

2015 No. 395

MARRIAGE

CIVIL PARTNERSHIP

IMMIGRATION

The Referral and Investigation of Proposed Marriages and Civil Partnerships (Northern Ireland and Miscellaneous Provisions) Order 2015

Made - - - - - *26th February 2015*

Coming into force - - - - - *1st March 2015*

The Secretary of State makes this Order in exercise of the powers conferred by section 53(1), (2) and (3) and section 74(8)(c) and (d) of the Immigration Act 2014 (“the Act”)(a).

In accordance with section 74(2)(i) of the Act a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and transitional provision

1.—(1) This Order may be cited as the Referral and Investigation of Proposed Marriages and Civil Partnerships (Northern Ireland and Miscellaneous Provisions) Order 2015.

(2) It comes into force on 1st March 2015.

(3) Article 2(1) and (3) and the amendments made by Schedules 1 and 3, and article 2(4) and Schedule 4 so far as those provisions relate to amendments to sections 48 and 50 of the Immigration Act 2014, apply only to proposed marriages and civil partnerships in respect of which notice is given under Article 3(1) of the Marriage (Northern Ireland) Order 2003(b) or section 139 of the Civil Partnership Act 2004(c) after the day on which this Order comes into force.

Extension of referral and investigation scheme

2.—(1) Schedule 1 (which amends the Marriage (Northern Ireland) Order 2003) and the Marriage Regulations (Northern Ireland) 2003) has effect.

(2) Schedule 2 (which amends the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(d)) has effect.

(a) 2014 c. 22.
(b) S.I. 2003/413 (N.I. 3).
(c) 2004 c. 33.
(d) 2004 c. 19.

(3) Schedule 3 (which amends the Civil Partnership Act 2004 and the Civil Partnership Regulations (Northern Ireland) 2005) has effect.

(4) Schedule 4 (which amends the Immigration Act 2014) has effect.

(5) Schedule 5 (which makes provision about the disclosure of information) has effect.

Home Office
26th February 2015

James Brokenshire
Minister of State

SCHEDULE 1

Article 2(1)

Amendments to the Marriage (Northern Ireland) Order 2003 and the Marriage Regulations (Northern Ireland) 2003

PART 1

1. The Marriage (Northern Ireland) Order 2003 is amended as follows.

2. In Article 2(2) (interpretation)—

(a) before the definition of “civil marriage” insert—

““2014 Act” means the Immigration Act 2014;”;

(b) in the definition of “regulations” after “means” insert “, other than in Articles 3A to 3E;”;

(c) after the definition of “regulations” 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;”.

3. After Article 3 insert—

“Additional information if party not relevant national

3A.—(1) This Article applies to a marriage notice given to a registrar in accordance with Article 3 if one, or each, of the parties to the proposed marriage is not a relevant national.

(2) For each party to the proposed marriage who is not a relevant national, the notice shall be accompanied by whichever of statements A, B or C is applicable to that person.

(3) Statement A is a statement that the person has the appropriate immigration status.

(4) Statement B is a statement that the person holds a relevant visa in respect of the proposed marriage.

(5) 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.

(6) If the notice is accompanied by the statement referred to in the first column of an entry in this table, the notice shall also 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)—

If the notice is accompanied by this ...the notice shall also be accompanied by....

statement....

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)	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)	1. For each party, a specified photograph of that party 2. For each party, the usual address of that party 3. For each party who has previously used any name or names other than the person's name stated in the marriage notice, a statement of the other name or names 4. For each party who currently uses, or has previously used, an alias or aliases, a statement of the alias or aliases.

(7) If the notice is accompanied by more than one of statements A, B and C, paragraph (6) shall be complied with in relation to each of those statements; but where the notice is accompanied by statements B and C, paragraph (6) does not require the notice to be accompanied by more than one specified photograph of each party.

(8) If the notice is accompanied by statement C for a party to the proposed marriage—

- (a) the notice may also 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 registrar with details of his immigration position in the United Kingdom; and
- (c) if any such details are provided, the registrar shall record them.

(9) In this Article and Article 3B—

- (a) a reference—
 - (i) to a person having the appropriate immigration status, or
 - (ii) to a person holding a relevant visa,

is to be construed in accordance with section 49 of the 2014 Act;

- (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.

(10) In this Article “specified photograph” means a photograph that is in accordance with regulations made by the Secretary of State under section 54(2) of, and paragraph 3 of Schedule 5 to, the 2014 Act (and for this purpose “photograph” includes other kinds of images).

Additional evidence if party not relevant national

3B.—(1) If a marriage notice to which Article 3A(1) applies (“the notice”) is accompanied by statement A (referred to in Article 3A(3)), and accordingly is also accompanied by details of the particular immigration status which a party to the proposed marriage has, the notice shall also be accompanied by specified evidence of that status.

(2) If the notice is accompanied by statement B (referred to in Article 3A(4)), the notice shall also be accompanied by specified evidence of the holding of the relevant visa by the party to the proposed marriage.

(3) If, in accordance with Article 3A(6), the notice is accompanied by the usual address of a party to the proposed marriage, the notice shall also be accompanied by specified evidence that it is that party's usual address.

(4) If the notice is accompanied by statement D (referred to in Article 3A(8)), the notice may also be accompanied by evidence of the person's immigration position in the United Kingdom.

(5) If paragraph (1) or (2) applies to the notice, and the notice is not accompanied by the specified evidence required by that paragraph, the notice shall be accompanied by—

- (a) photographs and addresses of the kinds referred to in paragraphs 1 and 2 in the relevant entry in Article 3A(6);
- (b) as respects the usual address of each party that is provided in accordance with subparagraph (a), specified evidence that the address provided is that party's usual address; and
- (c) names and aliases of the kinds referred to in paragraphs 3 and 4 in the relevant entry in Article 3A(6) (insofar as those paragraphs are applicable to the parties to the proposed marriage).

(6) In this Article—

“relevant entry in Article 3A(6)” means the second column of the last entry in the table in Article 3A(6);

“specified evidence” means evidence that is in accordance with regulations made by the Secretary of State under section 54(2) of, and paragraph 3 of Schedule 5 to, the 2014 Act.

