

# IMMIGRATION ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 4: Marriage and Civil Partnership**

##### *Chapter 1: Referral and Investigation of Proposed Marriages and Civil Partnerships*

##### *Schedule 4: Referral of proposed marriages and civil partnerships in England and Wales*

#### **Part 2: Civil Partnership**

##### **Introduction**

277. *Paragraph 18* provides that the Civil Partnership Act 2004 is amended as follows.

##### **Supply of additional information and evidence**

278. *Paragraph 19* amends section 8 of the Civil Partnership Act 2004 to include in the declaration to be included with the notice of proposed civil partnership a statement that the proposed civil partner believes that all the information in the notice and the information and evidence supplied with it are true.

279. *Paragraph 20* inserts a new section 8A (additional information if party not relevant national) into the Civil Partnership Act 2004. Section 8A does not apply to a proposed civil partnership under Schedule 3 to the Civil Partnership Act 2004 (civil partnership between former spouses one of whom has changed sex). Where applicable, section 8A requires that, if either or both parties giving notice of a proposed civil partnership are not relevant nationals (British citizens, EEA nationals or Swiss nationals), they must declare that (i) they have the appropriate immigration status under section 49(2) (and, if so, what that is); (ii) they have a relevant visa under section 49(4) (and, if so, what that is); or (iii) they have neither the appropriate immigration status nor a relevant visa. Where either or both parties do not have the appropriate immigration status or a relevant visa, it also provides for the notice to be accompanied by a statement of their immigration position in the UK.

280. The new section 8A also requires that, where one or both parties has a relevant visa, both parties must provide specified photographs of themselves.

281. The new section 8A also requires, that where one or both parties declare that they have neither the appropriate immigration status nor a relevant visa, both parties must provide specified photographs of themselves; their usual address; if their usual address is outside the UK, an address in the UK at which they can be contacted by post; and information about any other names previously used, and any aliases previously or currently used.

282. *Paragraph 21* substitutes for section 9 (evidence) of the Civil Partnership Act 2004 a new section 9, new section 9A (additional evidence if party not relevant national), new

*These notes refer to the Immigration Act 2014 (c.22)  
which received Royal Assent on 14 May 2014*

section 9B (change of usual address or UK contact address), new section 9C (rejection of false information or evidence), new section 9D (amendment of notice and evidence provisions), new section 9E (specified evidence) and new section 9F (recording of information in the register: compliance with requirements).

283. The new section 9 (evidence) requires that a notice of proposed civil partnership under section 8 must be accompanied by evidence, specified in regulations made under the new section 9E, of the person's name and surname, date of birth, place of residence, nationality and whether the person has previously formed a civil partnership or been married and, if so, as to the ending of the civil partnership or marriage.
284. The new section 9A (additional evidence if party not relevant national) requires that, where either or both parties are not relevant nationals (British citizens, EEA nationals or Swiss nationals), a notice of proposed civil partnership under section 8 must be accompanied by evidence, specified in regulations made under the new section 9E, that they have the appropriate immigration status under section 49(2) or a relevant visa under section 49(4), if either is the case. Where the notice is not accompanied by this evidence, it requires the notice to be accompanied by specified photographs of both parties; their usual address and specified evidence of this; if their usual address is outside the UK, an address in the UK at which they can be contacted by post; and information about any other names previously used, and any aliases previously or currently used.
285. The new section 9B (change of usual address or UK contact address) requires that, once notice has been given, any change of usual address or UK contact address (where such an address has been provided), must be notified by the couple to the Secretary of State, according to regulations.
286. The new section 9C (rejection of false information or evidence) provides that a registration authority may reject any information, photograph or evidence provided in giving notice under section 8 where they have reasonable grounds for suspecting that the information, photograph or evidence is false. If any information, photograph or evidence is rejected, the registration authority may proceed as if it had not been provided.
287. The new section 9D (amendment of notice and evidence provisions) provides that, subject to consultation with the Registrar General, the Secretary of State may by order amend the information or evidence required to give notice of civil partnership under section 8.
288. The new section 9E (specified evidence) provides for the Registrar General to make regulations, with the approval of the Secretary of State, about specified evidence for the purpose of section 9. It also provides that, subject to consultation with the Registrar General, the Secretary of State may make regulations about specified evidence for the purposes of new section 9A. The regulations under this section may make provision for example for the kind of evidence to be supplied, the form in which it is to be supplied, and the manner in which it is to be supplied.
289. The new section 9F (recording of information in the register: compliance with requirements) instructs a registration authority not to enter information relating to a proposed civil partnership where various requirements imposed under the Civil Partnership Act 2004 (including, in particular, requirements inserted into that Act by this Act) have not been complied with.

