

**2015 No. 371 (C. 18)**

**IMMIGRATION**

**The Immigration Act 2014 (Commencement No. 4, Transitional and Saving Provisions and Amendment) Order 2015**

*Made* - - - -

*25th February 2015*

The Secretary of State, in exercise of the powers conferred by sections 73(1) and 75(3) of the Immigration Act 2014(a), makes the following Order:

**PART 1**

**Introduction and days appointed**

**Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as the Immigration Act 2014 (Commencement No. 4, Transitional and Saving Provisions and Amendment) Order 2015.

(2) Article 7 comes into force on 2nd March 2015.

(3) Articles 8 and 9 come into force on 6th April 2015.

(4) In this Order—

“the Act” means the Immigration Act 2014;

“the Commencement Order” means the Immigration Act 2014 (Commencement No. 3, Transitional and Saving Provisions) Order 2014(b).

**Provisions relating to marriage and civil partnership coming into force on 1st and 2nd March 2015**

**2.**—(1) The day appointed for the coming into force of the following provisions of the Act is 1st March 2015—

(a) section 48 (decision whether to investigate)(c);

(b) section 49 (exempt persons), for all remaining purposes;

(c) section 50 (conduct of investigation), for all remaining purposes(d);

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(a) 2014 c. 22.

(b) S.I. 2014/2771.

(c) Subject to Parliamentary approval, section 48 of the Immigration Act 2014 will be amended with effect from 1st March 2015 by the Referral and Investigation of Proposed Marriages and Civil Partnerships (Northern Ireland) Order 2015 (“Northern Ireland Order”) and the Referral and Investigation of Proposed Marriages and Civil Partnerships (Scotland) Order 2015 (“Scotland Order”).

(d) Subject to Parliamentary approval, section 50(11) will be amended by the Northern Ireland Order and the Scotland Order.

- (d) section 51 (investigations: supplementary), for all remaining purposes;
- (e) section 52 (referral of proposed marriages and civil partnerships in England and Wales), for all remaining purposes;
- (f) Schedule 4 (referral of proposed marriages and civil partnerships in England and Wales), for all remaining purposes;
- (g) section 53 (extension of scheme to Scotland and Northern Ireland), for all remaining purposes;
- (h) subsections (1) and (8) of section 54 (provision supplementing section 53), for all remaining purposes;
- (i) section 55 (meaning of “sham marriage” and “sham civil partnership”);
- (j) section 58 (requirement as to giving of notice of marriage or civil partnership);
- (k) section 73(6) (transitional and consequential provision) so far as necessary for the purpose of sub-paragraph (l);
- (l) paragraph 66 of Schedule 9 (transitional provision relating to marriage and civil partnership).

(2) The day appointed for the coming into force of section 57 of the Act (solemnization of marriage according to rites of Church of England) is 2nd March 2015.

**Other provisions coming into force on 1st March 2015**

**3.** The day appointed for the coming into force of the following provisions of the Act is 1st March 2015—

- (a) section 73(6) (transitional and consequential provision) so far as necessary for the purpose of sub-paragraph (b);
- (b) paragraph 19 of Schedule 9 (power to require provision of physical data with certain immigration applications).

**Provisions coming into force on 6th April 2015**

**4.** The day appointed for the coming into force of the following provisions of the Act is 6th April 2015—

- (a) section 18 (review of certain deportation decisions by Special Immigration Appeals Commission);
- (b) section 65 (persons unable to acquire citizenship: natural father not married to mother).

**PART 2**

**Transitional and saving provisions**

**Marriage and civil partnership: transitional provisions**

**5.—(1)** Notwithstanding the commencement of section 57 of the Act—

- (a) section 5(3) of the 1949 Act<sup>(a)</sup> (methods of authorising marriages) does not apply to a person to whom paragraph (2) or (3) applies,
- (b) subsections (1C) and (1D) of section 16 of the 1949 Act<sup>(b)</sup> (provisions as to common licences) do not apply to a person to whom paragraph (3) applies.

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(a) 1949 c. 76; section 5(3) is inserted by section 57 of the Immigration Act 2014. There are other amendments to section 5 but they are not relevant to this Order.

(b) Subsections (1C) and (1D) are also inserted by section 57 of the Immigration Act 2014. There are other amendments to section 16 but they are not relevant to this Order.

(2) This paragraph applies to a person to be married who was granted a common licence on or before 1st March 2015 in respect of that marriage.

(3) This paragraph applies to a person to be married who made an application in writing (including by email) for a common licence in respect of that marriage which was received on or before 1st March 2015 by—

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

(4) In this article—

“1949 Act” means the Marriage Act 1949,

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

**6.** The amendments made by section 58 of the Act apply only to proposed marriages and civil partnerships in respect of which notice under section 27 of the Marriage Act 1949 or under section 8 of the Civil Partnership Act 2004(a) is given on or after 2nd March 2015.