Declaration to accompany information and evidence

3C. Where information and evidence accompany the marriage notice in accordance with Articles 3A and 3B that information and evidence shall also be accompanied by a declaration in writing and signed by the party who makes it that the party believes all of the information and evidence accompanying the notice to be true.

Rejection of false information or evidence

3D.—(1) A registrar may reject—

- (a) any information or photograph provided under Article 3A or 3B,
- (b) any evidence provided under Article 3B, or
- (c) any evidence relating to a party's nationality provided in accordance with Article 5,

if (in particular) the registrar has reasonable grounds for suspecting that the information, photograph or evidence is false.

(2) If the registrar rejects any information, photograph or evidence, the registrar may proceed under this Order as if the rejected information, photograph or evidence had not been provided.

(3) This Article does not limit the powers of registrars to reject anything provided under any other statutory provision.

Referral of proposed marriage to Secretary of State

3E.—(1) On every occasion when a marriage notice is given under Article 3(1), a registrar shall decide whether or not each of the parties to the proposed marriage is an exempt person.

(2) In making a decision under paragraph (1) about a party to a proposed marriage, a registrar may rely on any advice given in relation to that decision by the Secretary of State.

(3) In a case where—

- (a) Article 3A applies to the marriage notice, and
- (b) specified evidence required by Article 3B(1) or (2) in relation to a party to the proposed marriage is not produced in accordance with that Article,

the registrar shall decide that that party to the proposed marriage is not an exempt person.

(4) If the registrar decides that either of the parties is not an exempt person, or that both of the parties are not exempt persons, the registrar shall—

- (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 to notify the Secretary of State of changes of address.

(5) The registrar shall act in accordance with regulations when complying with the duty in paragraph (4)(a) to refer a proposed marriage to the Secretary of State.

(6) If the registrar refers the proposed marriage to the Secretary of State, this Order has effect in relation to the proposed marriage subject to the modifications in Schedule 2.

(7) In this Article—

- (a) a reference to a person being an exempt person has the same meaning as in section 49 of the 2014 Act;
- (b) “prescribed information” means information prescribed in regulations;
- (c) “regulations” means regulations made by the Secretary of State under section 54(2) of, and Schedule 5 to, the 2014 Act.”

4. After the Schedule (repeals), which becomes Schedule 1, insert—

“SCHEDULE 2

Article 3E(6)

Modifications if proposed marriage referred under Article 3E

Introduction

1.—(1) These are the modifications subject to which this Order has effect if the registrar refers a proposed marriage to the Secretary of State.

(2) In this Schedule “referred marriage” means the proposed marriage referred to the Secretary of State.

No marriage schedule to be completed until decision about investigation etc

2.—(1) The duty under Article 7(1) to complete a marriage schedule 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 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 registrar the section 48 notice.
- (4) Event 3 occurs if—
- (a) the Secretary of State gives the 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 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 registrar the section 50 notice.
- (6) Event 5 occurs if the Secretary of State gives the registrar notice that the duty under Article 7 is applicable.
- (7) The Secretary of State may give a notice for that purpose only if—
- (a) the Secretary of State has given the 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 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 completion of the marriage schedule.
- (9) This paragraph is subject to paragraphs 3, 4 and 5.
- (10) In this paragraph—
- “70 day period” has the same meaning as in section 50(11) of the 2014 Act;
 - “relevant statutory period” has the same meaning as in section 62 of the 2014 Act^(a);
 - “section 48 notice” means notice under section 48(8A)^(b) of the 2014 Act;
 - “section 50 notice” means notice under section 50(7) of the 2014 Act.

Marriage to be investigated: no marriage schedule to be completed until expiry of 70 day period

3.—(1) The modifications in this paragraph have effect if the Secretary of State gives the registrar notice under section 48(8A) of the 2014 Act of a decision to investigate whether the referred marriage is a sham.

- (2) Article 7 has effect as if—
- (a) in paragraph (1), after “intended marriage” there were inserted “but not before the expiry of the relevant 70 day period,”; and
 - (b) after paragraph (6) there were inserted—
 - “(7) In this Article “relevant 70 day period” means the period—

(a) The definition of relevant statutory period is amended by paragraph 4 of Schedule 4 to this Order and paragraph 4 of Schedule 4 to S.I. 2015/396.

(b) Section 48(8A) is inserted by paragraph 2 of Schedule 4 to this Order.

- (a) beginning the day on which the record relating to the marriage is made in the marriage notice book, and
 - (b) ending at the end of the period of 70 days beginning with that day.”
- (3) This paragraph is subject to paragraphs 4 and 5.

Requests to complete the marriage schedule before expiry of 70 day period

4.—(1) This paragraph applies if the Secretary of State gives the registrar notice under section 48(8A) of the 2014 Act of a decision to investigate whether the referred marriage is a sham.

(2) A party to the referred marriage may request the registrar to complete the marriage schedule before the expiry of the relevant 70 day period.

(3) That request shall—

- (a) be in writing, and
- (b) give the reasons why it is necessary for the marriage schedule to be completed before the expiry of the relevant 70 day period.

(4) A registrar may not complete the marriage schedule before the expiry of the relevant 70 day period unless authorised to do so by the Registrar General.

(5) The Registrar General may, with the consent of the Secretary of State, authorise the registrar to complete the marriage schedule on such date as the Registrar General considers necessary before the expiry of the relevant 70 day period.

(6) But the Secretary of State’s consent is not required if the request is made because a party to the referred marriage is gravely ill and not expected to recover.

(7) In this paragraph and paragraph 5 “relevant 70 day period” has the same meaning as in Article 7 (as modified by paragraph 3).

Effect of reducing statutory period

5.—(1) Where—

- (a) the Registrar General has authorised—
 - (i) the reduction of the notice period for service of the marriage notice under regulation 3(2) of the Marriage Regulations (Northern Ireland) 2003(a), or
 - (ii) the registrar to complete a marriage schedule before the expiry of the relevant 70 day period in accordance with paragraph 4; and
- (b) the authorisation under sub-paragraph (i) or, as the case may be, (ii) of paragraph (a) is given at a time when the duty under Article 7(1) to complete a marriage schedule in respect of the referred marriage has not arisen in accordance with paragraph 2 or 3,

the duty under Article 7(1) to complete the marriage schedule arises on the giving of the authorisation, subject to any other requirements applicable to the completion of the schedule (and in the case of an authorisation mentioned in paragraph (a)(i), any other requirements applicable to the giving of notice) being met.

