

## SCHEDULES

### SCHEDULE 5

Regulation 84

#### Transitional and further saving provision

### PART 1

**1.** In this Schedule—

“the 1949 Act” means the Marriage Act 1949;

“the 1977 Act” means the Marriage (Scotland) Act 1977;

“the 2004 Act” means the Civil Partnership Act 2004;

“EEA Regulations 2016” means the Immigration (European Economic Area) Regulations 2016(1) as they had effect immediately before they were revoked;

“relevant national” has the meaning given in section 78 of the 1949 Act disregarding the amendments made by regulation 3 of these Regulations (amendment of the Marriage Act 1949: definition of relevant national).

#### **Transitional provision in relation to the immigration status of Irish citizens**

**2.—**(1) Sub-paragraph (2) applies in respect of an Irish citizen who—

(a) immediately before commencement day, was (or was treated as), subject to an exclusion order made under regulation 23(5) of the EEA Regulations 2016, or

(b) is subject to an exclusion order made under regulation 23(5) of the EEA Regulations 2016 as they are continued in effect by the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.

(2) Unless the Secretary of State directs otherwise, the Irish citizen is to be treated for the purposes of section 3ZA of the Immigration Act 1971 as a person to whom section 3ZA(3) applies.

#### **Transitional provision in relation to bans of matrimony in England and Wales**

**3.—**(1) Section 5(3)(a) of the 1949 Act does not apply in respect of a marriage to be solemnized between two parties who were both relevant nationals before 1st July 2021 where—

(a) bans of matrimony in respect of that marriage have been duly published on at least one Sunday before 1st July 202, or

(b) in a case not falling within paragraph (a), both parties have given notice of the marriage under [section 8](#) of the 1949 Act before 1st July 2021 together with the evidence required under subsection (1)(b) of that section.

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(1) [S.I. 2016/1052](#) amended by S.I.s [2017/1](#), [2017/1242](#), [2018/201](#), [2019/468](#) and [2019/745](#). The amendments made by [S.I. 2019/745](#) are not yet in force and are revoked by regulation 48 of these Regulations before they come into force. [S.I. 2016/1052](#) is revoked by section 1 of, and paragraph 2(2) of Schedule 1 to, the Act.

### **Transitional provision in relation to common licences for marriage in England and Wales**

4.—(1) Section 5(3)(b) of the 1949 Act does not apply in respect of a marriage to be solemnized between two persons who were both relevant nationals before 1st July 2021 where—

- (a) a common licence for the solemnization of the marriage was granted before 1st July 2021;
- (b) a relevant application for a common licence in respect of the marriage was received by the appropriate person, but not yet determined, by 1st July 2021, or
- (c) in a case not falling within paragraph (b), one of the persons has sworn the oaths required under [section 16\(1\)](#) of the 1949 Act before a person with authority to grant a common licence.

(2) In this paragraph—

“appropriate person” means—

- (a) a person having authority to grant a common licence, or
- (b) the office of the ecclesiastical judge out of which such a licence is to issue;

“common licence” has the same meaning as in the 1949 Act (see section 5);

“relevant application” means an application in writing (including by email) for a common licence including the evidence required by section 16(1C) of the 1949 Act.

### **Transitional provision in relation to notices of marriage**

5. The amendments made by regulation 3 of these Regulations (amendment of the Marriage Act 1949: definition of relevant national) do not apply in respect of parties to a proposed marriage where notice of the marriage is given before 1st July 2021—

- (a) by both parties under [section 27 of the 1949 Act](#);
- (b) by both parties in accordance with [section 37 of the 1949 Act](#) (where one party is resident in Scotland), or
- (c) by one party under section 27 and by the other party under [section 39 of the 1949 Act](#) (issue of certificates on board His Majesty’s ships).

6. The amendments made by regulation 7(3) of these Regulations (amendment of the Marriage (Scotland) Act 1977: definition of relevant national) do not apply in respect of parties to a proposed marriage where notice of the marriage is given before 1st July 2021—

- (a) by both parties under [section 3 of the 1977 Act](#), or
- (b) by one party under section 3 of the 1977 Act and by the other party under section 1 of the Marriage (Scotland) Act 1956.

7. The amendments made by regulation 14 of these Regulations (amendment of the Marriage (Northern Ireland) Order 2003: definition of relevant national) do not apply in respect of parties to a proposed marriage where notice of the marriage is given before 1st July 2021 by both parties under [article 3 of the Marriage \(Northern Ireland\) Order 2003](#).

8. The amendments made by regulation 15(3) of these Regulations (amendment of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004: procedure for marriage (England and Wales)) do not apply in relation to a marriage solemnized on or after 1st July 2021 where notice of the marriage is given before that date by both parties under [section 27 of the 1949 Act](#).

### **Transitional provision in relation to notices of civil partnership**

**9.**—(1) The amendments made by regulation 16(3) of these Regulations (amendment of the 2004 Act: definition of relevant national) do not apply in respect of parties to a proposed civil partnership where notice of the civil partnership is given before 1st July 2021—

- (a) by both parties under [section 8 of the 2004 Act](#), or
- (b) by one party under section 8 and by the other party under—
  - (i) [section 88 of that Act](#) in accordance with [section 97\(2\)](#) of that Act, or
  - (ii) article 14 of the [Civil Partnership \(Armed Forces\) Order 2005](#), or
- (c) by both parties under section 88 of the 2004 Act, or
- (d) by both parties under [section 139 of the 2004 Act](#).

(2) The amendments made by regulation 16(5) of these Regulations (amendment of the 2004 Act: procedure for giving notice of proposed civil partnership: England and Wales) do not apply in relation to a civil partnership formed on or after 1st July 2021 where notice of the civil partnership is given by both parties before that date under section 8 of the 2004 Act.

(3) For the purposes of this paragraph, references to notice given under section 8 include notice given in accordance with sections 18, 19 or 20 of the [2004 Act](#).

## **PART 2**

### **Saving in relation to section 2 of the 2020 Act**

**10.**—(1) The amendment of section 9(2) of the Immigration Act 1971 (further provisions about the common travel area) made by section 2(3) of the 2020 Act does not affect the operation in relation to an Irish citizen of any subordinate legislation which was made under section 9(2) of the Immigration Act 1971 before commencement day for the purposes of the implementation of Article 32(1)(b) of the withdrawal agreement, Article 31(1)(b) of the EEA EFTA separation agreement or Article 26a(1)(b) of the Swiss citizens’ rights agreement.

(2) In paragraph (1), “EEA EFTA separation agreement” and “Swiss citizens’ rights agreement” have the same meanings as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act).

### **Saving in relation to Schedule 1 to the 2020 Act**

**11.** The repeal by paragraphs 5 and 6 of Schedule 1 to the 2020 Act of the rights, powers, liabilities obligations, restrictions, remedies and procedures to which those paragraphs apply does not prevent those rights, powers, liabilities, obligations, restrictions, remedies and procedures being recognised and available in domestic law in respect of a time before commencement day.