

SCHEDULES

SCHEDULE 4

REFERRAL OF PROPOSED MARRIAGES AND CIVIL PARTNERSHIPS IN ENGLAND AND WALES

PART 1

MARRIAGE

Introduction

- 1 The Marriage Act 1949 is amended in accordance with this Part of this Schedule.

Supply of additional information and evidence

- 2 (1) Section 27 (notice of marriage) is amended in accordance with this paragraph.
(2) In subsection (3), after “surname,” insert “the date of birth,”.
(3) In subsection (4), for “27A” substitute “27ZA”.
- 3 (1) After section 27 insert—

“27ZA Entry of particulars in notice book: compliance with requirements

The superintendent registrar shall not enter the particulars relating to a marriage in the marriage notice book in accordance with section 27(4), or in an approved electronic form by virtue of section 27(4A), in a case where any of the following requirements is applicable but is not complied with—

- (a) a requirement imposed by or under any of the following provisions of this Act—
section 27A(2) or (3);
section 27A(4);
section 27B(2);
section 27E(3) to (7);
section 27E(8);
section 28B(1);
section 28C(4) or (6);
- (b) the requirement imposed by section 19(2) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004.”.
- (2) Omit section 27A(5).
- 4 After section 27D insert—

Status: This is the original version (as it was originally enacted).

“27E Additional information if party not relevant national

- (1) This section applies to notice of marriage given to a superintendent registrar in accordance with section 27 if one, or each, of the parties to the proposed marriage is not a relevant national.
- (2) But this section does not apply if section 39A applies to the proposed marriage.
- (3) For each party to the proposed marriage who is not a relevant national, the notice must include whichever of statements A, B or C is applicable to that person.
- (4) Statement A is a statement that the person has the appropriate immigration status.
- (5) Statement B is a statement that the person holds a relevant visa in respect of the proposed marriage.
- (6) Statement C is a statement that the person neither—
 - (a) has the appropriate immigration status, nor
 - (b) holds a relevant visa in respect of the proposed marriage.
- (7) If the notice contains the statement referred to in the first column of an entry in this table, the notice must be accompanied by the information and photographs referred to in the second column of that entry (insofar as that entry is applicable to the parties to the proposed marriage)—

<i>If the notice includes this statement...</i>	<i>...the notice must be accompanied by...</i>
Statement A (in respect of one or both of the parties to the proposed marriage)	For each party in respect of whom statement A is made, details of the particular immigration status which that party has
Statement B (in respect of one or both of the parties to the proposed marriage)	<ol style="list-style-type: none"> 1. For each party, a specified photograph of that party 2. For each party in respect of whom statement B is made, details of the relevant visa which that party has
Statement C (in respect of one or both of the parties to the proposed marriage)	<ol style="list-style-type: none"> 1. For each party, a specified photograph of that party 2. For each party, the usual address of that party 3. For each party whose usual address is outside the United Kingdom, an address in the United Kingdom at which that party can be contacted by post 4. For each party who has previously used any name or names other than the person’s name stated in the notice in accordance with

<i>If the notice includes this statement...</i>	<i>...the notice must be accompanied by...</i>
	<p>section 27(3), a statement of the other name or names</p> <p>5. For each party who currently uses, or has previously used, an alias or aliases, a statement of the alias or aliases</p>

(8) If the notice contains more than one of statements A, B and C, subsection (7) must be complied with in relation to each of those statements; but where the notice contains statements B and C, subsection (7) does not require the notice to be accompanied by more than one specified photograph of each party.

(9) If the notice includes statement C for a party to the proposed marriage—

- (a) the notice may be accompanied by a statement (“statement D”) of that person’s immigration position in the United Kingdom;
- (b) if the notice is accompanied by statement D for a party to the proposed marriage, the person may provide the superintendent registrar with details of his or her immigration position in the United Kingdom; and
- (c) if any such details are provided, the superintendent registrar must record them.