## PART 3

### Amendment of the Commencement Order and revocation of the Immigration Act 2014 (Transitional and Saving Provisions) Order 2014

#### **Amendments coming into force on 2nd March 2015**

**7.**—(1) The Commencement Order is amended as follows.

(2) In article 9, for “11” (in the first place it occurs) substitute “11(1) and (1A)”.

(3) After article 11(1) insert—

“(1A) The persons referred to in article 9 are a person (“P3”) who makes an application on or after 2nd March 2015 for leave to remain—

- (a) as a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 Migrant;
- (b) as the partner of a Tier 1 Migrant or (as the case may be) Tier 2 Migrant or Tier 5 Migrant under paragraph 319C or 319E of the immigration rules; or
- (c) as the child of a Tier 1 Migrant or (as the case may be) Tier 2 Migrant or Tier 5 Migrant under paragraph 319H or 319J of the immigration rules.”

(4) In article 11(2)—

- (a) after “P2” in the first place it occurs insert “or (as the case may be) P3”; and
- (b) after “paragraph (1)” on both occasions where it occurs, insert “or (1A)”.

(5) In article 11(3), after “P2” insert “or (as the case may be) P3”.

(6) In article 11(5)—

- (a) in sub-paragraph (d), for ““Leave to enter the United Kingdom”” substitute ““leave to enter””;
- (b) in sub-paragraph (e), for ““Leave to remain in the United Kingdom”” substitute ““leave to remain””;
- (c) for sub-paragraph (i) substitute—

“(i) “Tier 1 Migrant”, “Tier 2 Migrant”, “Tier 4 Migrant” and “Tier 5 Migrant” have the same meaning as provided in the immigration rules.”

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(a) 2004 c. 33; subsections (1) and (4) were amended by S.I. 2005/2000; subsection (4) was also amended by, and subsection (5A) inserted by, paragraphs 18 and 19 of Schedule 4 to the Immigration Act 2014.

## Amendments coming into force on 6th April 2015

8.—(1) The Commencement Order is amended as follows.

(2) For article 9 substitute—

“9.—(1) Notwithstanding the commencement of the relevant provisions, the saved provisions continue to have effect and the relevant provisions do not have effect so far as they relate to the following decisions of the Secretary of State—

- (a) a decision made on or after 6th April 2015 to refuse an application to vary leave to enter or remain made before 20th October 2014 where the person was seeking leave to remain as a Tier 4 Migrant or as the family member of a Tier 4 Migrant and where the result of that decision is that the applicant has no leave to enter or remain;
- (b) a decision made on or after 6th April 2015 to refuse an application to vary leave to enter or remain made before 2nd March 2015 where the person was seeking leave to remain as a Tier 1 Migrant or (as the case may be), Tier 2 Migrant or Tier 5 Migrant or as the family member of a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 Migrant and where the result of that decision is that the applicant has no leave to enter or remain;
- (c) a decision made on or after 6th April 2015 (so far as that is not a decision mentioned in sub-paragraph (a) or (b)) to refuse an application made before 6th April 2015, where that decision is—
  - (i) to refuse leave to enter;
  - (ii) to refuse entry clearance;
  - (iii) to refuse a certificate of entitlement under section 10 of the 2002 Act<sup>(a)</sup>;
  - (iv) to refuse to vary a person’s leave to enter or remain and where the result of that decision is that the person has no leave to enter or remain;unless that decision is also a refusal of an asylum, protection or human rights claim.
- (d) a decision made before 6th April 2015 in relation to which, immediately before 6th April 2015, an appeal could have been brought or was pending under the saved provisions.

(2) In paragraph (1)—

- (a) an application as the family member of a Tier 4 Migrant means an application under paragraph 319C or 319H of the immigration rules;
- (b) an application as the family member of a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 Migrant means an application under paragraph 319C, 319E, 319H or 319J of the immigration rules.

(3) In this article—

“entry clearance” has the same meaning as in section 33(1) of the 1971 Act<sup>(b)</sup>;  
“human rights claim” has the same meaning as in section 113 of the 2002 Act<sup>(c)</sup>;  
“immigration rules” means the rules for the time being laid down by the Secretary of State as mentioned in section 3(2) of the 1971 Act;  
“leave to enter” means leave to enter the United Kingdom given in accordance with the provisions of, or made under, the 1971 Act;

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(a) 2002 c. 41; section 10 was amended by sections 50, 52 and 61 of and Schedules 2 and 3 to the Immigration, Asylum and Nationality Act 2006.