(2) But the requirements of paragraph 2 are not applicable in such a case.

(3) The Secretary of State is not prevented from deciding to conduct, conducting or continuing, an investigation if a marriage schedule is completed as mentioned in sub-paragraph (1).

(4) But in such a case, nothing in the 2014 Act requires the Secretary of State to decide whether to conduct, or to continue, an investigation.

(a) S.R. (NI) 2003 No 468; paragraph (2) of regulation 3 is amended by, and paragraphs (3) and (4) inserted by, paragraph 8 of Schedule 1 to this Order. Regulation 3(2) is also amended with effect from 2 March 2015 by S.I. 2014/296 (N.I.).

(5) 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.”

5.—(1) In Article 4 (marriage notice book), after paragraph (2) insert—

“(2A) But the registrar shall not enter the particulars relating to a marriage in the marriage notice book in a case where any of the following requirements is applicable but not complied with—

(a) a requirement imposed by or under any of the following provisions of this Order—

(i) Article 3A(2) to (7);

(ii) Article 3B(3);

(iii) Article 3B(5);

(iv) Article 5 so far as that requirement relates to nationality;

(b) the requirement imposed by section 23(2) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(a).

(2B) Where the registrar may not enter the particulars relating to a marriage in the marriage notice book as mentioned in paragraph (2A) the parties are to be taken not to have given notice under Article 3(1).”

6.—(1) After Article 7 (marriage schedule) insert—

“Marriage notice: false information or evidence

7A.—(1) A registrar may refuse to complete a marriage schedule under Article 7 (or where one has already been completed, may cancel it) in a case where—

(a) a marriage notice has been given under Article 3(1), and

(b) the registrar has reasonable grounds for suspecting that a relevant decision was made incorrectly because of the provision of false information or evidence in or accompanying that notice.

(2) If the registrar refuses to complete (or cancels) a marriage schedule under paragraph (1), the parties to the proposed marriage are to be taken not to have given notice under Article 3(1); but that does not prevent criminal proceedings from being brought against either party, or any other person, in relation to the giving of notice.

(3) This Article does not limit any other power of the registrar to refuse to complete (or, as the case may be, cancel) a marriage schedule.

(4) In the case of a religious marriage, if the marriage schedule has already been issued, and it is practicable to do so, the registrar shall—

(a) notify the officiant that the marriage schedule has been cancelled, and

(b) advise the officiant not to solemnise the marriage.

(5) In this Article—

“evidence” includes a photograph or other image;

“exempt person” has the same meaning as in Article 3E;

“relevant decision” means a decision of a registrar that a party to the proposed marriage is an exempt person.”

PART 2

7. The Marriage Regulations (Northern Ireland) 2003 are amended as follows.

(a) Section 23 has been amended by S.I. 2011/1158.

8. In regulation 3 (marriage notice)(a)—

- (a) in paragraph (2)(b), at the beginning, insert “subject to paragraph (3),”;
- (b) after paragraph (2) insert—

“(3) Unless paragraph (4) applies, if a proposed marriage is referred to the Secretary of State under Article 3E of the Order (“the referred marriage”) the Registrar General may only authorise the registrar to reduce the period of 28 days notice mentioned in paragraph (2)(b) with the consent of Secretary of State.

(4) This paragraph applies if the request is made because a party to the referred marriage is gravely ill and not expected to recover.”

9. In regulation 6 (marriage schedule) after paragraph (5) insert—

“(6) Where a marriage schedule is cancelled under Article 7A of the Order (whether or not it has already been issued), the registrar shall inform both parties to the marriage.”

SCHEDULE 2

Article 2(2)

Amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

1. Section 23 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(b) (procedure for marriage: Northern Ireland) is amended as follows.

2. For subsection (1) substitute—

“(1) This section applies to a marriage which is intended to be solemnised in Northern Ireland unless each party to the marriage falls within exception A or exception B.

(1A) A party to the marriage falls within exception A if the person is a relevant national.

(1B) A party to the marriage falls within exception B if—

- (a) the person is exempt from immigration control, and
- (b) the notice of intention to marry is accompanied by the specified evidence required by Article 3B(1) of the Marriage (Northern Ireland) Order 2003(c) that the person is exempt from immigration control.”

3. For subsection (6) substitute—

“(6) In this section—

- (a) “relevant national” has the same meaning as in section 62 of the Immigration Act 2014;
- (b) a reference to a person being exempt from immigration control is to be construed in accordance with section 49 of that Act;
- (c) “notice of intention to marry” means a notice of intention to marry given under Article 3(1) of the Marriage (Northern Ireland) Order 2003.”

(a) Regulation 3(2) is amended by S.I. 2014/296 (N.I.) with effect from 2 March 2015 increasing the required notice referred to in that regulation from at least 14 days before the intended marriage to at least 28 days.

(b) 2004 c. 19; section 23 was amended by S.I. 2011/1158.

(c) S.I. 2003/413 (N.I. 3); section 3B is inserted by paragraph 3 of Schedule 1 to this Order.

Amendments to the Civil Partnership Act 2004 and the Civil Partnership Regulations (Northern Ireland) 2005

PART 1

1. The Civil Partnership Act 2004(a) is amended as follows.
2. After section 139 insert—

“Additional information if party not relevant national

139A.—(1) This section applies to a civil partnership notice given to a registrar in accordance with section 139 if one, or each, of the parties to the proposed civil partnership is not a relevant national.

(2) For each party to the proposed civil partnership who is not a relevant national, the notice must be accompanied by whichever of statements A, B or C is applicable to that person.

(3) Statement A is a statement that the person has the appropriate immigration status.

(4) Statement B is a statement that the person holds a relevant visa in respect of the proposed civil partnership.

(5) 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 civil partnership.