(10) In this section—

- (a) a reference—
 - (i) to a person having the appropriate immigration status, or
 - (ii) to a person holding a relevant visa,
 has the same meaning as in section 49 of the Immigration Act 2014;
- (b) a reference to the particular immigration status which a person has is a reference to the immigration status set out in any of paragraphs (a) to (c) of section 49(2) of that Act which the person has;
- (c) a reference to a person’s immigration position in the United Kingdom includes a reference to the person’s not being entitled to be in the United Kingdom.

(11) In this section “specified photograph” means a photograph that is in accordance with regulations made under section 28G (and for this purpose “photograph” includes other kinds of images).”

5 In section 28 (declaration to accompany notice of marriage), in subsection (1), after paragraph (c) insert—

“(d) that he or she believes all of the information stated in the notice, and all information and evidence supplied with the notice, is true.”

6 (1) Section 28A (power to require evidence) is amended in accordance with this paragraph.

(2) For the title substitute “**Power to require evidence of consent to marriages of same sex couples**”.

(3) Omit subsection (1).

(4) In subsection (2), for the words before “may” substitute “A requirement under subsection (1A)”.

- (5) Omit subsection (3).
- 7 After section 28A insert—

“28B Provision of evidence

- (1) A notice of marriage under section 27 must, in relation to each of the parties to the marriage, be accompanied by specified evidence of the following matters—
 - (a) the person’s name and surname;
 - (b) the person’s date of birth;
 - (c) the person’s place of residence;
 - (d) the person’s nationality.
- (2) A person giving a notice of marriage under section 27 must provide the superintendent registrar to whom the notice is given with specified evidence—
 - (a) as to whether the person has previously been married or formed a civil partnership; and
 - (b) if so, as to the ending of the marriage or civil partnership.
- (3) In this section “specified evidence” means evidence that is in accordance with regulations made under section 28G.

28C Additional evidence if party not relevant national

- (1) This section applies to notice of marriage given to a superintendent registrar in accordance with section 27 if one, or each, of the parties to the proposed marriage is not a relevant national.
- (2) If the notice includes statement A (referred to in section 27E(4)), and accordingly is accompanied by details of the particular immigration status which a party to the proposed marriage has, the notice must be accompanied by specified evidence of that status.
- (3) If the notice includes statement B (referred to in section 27E(5)), the notice must be accompanied by specified evidence of the holding of the relevant visa by the party to the proposed marriage.
- (4) If, in accordance with section 27E(7), the notice is accompanied by the usual address of a party to the proposed marriage, the notice must also be accompanied by specified evidence that it is that party’s usual address.
- (5) If the notice includes statement D (referred to in section 27E(9)), the notice may be accompanied by evidence of the person’s immigration position in the United Kingdom.
- (6) If subsection (2) or (3) applies to the notice, and the notice is not accompanied by the specified evidence required by that subsection, the notice must be accompanied by—
 - (a) photographs and addresses of the kinds referred to in paragraphs 1 and 2 in the relevant entry in section 27E(7);

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- (b) as respects the usual address of each party that is provided in accordance with paragraph (a), specified evidence that the address provided is that party's usual address; and
- (c) addresses, names and aliases of the kinds referred to in paragraphs 3 to 5 in the relevant entry in section 27E(7) (insofar as those paragraphs are applicable to the parties to the proposed marriage).

(7) In this section—

“relevant entry in section 27E(7)” means the second column of the last entry in the table in section 27E(7);

“specified evidence” means evidence that is in accordance with regulations made under section 28G.

28D Change of usual address or UK contact address

(1) The Secretary of State may, by regulations, make provision about the giving to the Secretary of State of—

- (a) notice of a person's usual address, if the person's notified usual address changes;
- (b) notice of a UK contact address, if the person's notified usual address is not in the United Kingdom;
- (c) notice of a person's UK contact address, if the person's notified UK contact address changes;
- (d) evidence of any address notified in accordance with regulations under paragraph (a), (b) or (c).

(2) The provision that may be made in regulations under this section includes—

- (a) provision imposing a requirement on a person;
- (b) provision about the rejection of information or evidence which there are reasonable grounds to suspect to be false.

(3) Regulations under subsection (1)(d) may, in particular, make any provision of the kind that may be made under section 28G(3).

