(4) of the 2004 Act,

“second marriage ceremony” means a second marriage ceremony under section 20 of the 1977 Act,

“status document” means (as the case may be) a copy of—

(a) where a party has previously been married and the marriage has been dissolved, the party's decree of divorce, dissolution or annulment,

(b) where a party has previously been in a civil partnership and the civil partnership has been dissolved, the party's decree of dissolution or annulment,

(c) where a party has previously been married and the marriage ended on the death of the other party to that marriage, the death certificate of that other party,

(d) where a party has previously been in a civil partnership which ended on the death of the other party to that civil partnership, the death certificate of that other party,

(e) where, in relation to a proposed marriage, a party is required to submit a certificate under section 3(5) of the 1977 Act <sup>M20</sup>, that certificate (party not domiciled in the United Kingdom not subject to any legal incapacity preventing marriage),

- (f) where, in relation to a proposed civil partnership, a declaration is made under section 88(3) of the 2004 Act (notice of proposed civil partnership: declaration where party unable to submit decree or certificate)—
- (i) that declaration,
  - (ii) the information and evidence provided with it as required by paragraphs (a) and (b) of subsection (3), and
  - (iii) if one was required, the certified translation provided under subsection (4).
- (4) In relation to—
- (a) a proposed marriage, section 3A(10) of the 1977 Act <sup>M21</sup> applies for the purposes of this regulation as it applies for the purposes of that section, and
  - (b) a proposed civil partnership, section 88A(9) of the 2004 Act <sup>M22</sup> applies for the purposes of this regulation as it applies for the purposes of that section.

#### Marginal Citations

- M9** Under section 8 of the [Registration of Births, Deaths and Marriages \(Scotland\) Act 1965 \(c. 49\)](#) each local registration district must provide a registration office for its district (whether or not it is located in that district).
- M10** [Section 8\(2\)\(b\)](#) was amended by section 12 of the [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#) (“Marriage and Civil Partnership Act”)
- M11** [Section 94A](#) was inserted by section 24(13) of the Marriage and Civil Partnership Act; a civil registration is a civil partnership registered by an authorised registrar.
- M12** [Section 3A](#) is inserted by paragraph 2 of Schedule 1 to the Scotland Order.
- M13** [Section 88A](#) is inserted by paragraph 2 of Schedule 3 to the Scotland Order.
- M14** Subsection (4) was amended by section 2 of, and paragraph 4 of Schedule 2 to, the [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16\)](#) (“1986 Act”), paragraph 44 of Schedule 28 to the [Civil Partnership Act 2004 \(c. 33\)](#) and sections 2 and 8 of the Marriage and Civil Partnership (Scotland) Act (asp 5) (“Marriage and Civil Partnership Act”).
- M15** [1977 c. 15; section 3\(1\)](#) was amended by section 2 of, and paragraph 3 of Schedule 2 to, the 1986 Act; [paragraph 43](#) of Schedule 28 to the Civil Partnership Act 2004; [section 50](#) of the [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#) (“2006 Act”); and sections 3 and 8 of the Marriage and Civil Partnership Act. Other amendments have been made to section 3 but they are not relevant to these Regulations.
- M16** [2004 c. 33; section 88\(1\)](#) was amended by section 52 of the 2006 Act.
- M17** [1965 c. 49; section 5](#) was substituted by section 37(2) of the 2006 Act.
- M18** Subsection (1) was amended by section 37(5) of the 2006 Act. There are other amendments to section 8 but they are not relevant to these Regulations.
- M19** [Section 8\(2\)\(a\)](#) was amended by section 12 of the Marriage and Civil Partnership Act. Other amendments made to section 8 relevant to that definition were also made by section 12 of that Act.
- M20** [Section 3\(5\)](#) was amended by paragraph 21 of Schedule 1 to the [Family Law Act 1986 \(c. 55\)](#) and section 3(2) of the Marriage and Civil Partnership Act.
- M21** [Section 3A](#) was inserted by paragraph 2 of Schedule 1 to the Scotland Order; subsection (10) makes provision for the interpretation of references to a person holding a relevant visa, a person's particular immigration status and a person's immigration position.
- M22** [Section 88A](#) was inserted by paragraph 2 of Schedule 3 to the Scotland Order; subsection (9) makes provision for the interpretation of references to a person holding a relevant visa, a person's particular immigration status and a person's immigration position.

