

SCHEDULE 1

Article 2(1)

Amendments to the Marriage (Scotland) Act 1977

1. The Marriage (Scotland) Act 1977 is amended as follows.
2. After section 3 (notice of intention to marry) insert—

**“Additional information if party not relevant national**

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

(2) But this section does not apply if the parties are in a qualifying civil partnership (within the meaning of section 5(6)(1)) with each other.

(3) 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.

(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 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)—

<i>If the notice is accompanied by this statement.....</i>	<i>...the notice shall also 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)	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

(1) Section 5(6) was inserted by section 8(3) of the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5).

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

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4. For each party who currently uses, or has previously used, an alias or aliases, a statement of the alias or aliases

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(8) If the notice is accompanied by more than one of statements A, B and C, subsection (7) shall be complied with in relation to each of those statements; but where the notice is accompanied by 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 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 district registrar with details of his immigration position in the United Kingdom; and
- (c) if any such details are provided, the district registrar shall record them.

(10) In this section and section 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.

(11) 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**

**3B.—**(1) If a marriage notice to which section 3A(1) applies (“the notice”) is accompanied by statement A (referred to in section 3A(4)) 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 section 3A(5)), 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 section 3A(7), 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 section 3A(9)), the notice may also be accompanied by evidence of the person’s immigration position in the United Kingdom.

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(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 shall be accompanied by—

- (a) photographs and addresses of the kinds referred to in paragraphs 1 and 2 in the relevant entry in section 3A(7);
- (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) names and aliases of the kinds referred to in paragraphs 3 and 4 in the relevant entry in section 3A(7) (insofar as those paragraphs are applicable to the parties to the proposed marriage).

(6) In this section—

“relevant entry in section 3A(7)” means the second column of the last entry in the table in section 3A(7);

“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 the marriage notice is accompanied by—

- (a) information provided in accordance with section 3A, and
- (b) information and evidence provided in accordance with section 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 district registrar may reject—

- (a) any evidence relating to a party's nationality provided in accordance with section 3(4A)(2),
- (b) any information or photograph provided under section 3A or 3B, or
- (c) any evidence provided under section 3B,

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

(2) If the district registrar rejects any information, photograph or evidence, the district 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 district registrars to reject anything provided under any other enactment.

(4) In this section “enactment” includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament.

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(2) Section 3(4A) was inserted by section 17 of the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5).

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### **Marriage notice: treated as not given**

**3E.**—(1) Where any of the requirements mentioned in subsection (2) is applicable but not complied with by either or both parties to the proposed marriage, the parties are to be taken not to have submitted a marriage notice under section 3.

(2) The requirements are—

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

(i) section 3(4A);

(ii) section 3A(3) to (8);

(iii) section 3B(3);

(iv) section 3B(5);

(b) the requirement imposed by section 21(2) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004(3).

### **Referral of proposed marriage to Secretary of State**

**3F.**—(1) On every occasion when a marriage notice is submitted under section 3, a district registrar shall decide whether or not each of the parties to the proposed marriage is an exempt person.

(2) But this section does not apply if the parties are in a qualifying civil partnership (within the meaning of section 5(6)) with each other.

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

(4) In a case where—

(a) section 3A applies to the marriage notice, and

(b) specified evidence required by section 3B(1) or (2) in relation to a party to the proposed marriage is not produced in accordance with that section,

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

(5) If the district registrar decides that either of the parties is not an exempt person, or that both of the parties are not exempt persons, the district 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.

(6) The district registrar shall 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) If the district 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 1A.

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(3) Relevant amendments were made to section 21(4) by section 59(4) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14) and to subsection (5) by article 2 of S.I. 2011/1158.

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(8) 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 1 (degrees of relationship) insert—

“SCHEDULE 1A

section 3F(7)

Modifications if proposed marriage referred under section 3F

### **Introduction**

1.—(1) These are the modifications subject to which this Act has effect if the district 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 section 6(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 district 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 district registrar the section 48 notice.

(4) Event 3 occurs if—

- (a) the Secretary of State gives the district 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 district 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 district registrar the section 50 notice.

(6) Event 5 occurs if the Secretary of State gives the district registrar notice that the duty under section 6(1) is applicable.

(7) The Secretary of State may give a notice for that purpose only if—

- (a) the Secretary of State has given the district 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 district registrar the section 50 notice, and

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- (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 paragraph 4.
- (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(4);
  - “section 48 notice” means notice under section 48(8C) of the 2014 Act(5);
  - “section 50 notice” means notice under section 50(7) of the 2014 Act.