(4) Regulations under this section are to be made by statutory instrument; and a statutory instrument containing such regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this section—

“notified UK contact address” means an address in the United Kingdom, at which a person can be contacted by post, that has been notified in accordance with—

- (a) section 27E(7) or 28C(6), or
- (b) regulations under this section;

“notified usual address” means the usual address of a person that has been notified in accordance with—

- (a) section 27E(7) or 28C(6), or
- (b) regulations under this section.

28E Rejection of false information or evidence

(1) A superintendent registrar may reject—

Status: This is the original version (as it was originally enacted).

- (a) any information or photograph provided under section 27, 27E or 28C, or
 - (b) any evidence provided under section 28A, 28B or 28C,
- if (in particular) the superintendent registrar has reasonable grounds for suspecting that the information, photograph or evidence is false.
- (2) If the superintendent registrar rejects any information, photograph or evidence, the superintendent registrar may proceed under this Act as if the rejected information, photograph or evidence had not been provided.
 - (3) This section does not limit the powers of superintendent registrars to reject anything provided under any other enactment.

28F Amendment of notice and evidence provisions

- (1) The Secretary of State may by order—
 - (a) amend section 27, 27E or 28C so as to vary the information that must or may be given in cases where that section applies;
 - (b) amend section 28B or 28C so as to vary the matters in respect of which evidence must or may be given in cases where that section applies;
 - (c) make such provision (including provision amending section 27ZA, 28D or 28G or any other enactment) as the Secretary of State considers appropriate in consequence of provision made under paragraph (a) or (b).
- (2) The Secretary of State must consult the Registrar General before making an order under this section.
- (3) An order under this section is to be made by statutory instrument; and no statutory instrument containing such an order may be made unless a draft of it has been laid before, and approved by resolution of, each House of Parliament.

28G Specified evidence

- (1) The Registrar General may make regulations about the evidence that is required to be given for the purposes of section 8, 16 or 28B.
- (2) The Secretary of State may make regulations about the evidence that is required to be given for the purposes of section 28C.
- (3) Regulations under this section may, in particular, make provision about—
 - (a) the kind of evidence which is to be supplied;
 - (b) the form in which evidence is to be supplied;
 - (c) the manner in which evidence is to be supplied;
 - (d) the period within which evidence is to be supplied;
 - (e) the supply of further evidence;
 - (f) the sufficiency of evidence supplied;
 - (g) the consequences of failing to supply sufficient evidence in accordance with the regulations (including provision to secure that, in such a case, a particular decision is made or is to be treated as having been made);

- (h) the retention or copying of evidence supplied.
- (4) In this section “evidence” includes a photograph or other image.
- (5) The Secretary of State must consult the Registrar General before making regulations under this section.
- (6) The Registrar General must obtain the approval of the Secretary of State before making regulations under this section.
- (7) Regulations under this section are to be made by statutory instrument.
- (8) A statutory instrument containing regulations under this section made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.”.

Referral to Secretary of State

8 After section 28G insert—

“28H Referral of proposed marriage to Secretary of State

- (1) On every occasion when notice of marriage is given under section 27, a superintendent registrar must decide whether or not each of the parties to the proposed marriage is an exempt person.
- (2) But this section does not apply if section 39A applies to the proposed marriage.
- (3) In making a decision under subsection (1) about a party to a proposed marriage, a superintendent registrar may rely on any advice given in relation to that decision by the Secretary of State.
- (4) In a case where—
 - (a) section 27E applies to the notice of marriage, and
 - (b) specified evidence required by section 28C(2) or (3) in relation to a party to the proposed marriage is not produced in accordance with that section,
 the superintendent registrar must decide that that party to the proposed marriage is not an exempt person.
- (5) If the superintendent registrar decides that either of the parties is not an exempt person, or that both of the parties are not exempt persons, the superintendent registrar must—
 - (a) refer the proposed marriage to the Secretary of State;
 - (b) notify the parties to the proposed marriage that the proposed marriage must be referred to the Secretary of State;
 - (c) give the parties to the proposed marriage prescribed information about—
 - (i) the effects of the referral;
 - (ii) the requirement under regulations under section 28D to notify the Secretary of State of changes of address.