(6) If the notice is accompanied by the statement referred to in the first column of an entry in this table, the notice must also 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 civil partnership)—

<i>If the notice is accompanied by this statement....</i>	<i>...the notice must also be accompanied by....</i>
Statement A (in respect of one or both of the parties to the proposed civil partnership)	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 civil partnership)	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 civil partnership)	1. For each party, a specified photograph of that party 2. For each party, the usual address of that party 3. For each party who has previously used any name or names other than the person’s name stated in the civil partnership notice, a statement of the other name or names 4. For each party who currently uses, or has previously used, an alias or aliases, a

(a) 2004 c. 33.

(7) If the notice is accompanied by more than one of statements A, B and C, subsection (6) must be complied with in relation to each of those statements; but where the notice is accompanied by statements B and C, subsection (6) does not require the notice to be accompanied by more than one specified photograph of each party.

(8) If the notice is accompanied by statement C for a party to the proposed civil partnership—

- (a) the notice may also 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 civil partnership, the person may provide the registrar with details of his or her immigration position in the United Kingdom; and
- (c) if any such details are provided, the registrar must record them.

(9) In this section and section 139B—

- (a) a reference—
 - (i) to a person having the appropriate immigration status, or
 - (ii) to a person holding a relevant visa,

is to be construed in accordance with section 49 of the 2014 Act;

- (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.

(10) In this section “specified photograph” means a photograph that is in accordance with regulations made by the Secretary of State under section 54(2) of, and paragraph 3 of Schedule 5 to, the 2014 Act (and for this purpose “photograph” includes other kinds of images).

Additional evidence if party not relevant national

139B.—(1) If a civil partnership notice to which section 139A applies (“the notice”) is accompanied by statement A (referred to in section 139A(3)), and accordingly is also accompanied by details of the particular immigration status which a party to the proposed civil partnership has, the notice must also be accompanied by specified evidence of that status.

(2) If the notice is accompanied by statement B (referred to in section 139A(4)), the notice must also be accompanied by specified evidence of the holding of the relevant visa by the party to the proposed civil partnership.

(3) If, in accordance with section 139A(6), the notice is accompanied by the usual address of a party to the proposed civil partnership, the notice must also be accompanied by specified evidence that it is that party’s usual address.

(4) If the notice is accompanied by statement D (referred to in section 139A(8)), the notice may also be accompanied by evidence of the person’s immigration position in the United Kingdom.

(5) If subsection (1) or (2) 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 139A(6);

- (b) as respects the usual address of each party that is provided in accordance with subparagraph (a), specified evidence that the address provided is that party's usual address; and
 - (c) names and aliases of the kinds referred to in paragraphs 3 and 4 in the relevant entry in section 139A(6) (insofar as those paragraphs are applicable to the parties to the proposed civil partnership).
- (6) In this section—
- “relevant entry in section 139A(6)” means the second column of the last entry in the table in section 139A(6);
- “specified evidence” means evidence that is in accordance with regulations made by the Secretary of State under section 54(2) of, and paragraph 3 of Schedule 5 to, the 2014 Act.

Declaration to accompany information and evidence

139C. Where information and evidence accompany the civil partnership notice in accordance with sections 139A and 139B that information and evidence must also be accompanied by a declaration in writing and signed by the party who makes it that the party believes all of the information and evidence accompanying the notice to be true.

Rejection of false information or evidence

- 139D.**—(1) A registrar may reject—
- (a) any information or photograph provided under section 139A or 139B,
 - (b) any evidence provided under section 139B, or
 - (c) any evidence relating to a party's nationality provided in accordance with section 141,

if (in particular) the registrar has reasonable grounds for suspecting that the information, photograph or evidence is false.

(2) If the registrar rejects any information, photograph or evidence, the 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 the registrar to reject anything provided under any other statutory provision(a).

Referral of proposed civil partnership to the Secretary of State

139E.—(1) On every occasion when a civil partnership notice is given under section 139, a registrar must decide whether or not each of the parties to the proposed civil partnership is an exempt person.

(2) In making a decision under subsection (1) about a party to a proposed civil partnership, a registrar may rely on any advice given in relation to that decision by the Secretary of State.

- (3) In a case where—
- (a) section 139A applies to the civil partnership notice, and
 - (b) specified evidence required by section 139B(1) or (2) in relation to a party to the proposed civil partnership is not produced in accordance with that section,

the registrar must decide that that party to the proposed civil partnership is not an exempt person.

(a) “statutory provision” is defined by section 160 of the Civil Partnership Act (c. 2004 c. 33) to have the same meaning as in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (NI c. 33)

(4) If the registrar decides that either of the parties is not an exempt person, or that both of the parties are not exempt persons, the registrar must—

- (a) refer the proposed civil partnership to the Secretary of State;
- (b) notify the parties to the proposed civil partnership that the proposed civil partnership must be referred to the Secretary of State;
- (c) give the parties to the proposed civil partnership prescribed information about—
 - (i) the effects of the referral;
 - (ii) the requirement under regulations to notify the Secretary of State of changes of address.

(5) The registrar must act in accordance with regulations when complying with the duty in subsection (4)(a) to refer a proposed civil partnership to the Secretary of State.

(6) If the registrar refers the proposed civil partnership to the Secretary of State, this Act has effect in relation to the proposed civil partnership subject to the modifications in Schedule 13A.

(7) In this section—

- (a) a reference to a person being an exempt person has the same meaning as in section 49 of the 2014 Act;
- (b) “prescribed information” means information prescribed in regulations;
- (c) “regulations” means regulations made by the Secretary of State under section 54(2) of, and Schedule 5 to, the 2014 Act.”

3. After Schedule 13 (civil partnership of persons under 18) insert—

“SCHEDULE 13A

section 139E(6)

Modifications if proposed civil partnership referred under section 139E

Introduction

1.—(1) These are the modifications subject to which this Act has effect if the registrar refers a proposed civil partnership to the Secretary of State.

(2) In this Schedule “referred civil partnership” means the proposed civil partnership referred to the Secretary of State.

No civil partnership schedule to be issued until decision about investigation etc

2.—(1) The duty under section 143 to complete a civil partnership schedule in respect of the referred civil partnership does not apply unless and until one of the following events occurs.

(2) Event 1 occurs if—

- (a) the Secretary of State gives the registrar the section 48 notice, and
- (b) the notice is of a decision not to investigate whether the referred civil partnership is a sham.

(3) Event 2 occurs if—

- (a) the relevant statutory period ends, and
- (b) the Secretary of State has not given the registrar the section 48 notice.