### **Marriage to be investigated: extension of 28 day period to 70 days**

- 3.—(1) The modifications in this paragraph have effect if the Secretary of State gives the district registrar notice under section 48(8C) of the 2014 Act of a decision to investigate whether the referred marriage is a sham.
  - (2) Section 6(4)(a)(6) has effect as if—
    - (a) for the words from “28 days” to “relates” there were substituted “the relevant 70 day period”, and
    - (b) in sub-paragraph (i), for “28 days” there were substituted “relevant 70 day period”.
  - (3) Section 19(1)(7) has effect as if for the words from “28 days” to “that marriage” there were substituted “the relevant 70 day period”.
  - (4) In sections 6(4)(a) and 19 (as modified by this paragraph) “relevant 70 day period” means the period—
    - (a) beginning the day after receipt of the marriage notice (as entered by the district registrar in the marriage notice book), and
    - (b) ending at the end of the period of 70 days beginning with that day.
  - (5) This paragraph is subject to paragraph 4.

### **Effect of reducing statutory period**

- 4.—(1) Where—
  - (a) either—
    - (i) a district registrar is authorised to issue a Marriage Schedule under section 6(4)
      - (a) (including as modified under paragraph 3), or
      - (ii) an authorised registrar is authorised to solemnise a marriage under section 19(1)
        - (b) (including as modified under paragraph 3), and
    - (b) the authorisation mentioned in sub-paragraph (i) or, as the case may be, (ii) of paragraph (a) is given at a time when the duty under section 6(1) to complete a Marriage

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(4) The definition of “relevant statutory period” contained in section 62 is amended by Schedule 4 to this Order and Schedule 4 to the Referral and Investigation of Proposed Marriages and Civil Partnerships (Northern Ireland) Order 2015 (S.I. 2015/395).

(5) Section 48C is inserted by paragraph 2 of Schedule 4 to this Order.

(6) Section 6(4)(a) was amended by section 18 of the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5) (“2014 Act”) which increased the period within which a Marriage Schedule may not be issued (religious marriages) from 14 to 28 days of receipt of the marriage notice. There are other amendments to section 6 but they are not relevant to this Order.

(7) Section 19 was similarly amended by section 18 of the 2014 Act. The period within which a marriage (civil marriages) may not be solemnised was increased from 14 to 28 days of receipt of the marriage notice. There are other amendments to section 19 but they are not relevant to this Order.

Schedule in respect of the referred marriage has not arisen in accordance with paragraph 2,

the duty under section 6(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 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 or, as the case may be, issued or the marriage solemnised, 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 marriage is a sham.”

4. In section 4(8) (marriage notice book) after subsection (5) insert—

“(6) This section is subject to section 3E.”

5. In section 6(9) (Marriage Schedule)—

(a) after subsection (4) insert—

“(4ZA) Unless subsection (4ZB) applies, if a proposed marriage is referred to the Secretary of State under section 3F(10) (“the referred marriage”) the Registrar General may not authorise the district registrar to issue the Marriage Schedule on the date mentioned in subsection (4)(a)(ii) without the consent of the Secretary of State.

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

(b) after subsection (7) insert—

“(8) This section has effect subject to section 6A.”

6. After section 6 insert—

**“Marriage notice: false information or evidence**

**6A.—**(1) A district registrar may refuse to complete a Marriage Schedule under section 6 in a case where—

(a) a marriage notice has been submitted under section 3(1), and

(b) the district 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 district registrar refuses to complete a Marriage Schedule under subsection (1), the parties to the proposed marriage are to be taken not to have submitted a marriage notice under section 3; but that does not prevent criminal proceedings from being brought against either party, or any other person, in relation to the submission of notice.

(8) Subsections (2) to (2G) were substituted for subsection (2), and subsection (4) inserted, by section 48 of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14) (“2006 Act”); subsection (5) was inserted by section 49 of that Act.

(9) Subsection (1) was amended by sections 2 and 6 of, and paragraph 5 of Schedule 2 to, the Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16); subsection (1A) was inserted by the Marriage and Civil Partnership (Scotland) Act (asp 5); subsection (4A) was inserted by section 50, and subsection (7) amended by section 48, of the 2006 Act; and subsection (5) was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55).

(10) Section 3F is inserted by paragraph 2 of this Schedule.

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(3) This section is without prejudice to any other powers of district registrars to refuse to complete a Marriage Schedule.

(4) In this section—

“evidence” includes a photograph or other image;

“exempt person” has the same meaning as in section 3F;

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

7. In section 19(11) (marriage ceremony and registration of marriage), after subsection (1) insert—

“(1ZA) Unless subsection (1ZB) applies, if a proposed marriage is referred to the Secretary of State under section 3F (“the referred marriage”) the Registrar General may not authorise an authorised registrar to solemnise the referred marriage on the date mentioned in subsection (1)(b) without the consent of the Secretary of State.

(1ZB) This subsection applies if the request made under subsection (1)(a) is made because a party to the referred marriage is gravely ill and not expected to recover.”

8. In section 26(2) (interpretation)—

(a) before the definition of “annulment” insert—

““2014 Act” means the Immigration Act 2014(12);”;

(b) after the definition of “religious or belief marriage”(13) 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;”.

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(11) Subsection (1A) was inserted by section 50 of the 2006 Act.

(12) 2014 c. 22.

(13) the definition of religious or belief marriage was inserted by section 12(4) of the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5).