Status: This is the original version (as it was originally enacted).

- (6) The superintendent registrar must act in accordance with regulations when complying with the duty in subsection (5)(a) to refer a proposed marriage to the Secretary of State.
- (7) Regulations may, in particular, make provision about—
 - (a) the form, manner or timing of the referral of a proposed marriage;
 - (b) information, photographs or evidence — or copies of any of those things — to be included with the referral of a proposed marriage.
- (8) Regulations are to be made by statutory instrument; and a statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) If the superintendent registrar refers the proposed marriage to the Secretary of State, this Act has effect in relation to the proposed marriage subject to the modifications in Schedule 3A.
- (10) In this section—
 - (a) a reference to a person being an exempt person has the same meaning as in section 49 of the Immigration Act 2014;
 - (b) “prescribed information” means information prescribed in regulations;
 - (c) “regulations” means regulations made by the Secretary of State after consulting the Registrar General.”.

9 Before Schedule 4 insert—

“SCHEDULE
3A

MODIFICATIONS IF PROPOSED MARRIAGE REFERRED UNDER SECTION 28H

Introduction

- 1 (1) These are the modifications subject to which this Act has effect if the superintendent registrar refers a proposed marriage to the Secretary of State.
- (2) In this Schedule—
 - “2014 Act” means the Immigration Act 2014;
 - “referred marriage” means the proposed marriage referred to the Secretary of State.

No certificate to be issued until decision about investigation etc

- 2 (1) The duty under section 31(2) to issue a certificate in respect of the referred marriage does not apply unless and until one of the following events occurs.
- (2) Event 1 occurs if—
 - (a) the Secretary of State gives the superintendent registrar the section 48 notice, and

- (b) that notice is of a decision not to investigate whether the referred marriage is a sham.
- (3) Event 2 occurs if—
- (a) the relevant statutory period ends, and
 - (b) the Secretary of State has not given the superintendent registrar the section 48 notice.
- (4) Event 3 occurs if—
- (a) the Secretary of State gives the superintendent registrar the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred marriage is a sham,
 - (c) the Secretary of State gives the superintendent registrar the section 50 notice, and
 - (d) that notice is of a decision that both of the parties to the referred marriage have complied with the investigation.
- (5) Event 4 occurs if—
- (a) the 70 day period ends, and
 - (b) the Secretary of State has not given the superintendent registrar the section 50 notice.
- (6) Event 5 occurs if the Secretary of State gives the superintendent registrar notice that the duty under section 31(2) is applicable.
- (7) The Secretary of State may give a notice for that purpose only if—
- (a) the Secretary of State has given the superintendent registrar the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred marriage is a sham,
 - (c) the Secretary of State has given the superintendent registrar the section 50 notice, and
 - (d) that notice is of a decision that one or both of the parties to the referred marriage have not complied with the investigation.
- (8) This paragraph applies in addition to any other requirements applicable to the issue of the certificate.
- (9) This paragraph is subject to paragraph 4.
- (10) In this paragraph—
- “70 day period” has the same meaning as in section 50 of the 2014 Act;
 - “relevant statutory period” has the same meaning as in section 48 of the 2014 Act;
 - “section 48 notice” means notice under section 48(7) of the 2014 Act;
 - “section 50 notice” means notice under section 50(7) of the 2014 Act.

Marriage to be investigated: extension of waiting period to 70 days

- 3
- (1) The modifications in this paragraph have effect if the Secretary of State gives the superintendent registrar notice under section 48(7) of the 2014 Act of a decision to investigate whether the referred marriage is a sham.
 - (2) Section 31(2): the reference to the said period of 28 days has effect as a reference to the relevant 70 day period.
 - (3) Section 31(4A)(a): the reference to the period of 28 days has effect as a reference to the relevant 70 day period.
 - (4) Section 31(5A) and (5C): the reference to the 28 day period has effect as a reference to the relevant 70 day period.
 - (5) Section 31(5B) does not apply.
 - (6) Section 75(3)(a): the reference to 28 days has effect as a reference to 70 days (and the reference in section 31(5C) to 28 days has effect accordingly).
 - (7) In this paragraph “relevant 70 day period” means the period—
 - (a) beginning the day after notice of the proposed marriage is entered in the marriage book in accordance with Part 3 of the Marriage Act 1949, or is entered in an approved electronic form by virtue of section 27(4A) of that Act, and
 - (b) ending at the end of the period of 70 days beginning with that day.