### **Information to be sent with referral by a registrar (Northern Ireland)**

**18.**—(1) Where a proposed marriage or civil partnership is referred to the Secretary of State under the provision mentioned in regulation 14(c) or (d), it must include the information set out in paragraph (2) in respect of each party.

(2) The information mentioned in paragraph (1) is—

- (a) the date of receipt of the marriage notice as entered by the registrar in the marriage notice book or (as the case may be) date of receipt of the notice of proposed civil partnership as entered by the registrar in the civil partnership notice book,
- (b) the registration district in which notice was submitted,
- (c) the marriage notice reference or (as the case may be) the civil partnership notice reference,
- (d) the party's sex,
- (e) the party's full name including—
  - (i) any prefix or suffix where one is provided,
  - (ii) forenames (limited to the first three if more than three), and
  - (iii) surname or surnames,
- (f) any previous forenames used by the party (where provided),
- (g) any previous surnames used by the party,
- (h) any aliases used by the party (currently or in the past, limited to two),
- (i) the party's marital or civil partnership status (including whether he or she has previously been married or registered as a civil partner),
- (j) the party's date of birth,
- (k) the party's nationality,
- (l) the party's usual address including (where applicable)—
  - (i) name, number or other identifier of dwelling,
  - (ii) street name,
  - (iii) town or city,
  - (iv) county (or equivalent administrative district),
  - (v) post code (or equivalent if outside the United Kingdom),
  - (vi) country,
- (m) the party's email address (where provided),
- (n) the party's telephone numbers (mobile, home and work, where provided),
- (o) the party's passport—
  - (i) number,
  - (ii) date of issue, and
  - (iii) place of issue,
- (p) details of the party's particular immigration status (where provided),
- (q) a description of the evidence provided of the party's particular immigration status (where provided)
- (r) details of the party's relevant visa (where provided),
- (s) a description of the evidence provided of the party's relevant visa (where provided),
- (t) details of the party's immigration position (where provided),

- (u) description of the evidence provided of the party's immigration position (where provided),
  - (v) the place of proposed marriage or civil partnership,
  - (w) the date of proposed marriage or civil partnership,
  - (x) the time of proposed marriage or civil partnership (where provided),
  - (y) where it is a marriage, whether it is a civil or religious one,
  - (z) whether a report under section 24 or (as the case may be) section 24A of the Immigration and Asylum Act 1999 is to be made.
- (3) In paragraph (2)—
- “civil marriage” has the same meaning as in Article 2 of the 2003 Order,
- “civil partnership notice” and “civil partnership notice book” have the same meaning as in section 160 of the 2004 Act <sup>M23</sup>,
- “civil partnership notice reference” means the number assigned to, and inserted on, the civil partnership notice by the registrar,
- “immigration position” means the statement given (“statement D”) (if any) under Article 3A(8) of the 2003 Order or (as the case may be) section 139A(8) of the 2004 Act of the party's immigration position in the United Kingdom,
- “marriage notice” and “marriage notice book” have the same meaning as in Article 3 of the 2003 Order,
- “marriage notice reference” means the number assigned to, and inserted on, the marriage notice by the registrar,
- “registration district” has the same meaning as in—
- (a) in relation to a marriage, Article 30 of the 2003 Order, and
  - (b) in relation to a civil partnership, section 151 of the 2004 Act,
- “religious marriage” has the same meaning as in Article 2 of the 2003 Order.
- (4) In relation to—
- (a) a proposed marriage, Article 3A(9) of the 2003 Order <sup>M24</sup> applies for the purposes of this regulation as it applies for the purposes of that Article,
  - (b) a proposed civil partnership, section 139A(9) of the 2004 Act <sup>M25</sup> applies for the purposes of this regulation as it applies for the purposes of that section.

#### **Marginal Citations**

**M23** 2004 c. 33.

**M24** Article 3A was inserted by paragraph 3 of Schedule 1 to the Northern Ireland Order; paragraph (9) makes provision for the interpretation of references to a person holding a relevant visa, a person's particular immigration status and a person's immigration position.

**M25** Section 139A was inserted by paragraph 2 of Schedule 3 to the Northern Ireland Order; subsection (9) makes provision for the interpretation of references to a person holding a relevant visa, a person's particular immigration status and a person's immigration position.

**Changes to legislation:**

There are currently no known outstanding effects for the The Sham Marriage and Civil Partnership (Scotland and Northern Ireland) (Administrative) Regulations 2015, PART 5.