### **Notice period**

290. *Paragraph 22* increases the notice period in section 11 of the Civil Partnership Act 2004 (meaning of the "waiting period") from 15 days to 28 days.
291. *Paragraph 23* requires, for a proposed civil partnership referred to the Secretary of State under section 12A, any application for a reduction in the notice period to be submitted to the Secretary of State and for the decision to be made by the Secretary of State and

notified to the applicant and the registration authority, in accordance with regulations made by the Secretary of State after consultation with the Registrar General.

### **Referral to Secretary of State**

292. *Paragraph 24* inserts a new section 12A (referral of proposed civil partnership to Secretary of State) into the Civil Partnership Act 2004. This requires the registration authority, when notice of proposed civil partnership is given under section 8, to decide whether both parties to the proposed civil partnership are exempt persons under section 49(1) (unless the civil partnership is one to which Schedule 3 to the Civil Partnership Act 2004 applies because it is between former spouses, one of whom has changed sex). Where the registration authority decides that one or both of the parties is not an exempt person, they must refer the proposed civil partnership to the Secretary of State. The registration authority must also refer the proposed civil partnership if one or both of the parties is not a British citizen, EEA national or Swiss national and evidence required under new section 9A(2) or (3) has not been provided. They must do so in accordance with regulations about the form, manner and timing of the referral (and the information to be included with it) made by the Secretary of State (after consulting the Registrar General). The registration authority must also notify the parties that the proposed civil partnership must be referred to the Secretary of State, what this means and how they must notify the Secretary of State of any change in usual or UK contact address.
293. *Paragraph 25* inserts Schedule 3A (modifications if proposed civil partnership referred under section 12A) after Schedule 3 to the Civil Partnership Act 2004. This provides that the duty under section 14(1) on a registration authority to issue a civil partnership schedule does not apply unless and until one of five events occurs. Event 1 occurs where the Secretary of State has given the registration authority notice under section 48(8) of a decision not to investigate; event 2 occurs where the statutory 28 day period has ended and the Secretary of State has not given the registration authority notice under section 48(8); event 3 occurs where the Secretary of State has given the registration authority notice under section 50(7) that the parties to the referred civil partnership have complied with the investigation; event 4 occurs where the 70 day period has ended and the Secretary of State has not given the registration authority notice under section 50(7); and event 5 occurs if the Secretary of State gives the registration authority notice that the duty under section 14(1) of the Civil Partnership Act 2004 applies.
294. *Paragraph 25* also extends the notice period to 70 days if the Secretary of State gives the registration authority notice under section 48(8) of a decision to investigate a referred civil partnership as a sham. Where a proposed civil partnership is referred to the Secretary of State, the statutory notice period (whether 28 or 70 days) can be shortened by the Secretary of State in exceptional circumstances, in which case the Secretary of State must notify the applicant and the registration authority of the reduced period, enabling the registration authority to issue a certificate in respect of the referred civil partnership under section 14(1) of the Civil Partnership Act 2004.

### **Civil partnership referred to Secretary of State: issue of civil partnership schedule**

295. *Paragraph 26* inserts a new section 14A (notice of proposed civil partnership: false information or evidence) in the Civil Partnership Act 2004.
296. The new section 14A provides that, where notice of a proposed civil partnership has been given under section 8, the registration authority may refuse to issue the civil partnership schedule where there are reasonable grounds for suspecting that an incorrect decision was made because false information or evidence was provided.

**Relevant nationals**

297. *Paragraph 27* amends section 30 of the Civil Partnership Act 2004 to insert a new section 30A (relevant nationals) which defines relevant national.

**Regulations and orders**

298. *Paragraph 28* amends section 36 of the Civil Partnership Act 2004 to provide for regulations and orders concerning civil partnerships made under the new provisions inserted by this Act to be made by the Secretary of State in consultation with the Registrar General and subject to the relevant affirmative or negative resolution procedure.

**Proof of certain matters not necessary to validity of civil partnership**

299. *Paragraph 29* amends section 52 (proof of certain matters not necessary to validity of civil partnership) of the Civil Partnership Act 2004 to include any of the five events listed in paragraph 2(2) to (6) of Schedule 3A (modification if proposed civil partnership referred under section 12A) of the Civil Partnership Act 2004.