Effect of reducing statutory period

- 4
- (1) This paragraph applies if—
 - (a) the Secretary of State gives notice under section 31(5EB) of the grant of an application made under section 31(5A) (reduction of statutory period) in relation to the referred marriage, and
 - (b) that notice is given at a time when the duty under section 31(2) to issue a certificate in respect of the referred marriage has not arisen in accordance with paragraph 2.
 - (2) The duty under subsection 31(2) to issue a certificate in respect of the referred marriage arises on the giving of the notice, subject to any other requirements applicable to the issue of the certificate being met.
 - (3) But the requirements of paragraph 2 are not applicable in such a case.
 - (4) The Secretary of State is not prevented from deciding to conduct, conducting, or continuing, an investigation if a certificate in respect of the referred marriage is issued as mentioned in sub-paragraph (2).
 - (5) But in such a case, nothing in the 2014 Act requires the Secretary of State to decide whether to conduct, to conduct, or to continue, an investigation.
 - (6) In this paragraph “investigation” means an investigation, conducted following a decision by the Secretary of State under section 48 of the 2014 Act, whether a proposed marriage is a sham.”.

Notice period

- 10 (1) Section 31 (marriage under certificate without licence) is amended in accordance with this paragraph.
- (2) In section 31—
- (a) for “15 successive days” (in each place) substitute “28 successive days”;
 - (b) for “15 days” (in each place) substitute “28 days”;
 - (c) for “15 day period” (in each place) substitute “28 day period”.
- (3) After subsection (5E) insert—
- “(5EA) If a proposed marriage is referred to the Secretary of State under section 28H—
- (a) any application under subsection (5A) is to be made to the Secretary of State; and
 - (b) the power conferred by subsection (5A) is exercisable by the Secretary of State;
- and the reference to the Registrar General in subsection (5C) accordingly has effect as a reference to the Secretary of State.
- (5EB) If the Secretary of State grants an application made under subsection (5A), the Secretary of State must give notice of the grant of the application to the applicant and to the superintendent registrar to whom notice of the marriage was given.
- (5EC) Regulations under subsection (5D) do not apply to applications made to the Secretary of State in accordance with subsection (5EA).
- (5ED) The Secretary of State may by regulations make provision with respect to the making, and granting, of applications made in accordance with subsection (5EA).
- (5EE) The Secretary of State must consult the Registrar General before making regulations under subsection (5ED).”.
- (4) In subsection (5H), after “(5D)” insert “or (5ED)”.

Marriage referred to Secretary of State: issue of certificates

- 11 (1) In section 31 (marriage under certificate without licence), at the end insert—
- “(7) This section has effect subject to section 31ZA.”.
- (2) After section 31 insert—

“31ZA Notice of marriage: false information or evidence

- (1) A superintendent registrar may refuse to issue a certificate under section 31(2) in a case where—
- (a) notice of marriage has been given under section 27, and
 - (b) a superintendent registrar has reasonable grounds for suspecting that a relevant decision was made incorrectly because of the provision of false information or evidence.

Status: This is the original version (as it was originally enacted).