(4) Event 3 occurs if—

- (a) the Secretary of State gives the registrar the section 48 notice,

- (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
 - (c) the Secretary of State gives the registrar the section 50 notice, and
 - (d) that notice is of a decision that both of the parties to the referred civil partnership 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 registrar the section 50 notice.
- (6) Event 5 occurs if the Secretary of State gives the registrar notice that the duty under section 143 is applicable.
- (7) The Secretary of State may give a notice for that purpose only if—
- (a) the Secretary of State has given the registrar the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
 - (c) the Secretary of State has given the registrar the section 50 notice, and
 - (d) that notice is of a decision that one or both of the parties to the referred civil partnership have not complied with the investigation.
- (8) This paragraph applies in addition to any other requirements applicable to the completion of the civil partnership schedule.
- (9) This paragraph is subject to paragraphs 3, 4 and 5.
- (10) In this paragraph—
- “70 day period” has the same meaning as in section 50(11) of the 2014 Act;
 - “relevant statutory period” has the same meaning as in section 62 of the 2014 Act;
 - “section 48 notice” means notice under section 48(8B)(a) of the 2014 Act;
 - “section 50 notice” means notice under section 50(7) of the 2014 Act.

Civil partnership to be investigated: completion of civil partnership schedule

- 3.—**(1) The modifications in this paragraph have effect if the Secretary of State gives the registrar notice under section 48(8B) of the 2014 Act of a decision to investigate whether the referred civil partnership is a sham.
- (2) Section 143, which becomes subsection (1), has effect as if—
- (a) after “proposed civil partners,” there were inserted “but not before the expiry of the relevant 70 day period.”; and
 - (b) after subsection (1) there were inserted—
- “(2) In this section “relevant 70 day period” means the period—
- (a) beginning the day on which the record relating to the proposed civil partnership is made in the civil partnership notice book, and
 - (b) ending at the end of the period of 70 days beginning with that day.”
- (3) This paragraph is subject to paragraphs 4 and 5.

Requests to complete the civil partnership schedule before expiry of 70 day period

- 4.—**(1) This paragraph applies if the Secretary of State gives the registrar notice under section 48(8B) of the 2014 Act of a decision to investigate whether the referred civil partnership is a sham.

(a) Section 48(8B) is inserted by paragraph 2 of Schedule 4 to this Order.

(2) A party to the referred civil partnership may request the registrar to complete the civil partnership schedule before the expiry of the relevant 70 day period.

(3) That request must—

- (a) be in writing, and
- (b) give the reasons why it is necessary for the civil partnership schedule to be completed before the expiry of the relevant 70 day period.

(4) A registrar may not complete the civil partnership schedule before the expiry of the relevant 70 day period unless authorised to do so by the Registrar General.

(5) The Registrar General may, with the consent of the Secretary of State, authorise the registrar to complete the civil partnership schedule on such date as the Registrar General considers necessary before the expiry of the relevant 70 day period.

(6) But the Secretary of State's consent is not required if the request is made because a party to the referred civil partnership is gravely ill and not expected to recover

(7) In this paragraph and paragraph 5 "relevant 70 day period" has the same meaning as in section 143 (as modified by paragraph 3).

Effect of reducing statutory period

5.—(1) Where—

- (a) the Registrar General has authorised—
 - (i) the reduction of the notice period for service of the civil partnership notice under regulation 3(2) of the Civil Partnership Regulations (Northern Ireland) 2005(a), or
 - (ii) the registrar to complete a civil partnership schedule before the expiry of the relevant 70 day period in accordance with paragraph 4; and
- (b) the authorisation under sub-paragraph (i) or, as the case may be (ii), of paragraph (a) is given at a time when the duty under section 143 to complete a civil partnership schedule has not arisen in accordance with paragraph 2 or 3,

the duty under section 143 to complete the civil partnership schedule arises on the giving of the authorisation, subject to any other requirements applicable to the completion of the schedule (and in the case of an authorisation mentioned in paragraph (a)(i), any other requirements applicable to the giving of notice) being met.

(2) But the requirements of paragraph 2 are not applicable in such a case.

(3) The Secretary of State is not prevented from deciding to conduct, conducting or continuing, an investigation if a civil partnership schedule is completed as mentioned in sub-paragraph (1).

(4) But in such a case, nothing in the 2014 Act requires the Secretary of State to decide whether to conduct, or to continue, an investigation.

(5) 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 civil partnership is a sham."

4. In section 140 (civil partnership notice book), after subsection (2) insert—

"(2A) But the registrar must not enter the particulars relating to the civil partnership in the civil partnership notice book in a case where any of the requirements imposed by or under any of the following provisions of this Act is applicable but not complied with—

- (a) section 139A(2) to (7);
- (b) section 139B(3) or (5);

(a) S.R. (NI) 2005 No. 482; paragraph 10 of Schedule 3 to this Order amends paragraph (2) of regulation 3 and inserts new paragraphs (3) and (4). Paragraph (2) of regulation 3 is also amended with effect from 2 March 2015 by S.I. 2014/297.

- (c) section 141 so far as that requirement relates to evidence of nationality;
- (d) paragraph 13 of Schedule 23.

(2B) Where the registrar may not enter the particulars relating to the civil partnership notice book as mentioned in subsection (2A) the parties are to be taken not to have given notice under section 139.”

5. After section 143 (civil partnership schedule) insert—

“Civil partnership notice: false information or evidence

143A.—(1) A registrar may refuse to complete a civil partnership schedule under section 143 (or where one has already been completed, may cancel it) in a case where—

- (a) notice of a proposed civil partnership has been given under section 139, and
- (b) the registrar has reasonable grounds for suspecting that a relevant decision was made incorrectly because of the provision of false information or evidence in or accompanying that notice.

(2) If the registrar refuses to complete (or cancels) a civil partnership schedule under subsection (1), the parties to the proposed civil partnership are to be taken not to have given notice under section 139; 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 the registrar to refuse to complete (or, as the case may be, cancel) a civil partnership schedule.

(4) In this section—

“evidence” includes a photograph or other image;

“exempt person” has the same meaning as in section 139E;

“relevant decision” means a decision of a registrar that a party to the proposed civil partnership is an exempt person.”

