

# IMMIGRATION ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

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

##### *Chapter 3: Other Provisions*

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

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

325. This section amends the 1949 Act.
326. *Subsection (2)* amends section 5 of the 1949 Act so that, where a couple wish to get married in the Anglican Church and one or both of them is not a relevant national (British citizen, EEA national or Swiss national), the banns process and the common licence process will not be available. In order to get married in the Anglican Church, they will have to obtain superintendent registrar's certificates (subject to the referral and investigation scheme where applicable), unless the provisions for the Archbishop of Canterbury's Special Licence or for Anglican preliminaries on board one of HM ships at sea apply.
327. *Subsections (3) and (4)* amend sections 8 and 16 of the 1949 Act so that, where a couple wish to get married in the Anglican Church following the publication of banns, or following the issue of a common licence, they will have to provide the minister (in the case of banns), or the person granting the common licence, with specified evidence that they are British citizens, EEA nationals or Swiss nationals.

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

328. *Subsection (1)* provides that section 19 of the 2004 Act (procedure for marriage in England and Wales) is amended in accordance with *subsection (2)* and *subsection (3)*.
329. *Subsection (2)* substitutes for section 19(1) of the 2004 Act new subsections 19(1), (1A) and (1B). These provide that the requirement in section 19 to give notice of marriage at a designated register office applies to both parties to a proposed marriage where either of them is not a British citizen, EEA national or Swiss national, unless that non-EEA national is exempt from immigration control (and the notice of marriage is accompanied by specified evidence of this).
330. *Subsection (3)* defines particular terms used in the amended section 19.
331. *Subsection (4)* provides that Schedule 23 to the Civil Partnership Act 2004 (immigration control and formation of civil partnerships) is amended in accordance with subsections (5) to (9).
332. *Subsection (5) and (6)*, together with the consequential amendments in *subsections (7), (8) and (9)*, provide that the requirement in Part 1 of Schedule 23 to give notice of civil

partnership at a designated register office applies to both parties to a proposed civil partnership where either of them is not a British citizen, EEA national or Swiss national or exempt from immigration control (and the notice of civil partnership is accompanied by specified evidence of this).

### ***Section 59: Information***

333. This section gives effect to Schedule 6 (information).

### ***Schedule 6: Information***

#### **Part 1: Disclosure of information etc where proposed marriage or civil partnership referred to Secretary of State**

334. *Paragraph 1(1)* provides that the paragraph applies if a superintendent registrar refers a proposed marriage to the Secretary of State under section 28H of the 1949 Act, or a registration authority refers a proposed civil partnership to the Secretary of State under section 12A of the Civil Partnership Act 2004.

335. *Paragraph 1(2)* allows the Secretary of State to disclose relevant information, including supplying a document containing relevant information, to a registration official.

336. *Paragraph 1(3)* defines the meaning of “relevant information” to include the fact that a proposed marriage or civil partnership has been referred; the names of the parties to the proposed marriage or civil partnership; any information included with the referral in accordance with regulations under section 28H of the 1949 Act or section 12A of the Civil Partnership Act 2004; the address of any party notified to the Secretary of State in accordance with the regulations; details of any immigration enforcement action taken by the Secretary of State in respect of a party to the proposed marriage or civil partnership; and details of any immigration decision taken by reference to the marriage or civil partnership.

#### **Part 2: Disclosure of information etc for immigration purposes etc**

##### **Disclosures by registration officials**

337. *Paragraph 2(1)* allows a registration official to disclose any information or supply any document held to the Secretary of State or to another registration official for a purpose defined in sub-paragraph (2).

338. *Paragraph 2(2)* provides for information to be disclosed for (a) immigration purposes and (b) purposes connected to the referral of proposed marriage and civil partnership notices.

339. *Paragraph 2(3)* defines “immigration purposes” for the purpose of this paragraph.

340. *Paragraph 3* allows a registration official to disclose to another registration official that a suspicion about a marriage or civil partnership has been reported to the Secretary of State under section 24 or 24A of the 1999 Act and the content of that report.

##### **Disclosures by the Secretary of State**

341. *Paragraph 4(1)* allows the Secretary of State to disclose any information or supply any document to a registration official for a specified verification purpose defined in sub-paragraph (2).

342. *Paragraph 4(2)* defines specified “verification purposes” used in this paragraph, including the verification of information provided by a person giving notice of marriage or civil partnership; and the verification of the immigration status, and any suspected or actual involvement in immigration offences, of people who contact the registration service in connection with the exercise of a registration function.

343. *Paragraph 4(3)* defines “relevant official” in this paragraph.

### **Part 3: Disclosure of information etc for prevention of crime etc**

344. *Paragraph 5(1)* allows a registration official to disclose any information or supply any information to an eligible person or another registration official in England and Wales for the purpose of crime-fighting.

345. *Paragraph 5(2)* provides for information to be disclosed for crime-fighting purposes if the conditions set out in sub-paragraphs (3) (Condition A) and (4) (Condition B) are met.

346. *Paragraph 5(3)* provides that Condition A is met if the registration official has reasonable grounds for suspecting that a criminal offence has been, is being, or will be committed.

347. *Paragraph 5(4)* provides that Condition B is met if the registration official discloses the information or supplies the document for the purpose of verification of information supplied to another registration official or assisting in the prosecution, investigation, detection or prevention of a criminal offence.

348. *Paragraph 5(5)* defines “eligible person” in this paragraph.

### **Part 4: General Provisions**

#### **Limitations on powers**

349. *Paragraph 6* limits powers under this Schedule and provides that this Schedule does not authorise (a) a disclosure in contravention of the Data Protection Act 1998 of personal data not exempt from those provisions or (b) a disclosure prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.

#### **No breach of confidentiality etc**

350. *Paragraph 7* provides for disclosure of information authorised by this Schedule not to breach obligations of confidence or restrictions on the disclosure of information.

#### **Retention, copying and disposal of documents**

351. *Paragraph 8* permits a person who is supplied with a document under this Schedule to retain it, copy it or dispose of it in an appropriate manner.

#### **Saving for existing powers**

352. *Paragraph 9* provides for no limit to be made on any other power to disclose information or supply documents.

#### **Meaning of “registration official”**

353. *Paragraph 10* defines “registration official.”

### **Section 60: Regulations about evidence**

354. *Subsection (1)* provides a power for the Secretary of State to make regulations about evidence relevant to the determination, for the purposes of Part 4, of whether a person is a relevant national under section 49(1), whether a person has the appropriate immigration status under section 49(2), and whether a person has a relevant visa under section 49(4).

355. *Subsection (2)* contains a non-exhaustive list of the types of provision that may be included in the regulations. This includes for example provision about the kind of

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

evidence which is to be supplied, the form in which evidence is to be supplied, and the manner in which evidence is to be supplied.

356. *Subsection (3)* requires the Secretary of State to consult the Registrar General before making any regulations under this section.

357. *Subsection (4)* provides that in this section evidence includes a photograph or other image.

***Section 61: Notices***

358. *Subsection (1)* provides a power for the Secretary of State to make regulations about the giving of notices under Part 4 and under the amendments made to the 1949 Act and the Civil Partnership Act 2004.

359. *Subsection (2)* provides that such regulations may in particular make provision about the circumstances in which notice is to be presumed to have been received by the person to whom it is given.

360. *Subsection (3)* requires the Secretary of State to consult the Registrar General before making any regulations under this section.

***Section 62: Interpretation of this Part***

361. *Subsection (1)* defines particular expressions used in Part 4.

362. *Subsections (2) to (5)* make provision about the interpretation of terms in Part 4.