- (2) If the superintendent registrar refuses to issue the certificate, the parties to the proposed marriage are to be taken not to have given notice under section 27; but that does not prevent criminal proceedings from being brought against either party, or any other person, in relation to the giving of the notice.
- (3) This section does not limit the powers of superintendent registrars to refuse to issue certificates under section 31 in respect of marriages.
- (4) In this section—
 - “evidence” includes a photograph or other image;
 - “exempt person” has the same meaning as in section 28H;
 - “relevant decision” means a decision of a superintendent registrar that a party to a proposed marriage is an exempt person.”
- (3) In section 31A (appeal on refusal under section 31(2)(a))—
 - (a) in the title, at the end insert “**or 31ZA**”;
 - (b) in subsection (1), after “31(2)(a)” insert “or 31ZA”;
 - (c) after subsection (2) insert—
 - “(2A) In a case where—
 - (a) in reliance on section 31ZA, a superintendent registrar refuses to issue a certificate, and
 - (b) on an appeal against the refusal, the Registrar General directs that a certificate be issued,
 section 31ZA(2) is of no effect — and is to be taken to have never had any effect — in relation to the parties’ giving of notice under section 27.”;
 - (d) after subsection (3) insert—
 - “(3A) If—
 - (a) relying on section 31ZA, a superintendent registrar refuses to issue a certificate, and
 - (b) on an appeal against the refusal, the Registrar General declares the appeal to have been frivolous,
 the person making the appeal is liable for the costs of the proceedings before the Registrar General.”;
 - (e) in subsection (4)—
 - (i) for “such costs and damages” substitute “costs and damages in accordance with subsection (3) or (3A)”;
 - (ii) at the end insert “(in the case of subsection (3)) or evidence that the Registrar General has declared the appeal to have been frivolous (in the case of subsection (3A))”.

Certificates

- 12 (1) Section 35 (marriage in registration district in which neither party resides) is amended in accordance with sub-paragraphs (2) and (3).
- (2) After subsection (3) insert—
 - “(3A) In a case where one or both of the persons to be married (“the couple”) are not relevant nationals, a superintendent registrar may issue a certificate

for the solemnization of a marriage in a qualifying church or chapel, notwithstanding that it is not within a registration district in which either of the couple resides.

(3B) In subsection (3A) “qualifying church or chapel” means a church or chapel which is not the usual place of worship of the couple but in which it would be possible—

- (a) (if section 5(3)(a) were disregarded) for the marriage of the couple to be solemnized in accordance with section 5(1)(a) (marriage after publication of banns), or
- (b) (if section 5(3)(b) were disregarded) for the marriage of the couple to be solemnized in accordance with section 5(1)(c) (marriage on authority of common licence).”.

(3) After subsection (5) insert—

“(6) Where a marriage is intended to be solemnized on the authority of certificates of a superintendent registrar issued under subsection (3A), each notice of marriage given to the superintendent registrar and each certificate issued by the superintendent registrar shall state, in addition to the description of the church or chapel in which the marriage is to be solemnized, that it would be possible for the marriage of the couple to be solemnized in that church or chapel after the publication of banns or on the authority of a common licence (if section 5(3) were disregarded).”.

(4) Omit section 38.

One party resident in Scotland

13 In section 37 (one party resident in Scotland), in subsection (1)(b), for the words from “with” to “Act” (in the first place) substitute “with section 27 and the other provisions of this Act”.

Proof of certain matters not necessary to validity of marriages

14 In section 48 (proof of certain matters not necessary to validity of marriages), in subsection (1)—

- (a) omit the word “or” at the end of paragraph (e) (inserted by paragraph 14(c) of Schedule 7 to the Marriage (Same Sex Couples) Act 2013);
- (b) at the end of paragraph (ea) (inserted by that provision of the Marriage (Same Sex Couples) Act 2013) insert “or
 - (eb) that, in the case of a marriage to which Schedule 3A applied, any of the events listed in paragraph 2(2) to (6) of that Schedule occurred.”.

Regulations etc

15 In section 74 (regulations), after subsection (2) insert—

“(3) Any order or regulations made under this Act may make different provision for different cases.”.

Offences

- 16 In section 75 (offences relating to solemnization of marriages), in subsection (3)(a), for “15 days” substitute “28 days”.

Relevant nationals

- 17 In section 78 (interpretation of the 1949 Act), in subsection (1), after the definition of “registration district” insert—
- ““relevant national” means—
- (a) a British citizen,
 - (b) a national of an EEA State other than the United Kingdom, or
 - (c) a national of Switzerland;”.