6. In section 160 (interpretation), in the appropriate places insert—

- (a) ““2014 Act” means the Immigration Act 2014;”;
- (b) ““relevant national” has the same meaning as in section 30A(a);”.

7. In section 176 (proof of certain matters not necessary to validity of civil partnership), after paragraph (b) insert—

“(c) that, in the case of a civil partnership to which Schedule 13A applied, any of the events listed in paragraph 2(2) to (6) of that Schedule occurred;”.

8. In Schedule 23 (immigration control and formation of civil partnerships)—

- (a) in paragraph A1(4)(b) for “paragraph” substitute “Schedule”;
- (b) for paragraph 1(c) substitute—

“**1.**—(1) Part 3 of this Schedule applies to a civil partnership that is to be formed in Scotland by signing a civil partnership schedule unless each party to the civil partnership falls within exception A or exception B.

(2) Part 4 of this Schedule applies to a civil partnership that is to be formed in Northern Ireland by signing a civil partnership schedule unless each party to the civil partnership falls within exception A or exception B.

(a) Section 30A was inserted by section 52 of, and paragraph 27 of Schedule 4 to, the Immigration Act 2014 (c. 22).

(b) Paragraph A1 was inserted by section 58(5) of the Immigration Act 2014.

(c) Paragraph 1(1) was substituted by section 58(6) of the Immigration Act 2014. Those amendments will be commenced immediately before or at the same time as this Order comes into force.

- (3) A party to the civil partnership falls within exception A if the person is a relevant national.
- (4) A party to the civil partnership falls within exception B if—
 - (a) the person is exempt from immigration control, and
 - (b) the notice of civil partnership is accompanied by the evidence required by regulations made under section 54(2) of, and paragraph 3 of Schedule 5 to, the Immigration Act 2014.”;
- (c) in paragraph 8(a) for “1(1A)” substitute “1(1)”;
- (d) in paragraph 12 for “1(1B)” substitute “1(2)”.

PART 2

9. The Civil Partnership Regulations (Northern Ireland) 2005(b) are amended as follows.

10. In regulation 3 (civil partnership notice)(c)—

- (a) in paragraph (2)(b), at the beginning, insert “subject to paragraph (3),”;
- (b) after paragraph (2) insert—

“(3) Unless paragraph (4) applies, if a proposed civil partnership is referred to the Secretary of State under section 139E of the Act (“the referred civil partnership”) the Registrar General may only authorise the registrar to reduce the period of 28 days notice mentioned in paragraph (2)(b) with the consent of Secretary of State.

(4) This paragraph applies if the request is made because a party to the referred civil partnership is gravely ill and not expected to recover.”

11. In regulation 6 (civil partnership schedule), which becomes paragraph (1), after paragraph (1) insert—

“(2) Where a civil partnership schedule is cancelled under section 143A of the Act, the registrar shall inform both parties to the proposed civil partnership.”

SCHEDULE 4

Article 2(4)

Amendments to the Immigration Act 2014

1. The Immigration Act 2014(d) is amended as follows.

2. In section 48 (decision whether to investigate)—

- (a) after subsection (1) insert—

“(1A) This section also applies if—

- (a) a registrar refers a proposed marriage to the Secretary of State under Article 3E of the Marriage (Northern Ireland) Order 2003(e), or
- (b) a registrar refers a proposed civil partnership to the Secretary of State under section 139E of the Civil Partnership Act 2004(f).”;

(a) Paragraphs 8 and 12 were substituted by section 58(8) and (9) of the Immigration Act 2014. Those amendments will also be commenced immediately before or at the same as this Order comes into force.

(b) S.R.(NI) 2005 No. 482.

(c) Regulation 3(2) is amended by S.I. 2014/297 (N.I.) with effect from 2 March 2015 so as to increase the required period referred to in that paragraph from at least 14 days before the date of intended civil partnership to at least 28 days.

(d) 2014 c. 22.

(e) S.I. 2003/413 (N.I. 3); section 3E is inserted by article 3 of Schedule 1 to this Order.

(f) 2004 c. 33; section 139E is inserted by article 2 of Schedule 3 to this Order.

- (b) in subsection (7) after “proposed marriage” in the first place it occurs insert “referred to the Secretary of State as mentioned in subsection (1)(a)”;
- (c) in subsection (8) after “proposed civil partnership” in the first place it occurs insert “referred to the Secretary of State as mentioned in subsection (1)(b)”;
- (d) after subsection (8) insert—

“(8A) In the case of a proposed marriage referred to the Secretary of State as mentioned in subsection (1A)(a), the Secretary of State must give notice of the decision made under this section to—

- (a) both of the parties to the proposed marriage, and
- (b) the registrar who referred the proposed marriage to the Secretary of State.

(8B) In the case of a proposed civil partnership referred to the Secretary of State as mentioned in subsection (1A)(b), the Secretary of State must give notice of the decision made under this section to—

- (a) both of the parties to the proposed civil partnership, and
- (b) the registrar who referred the proposed civil partnership to the Secretary of State.”

3. In section 50 (conduct of investigation)—

- (a) in subsection (11) in the definition of “relevant requirement” after ““relevant requirement”” insert “in relation to a proposed marriage or civil partnership under the law of England and Wales.”;
- (b) after the definition of “relevant requirement” insert—

““relevant requirement” in relation to a proposed marriage or civil partnership under the law of Northern Ireland, means any requirement imposed by law, including a requirement imposed by or in accordance with—

- (a) subsection (3);
- (b) regulations under paragraph 4 of Schedule 5;
- (c) Article 3A or 3B of the Marriage (Northern Ireland) Order 2003;
- (d) Article 5 of the Marriage (Northern Ireland) Order 2003 so far as that requirement relates to nationality;
- (e) section 139A or 139B of the Civil Partnership Act 2004;
- (f) section 141 of the Civil Partnership Act 2004 so far as that requirement relates to nationality.”.