(b) 1971 c. 77; the definition of “entry clearance” in section 33(1) was amended by paragraph 2 of Schedule 4 to the British Nationality Act 1981 (c. 61) and paragraph 5 of the Schedule to the Immigration Act 1988 (c. 14).

(c) 2002 c. 41; the relevant part of s113 was amended by sections 12(1) and (3) of the Immigration, Asylum and Nationality Act 2006 although these amendments have not been brought into force and section 73(6) of and Schedule 9 to the Immigration Act 2014.

“leave to remain” means leave to remain in the United Kingdom given in accordance with the provisions of, or made under, the 1971 Act and any variation of leave to enter or remain by the Secretary of State;

“pending” has the same meaning as in section 104 of the 2002 Act<sup>(a)</sup>;

“protection claim” has the same meaning as in section 82(2) of the 2002 Act;

“Tier 1 Migrant”, “Tier 2 Migrant”, “Tier 4 Migrant” and “Tier 5 Migrant” have the same meanings as in the immigration rules.”

(3) Omit article 10.

(4) In article 11, omit paragraphs (1), (1A), (2), (3) and (5) (a) and (c) to (i).

(5) Omit article 13.

## **Revocation**

**9.** The Immigration Act 2014 (Transitional and Saving Provisions) Order 2014<sup>(b)</sup> is revoked.

Home Office  
25th February 2015

*James Brokenshire*  
Minister of State

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order is the fourth commencement order made under the Immigration Act 2014 (“the Act”).

Article 2 brings into force provisions relating to marriage and civil partnership (mostly contained in Part 4 of the Act) on 1st and 2nd March 2015.

Article 3 commences paragraph 19 of Schedule 9. Paragraph 19 amends section 126 of the Nationality, Immigration and Asylum Act 2002 to remove provisions about the use and retention of biometric information which have been replaced by section 126(8A) of that Act, which was inserted by section 14(3) of the Act.

Article 5 contains a transitional provision whereby a proposed marriage where either or both parties to the marriage is not a relevant national (a relevant national is a British citizen, an EEA national or a Swiss national) may still be solemnized in the Anglican Church on the authority of a common licence provided that licence was granted on or before 1st March or the parties have applied for a common licence and that application was received by the appropriate Church authorities on or before 1st March.

The Immigration Act 2014 (Commencement No. 3, Transitional and Saving Provisions) Order 2014 (S.I. 2014/2771) (“the Commencement Order”) commenced (amongst others) provisions relating to removal and appeals which it collectively defined as “the relevant provisions”, but also contained saving provisions which limited the circumstances in which the relevant provisions would have effect. Part 3 of this Order contains amendments to the Commencement Order which will take effect in two stages, expanding the circumstances in which the relevant provisions have effect.

To achieve the first stage of the expansion, article 7 inserts new article 11(1A) into the Commencement Order, providing that the relevant provisions will additionally have effect in

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<sup>(a)</sup> 2002 c. 41; section 104 was amended by the Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21), sections 26 and 47 of and Schedules 2 and 4 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, section 9 of the Immigration, Asylum and Nationality Act 2006 and section 73(6) of and Schedule 9 to the Immigration Act 2014.

<sup>(b)</sup> S.I. 2014/2928.

relation to a person (“P3”) who makes an application for leave to remain as a Tier 1 Migrant, a Tier 2 Migrant, or a Tier 5 Migrant, or as their family member, on or after 2nd March 2015. The persons in this category will also be subject to the saving provisions set out in article 11(2) and (3) of the Commencement Order.

The second phase of the expansion is effected by article 8. This article removes as of 6th April 2015 the saving provisions in articles 9, 10 and 11 of the Commencement Order, with the effect that the relevant provisions will have general effect from that date. However article 8 also inserts a new article 9 into the Commencement Order which contains some saving provisions for certain types of decision, or application, which are made prior to 6th April 2015. Accordingly, the saved provisions will continue to have effect so far as they relate to the following decisions made on or after 6th April 2015: refusals of applications to vary leave to enter or remain made before 20th October 2014 where the person was seeking leave to remain as a Tier 4 Migrant or as their family member and where the result of that decision is that the applicant has no leave to enter or remain; refusals of applications to vary leave to enter or remain made before 2nd March 2015 where the person was seeking leave to remain as a Tier 1, Tier 2 or Tier 5 Migrant or as their family member and where the result of that decision is that the applicant has no leave to enter or remain; and, so far as the decision is not covered by the above situations, refusals of applications made before 6th April 2015 where that decision falls into one of four specified categories, unless the decision was a refusal of an asylum, protection or human rights claim. The saved provisions will also continue to have effect to decisions made before 6th April 2015 in relation to which, immediately before 6th April 2015, an appeal could have been brought or was pending under the saved provisions.

#### **NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1 (partially)	20th October 2014	2014/2771
Section 2	28th July 2014	2014/1820
Section 3	28th July 2014	2014/1820
Section 4	28th July 2014	2014/1820
Section 5	28th July 2014	2014/1820
Section 6	28th July 2014	2014/1820
Section 7 (partially)	28th July 2014	2014/1820
Section 7 (partially)	20th October 2014	2014/2771
Section 8	28th July 2014	2014/1820
Section 9	28th July 2014	2014/1820
Section 10	28th July 2014	2014/1820
Section 11	28th July 2014	2014/1820
Section 12	28th July 2014	2014/1820
Section 13	28th July 2014	2014/1820
Section 14	28th July 2014	2014/1820
Section 15 (partially)	20th October 2014	2014/2771
Section 16	20th October 2014	2014/2771
Section 17 (partially)	28th July 2014	2014/1820
Section 17 (partially)	20th October 2014	2014/2771
Section 19	28th July 2014	2014/1820
Section 20 (partially)	1st December 2014	2014/2771
Section 21 (partially)	1st December 2014	2014/2771
Section 22 (partially)	1st December 2014	2014/2771
Section 23 (partially)	1st December 2014	2014/2771
Section 24 (partially)	1st December 2014	2014/2771
Section 25 (partially)	1st December 2014	2014/2771
Section 26 (partially)	1st December 2014	2014/2771

Section 27 (partially)	1st December 2014	2014/2771
Section 28 (partially)	1st December 2014	2014/2771
Section 29 (partially)	1st December 2014	2014/2771
Section 30 (partially)	1st December 2014	2014/2771
Section 31 (partially)	1st December 2014	2014/2771
Section 32	1st December 2014	2014/2771
Section 33	1st December 2014	2014/2771
Section 34	1st December 2014	2014/2771
Section 35	1st December 2014	2014/2771
Section 36	1st December 2014	2014/2771
Section 37	1st December 2014	2014/2771
Section 38	20th October 2014	2014/2771
Section 40	12th December 2014	2014/1943
Section 41	14th July 2014	2014/1820
Section 42	14th July 2014	2014/1820
Section 43	14th July 2014	2014/1820
Section 44	28th July 2014	2014/1820
Section 45	28th July 2014	2014/1820
Section 46	14th July 2014	2014/1820
Section 47	14th July 2014	2014/1820
Section 49 (partially)	20th October 2014	2014/2771
Section 50 (partially)	20th October 2014	2014/2771
Section 51 (partially)	20th October 2014	2014/2771
Section 52 (partially)	20th October 2014	2014/2771
Section 53 (partially)	20th October 2014	2014/2771
Section 54 (partially)	20th October 2014	2014/2771
Section 60	20th October 2014	2014/2771
Section 61	20th October 2014	2014/2771
Section 63 (partially)	28th July 2014	2014/1820
Section 63 (partially)	20th October 2014	2014/2771
Section 63 (partially)	17th November 2014	2014/2771
Section 64	28th July 2014	2014/1820
Section 66	28th July 2014	2014/1820
Section 67	28th July 2014	2014/1820
Section 68	15th December 2014	2014/2771
Section 69	15th December 2014	2014/2771
Section 70	28th July 2014	2014/1820
Section 71	28th July 2014	2014/1820
Section 73 (partially)	14th July 2014	2014/1820
Section 73 (partially)	28th July 2014	2014/1820
Section 73 (partially)	20th October 2014	2014/2771
Section 73 (partially)	20th October 2014	2014/2771
Section 73 (partially)	15th December 2014	2014/2771
Schedule 1	28th July 2014	2014/1820
Schedule 2	28th July 2014	2014/1820
Schedule 3 (partially)	1st December 2014	2014/2771
Schedule 4 (partially)	20th October 2014	2014/2771
Schedule 5	20th October 2014	2014/2771
Schedule 7 (partially)	28th July 2014	2014/1820
Schedule 7 (partially)	20th October 2014	2014/2771
Schedule 7 (partially)	17th November 2014	2014/2771
Schedule 8	28th July 2014	2014/1820
Schedule 9 (partially)	14th July 2014	2014/1820

Schedule 9 (partially)	28th July 2014	2014/1820
Schedule 9 (partially)	20th October 2014	2014/2771
Schedule 9 (partially)	17th November 2014	2014/2771
Schedule 9 (partially)	15th December 2014	2014/2771

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£6.00

UK2015022526 03/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/371>

ISBN 978-0-11-113073-5



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