4. In section 62(1) (interpretation of Part 4)—

- (a) in the definition of “Registrar General” for “means the Registrar General for England and Wales” substitute—

“means—

- (a) in relation to regulations that apply to proposed marriages or civil partnerships under the law of England and Wales, the Registrar General for England and Wales;
- (b) in relation to regulations that apply to proposed marriages or civil partnerships under the law of Northern Ireland, the Registrar General for Northern Ireland.”;

- (b) in the definition of “relevant statutory period”—

- (i) in paragraph (a) after “a proposed marriage” insert “under the law of England and Wales”;

- (ii) after paragraph (a) insert—

“(aa) in relation to a proposed marriage under the law of Northern Ireland, the period—

- (i) beginning the day on which the record of the proposed marriage is made in the marriage notice book in accordance with Article 4 of the Marriage (Northern Ireland) Order 2003; and
- (ii) ending at the end of the period of 28 days beginning with that day;”;
- (iii) in paragraph (b) after “a proposed civil partnership” insert “under the law of England and Wales”;
- (iv) after paragraph (b) insert—
 - “(ba) in relation to a proposed civil partnership under the law of Northern Ireland, the period—
 - (i) beginning the day on which the record of the proposed civil partnership is made in the civil partnership notice book in accordance with section 140(1) of the Civil Partnership Act 2004, and
 - (ii) ending at the end of the period of 28 days beginning with that day;”;
- (c) for the definition of “section 48 notice” substitute—
 - ““section 48 notice” means—
 - (a) in relation to a proposed marriage or civil partnership under the law of England and Wales, a notice given under section 48(7) or (8),
 - (b) in relation to a proposed marriage or civil partnership under the law of Northern Ireland, a notice given under section 48(8A) or (8B),”.

SCHEDULE 5

Article 2(5)

Information

PART 1

General Provisions

Interpretation

1. In this Schedule—

“2003 Order” means the Marriage (Northern Ireland) Order 2003**(a)**;

“2004 Act” means the Civil Partnership Act 2004**(b)**;

“2014 Act” means the Immigration Act 2014**(c)**;

“registrar” means—

- (a) in the case of a marriage or proposed marriage, a person appointed under Article 31(1) or (3) of the 2003 Order; and
- (b) in the case of a civil partnership or proposed civil partnership, a person appointed under section 152(1) or (3) of the 2004 Act;

“registration official” means—

- (c) the Registrar General for Northern Ireland; or
- (d) a registrar.

(a) S.I. 2003/413 (N.I. 3).
(b) 2004 c. 33.
(c) 2014 c. 22.

Limitations on powers

2. This Schedule does not authorise—

- (a) a disclosure, in contravention of any provisions of the Data Protection Act 1988(a), of personal data which are not exempt from those provisions, or
- (b) a disclosure which is prohibited under Part 1 of the Regulation of Investigatory Powers Act 2000(b).

No breach of confidentiality etc

3. Subject to paragraph 2, a disclosure of information which is authorised by this Schedule does not breach—

- (a) an obligation of confidence owed by the person making the disclosure, or
- (b) any other restriction on the disclosure of information (however imposed).

Retention, copying and disposal of documents

4. A person to whom a document is supplied under any provision of this Schedule may—

- (a) retain the document;
- (b) copy the document;
- (c) dispose of the document in such manner as the person thinks appropriate.

Saving for existing powers

5. This Schedule does not limit any other power under which—

- (a) information may be disclosed, or
- (b) documents may be supplied.

PART 2

Disclosure of information etc where proposed marriage or civil partnership referred to Secretary of State

6.—(1) This paragraph applies if—

- (a) a registrar refers a proposed marriage to the Secretary of State under Article 3E of the 2003 Order, or
- (b) a registrar refers a proposed civil partnership to the Secretary of State under section 139E of the 2004 Act.

(2) The Secretary of State may—

- (a) disclose relevant information to a registration official, or
- (b) supply a document containing relevant information to a registration official.

(3) In this paragraph “relevant information” means any of the following information—

- (a) the fact that the proposed marriage or civil partnership has been referred to the Secretary of State;
- (b) the names of the parties to the proposed marriage or civil partnership;
- (c) any information included with the referral in accordance with regulations under paragraph 5 of Schedule 5 to the 2014 Act;

(a) 1998 c. 29.

(b) 2000 c. 23.

- (d) any address of a party to the proposed marriage or civil partnership notified to the Secretary of State in accordance with such regulations or regulations under paragraph 4 of that Schedule;
- (e) details of any immigration enforcement action taken by the Secretary of State in respect of a party to the proposed marriage or civil partnership (including any action taken after the solemnisation of the marriage or formation of the civil partnership);
- (f) details of any immigration decision taken wholly or partly by reference to the marriage or civil partnership (whether while it was proposed or after it was solemnised or formed).

PART 3

Disclosure of information etc for immigration purposes etc

Disclosures by registration officials

7.—(1) A registration official may—

- (a) disclose any information held by the registration official, or
- (b) supply any document held by the registration official,

to the Secretary of State, or to another registration official, for use for either of the following purposes.

(2) Those purposes are—

- (a) immigration purposes;
- (b) purposes connected with the exercise of functions relating to—
 - (i) the referral of proposed marriages to the Secretary of State under Article 3E of the 2003 Order, or
 - (ii) the referral of proposed civil partnerships to the Secretary of State under section 139E of the 2004 Act.

(3) In this paragraph “immigration purposes” means—

- (a) the administration of immigration control under the Immigration Acts;
- (b) the prevention, detection, investigation or prosecution of criminal offences relating to immigration;
- (c) the imposition of penalties or charges under Part 3 of the Immigration and Asylum Act 1999(a) (bail);
- (d) the provision of support for asylum-seekers and their dependants under Part 6 of that Act (support for asylum-seekers);
- (e) such other purposes as may be specified by the Secretary of State by order under section 54(6) of the 2014 Act.

8. A registration official may disclose to another registration official—

- (a) the fact that a suspicion about a marriage or civil partnership has been reported to the Secretary of State under section 24 or 24A of the Immigration and Asylum Act 1999(b), and
- (b) the content of any such report,

(a) 1999 c. 33.

(b) Subsection (4) of section 24 was amended by S.I. 2008/678; subsection (5) was substituted and subsection inserted by section 55 of the Immigration Act 2014 (c. 22). Section 24A was inserted by section 261 of, and paragraph 162 of Schedule 27 to, the Civil Partnership Act 2004 (c. 33); subsection (4) was amended by S.I. 2008/678; and subsection 5 substituted and subsection (6) inserted by section 55 of the Immigration Act 2014.

(whether or not the suspicion was reported by the registration official making the disclosure).

Disclosures by the Secretary of State

9.—(1) The Secretary of State may—

- (a) disclose any information held by the Secretary of State, or
- (b) supply any document held by the Secretary of State,

to a registration official for use for verification purposes.

(2) In this paragraph “verification purposes” means—

- (a) assisting in the verification of information provided to a relevant official by a person giving—
 - (i) notice of intention to marry under Article 3 of the 2003 Order, or
 - (ii) notice of proposed civil partnership under section 139 of the 2004 Act;
- (b) assisting in the verification of the immigration status of a person who contacts a relevant official in connection with the exercise of a function by a registration official;
- (c) assisting in the verification of whether a person who contacts a relevant official in connection with the exercise of a function by a registration official—
 - (i) is suspected of involvement in crime relating to immigration, or
 - (ii) has been convicted of an offence relating to immigration.

(3) In this paragraph “relevant official” means—

- (a) a registration official, or
- (b) any other person employed to assist the exercise of functions by registration officials.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends the referral and investigation scheme (“the Scheme”) for sham marriages and civil partnerships contained in the Immigration Act 2014 (c. 22) to proposed marriages and civil partnerships in Northern Ireland. It also makes a number of small changes to legislation that applies to England and Wales and Scotland where those changes are necessary for the amendments made by this Order to work or where amendments are also required in respect of Scotland but it is expedient for those amendments to be included in one order rather than contained separately in the parallel order that is being made to extend the Scheme to Scotland (the Referral and Investigation of Proposed Marriages and Civil Partnerships (Scotland) Order [S.I. 2015/396] (“Scotland Order”)).

The Scheme is principally extended by way of amendments to the relevant legislation that applies in Northern Ireland.

Schedule 1 to the Order amends the Marriage (Northern Ireland) Order 2003 (S.I. 2003/413 (N.I. 3) (“2003 Order”) and the Marriage Regulations (Northern Ireland) 2003 (S.R. (NI) 2003 No. 468). Paragraph 3 inserts new Articles 3A to 3E into the 2003 Order. Articles 3A to 3C require those who are not relevant nationals (a definition of relevant national is inserted by paragraph 2) to provide specified information and evidence at the same time as they serve notice of intention to marry and declare in writing that that information and evidence is true. Article 3D permits the registrar to reject that information or evidence, or any evidence that may have been required by the registrar in respect of a person’s nationality, if it is suspected to be false. Article 3E requires a registrar to refer a proposed marriage to the Secretary of State for investigation if the registrar has decided that one or both of the parties is not an exempt person. An exempt person is a person who is a relevant national, is a non-EEA national with an EU right of permanent residence, is exempt from immigration control, is settled in the United Kingdom or has a relevant visa. What

constitutes a relevant visa will be specified in regulations made by the Secretary of State. Article 3E(6) also introduces new Schedule 2 to the 2003 Order. This Schedule sets out the modifications that will apply to the 2003 Order when a marriage has been referred to the Secretary of State under Article 3E. In particular this Schedule makes provision for an extended statutory period whereby a marriage schedule may not be completed (and thereby the marriage may not go ahead) if the Secretary of State gives notice that she intends to investigate whether the proposed marriage is a sham.

Paragraph 5 amends Article 4 of the 2003 Order, which requires the registrar to enter particulars of the proposed marriage in the marriage notice book. By virtue of the amendment made the registrar may not enter the particulars where certain information and evidence required by Articles 3A, 3B and 5 have not been provided. If this is the case marriage notice will be treated as not having been given (new paragraph 2B).

Paragraph 6 inserts a new Article 7A which will enable a registrar to refuse to complete a marriage schedule (or, if it has already been completed, cancel it) where he or she has reasonable grounds for suspecting that the decision that a party to the marriage was an exempt person (see above) was made incorrectly because of the provision of false information or evidence.

Paragraphs 8 and 9 amend the Marriage Regulations (Northern Ireland) 2003. In particular where a proposed marriage has been referred to the Secretary of State any application to the registrar to reduce the notice period may only be authorised by the Registrar General with the consent of the Secretary of State unless it is made because one of the parties is gravely ill and not expected to recover.

Schedule 2 makes consequential amendments to section 23 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), whereby a marriage notice may only be submitted to a prescribed registrar. Unless both parties to a proposed marriage are exempt from immigration control or relevant nationals, they will be required to submit their marriage notice to a prescribed registrar.

Schedule 3 makes the equivalent amendments to those made by Schedules 1 and 2 and described above to Part 4 of the Civil Partnership Act 2004 (c. 33), Schedule 23 to that Act, and the Civil Partnership Regulations (Northern Ireland) 2005 (S.R.(NI) 2005 No. 482). The provisions of Schedule 23 that apply to Scotland are also amended by this Schedule.

Schedule 4 amends Part 4 of the Immigration Act 2014 to give effect to the referral and investigation scheme established by that Part to proposed marriages and civil partnerships under the law of Northern Ireland (and referred to the Secretary of State by virtue of amendments made to the 2003 Order and Part 4 of the Civil Partnership Act 2004 by Schedules 1 and 3 to this Order). Various amendments that apply to England and Wales are also made by this Schedule (so as to enable the amendments made in respect of Northern Ireland in this Order and those made in respect of Scotland in the Scotland Order to work).

Schedule 5 makes provision for the disclosure of information where a proposed marriage or civil partnership is referred to the Secretary of State and for immigration purposes. It permits the disclosure of information to the Secretary of State by registrars and the Registrar General for Northern Ireland and from the Secretary of State to registrars and the Registrar General for Northern Ireland. It makes equivalent provision to that made by Parts 1, 2 and 4 of Schedule 6 to the Immigration Act 2014 in respect of England and Wales.

No impact assessment has been produced for this Order as no impact on the voluntary or private sectors is foreseen, but an impact assessment was produced for the proposals now contained in Part 4 of the Immigration Act 2014 and which considered many aspects on a UK-wide basis. It is published at <https://www.gov.uk/government/publications/immigration-bill-part-4-marriage-and-civil-partnership> and a hard copy is available from the Home Office.

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