

IMMIGRATION ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Marriage and Civil Partnership

Chapter 1: Referral and Investigation of Proposed Marriages and Civil Partnerships

Section 48: Decision whether to investigate

218. *Subsection (1)* provides that the section applies if a superintendent registrar refers a proposed marriage to the Secretary of State under section 28H of the Marriage Act 1949 (“the 1949 Act”), or a registration authority refers a proposed civil partnership to the Secretary of State under section 12A of the Civil Partnership Act 2004. Sections 28H and 12A are inserted by Schedule 4 to the Act.
219. *Subsection (2)* requires the Secretary of State to decide whether to investigate whether a proposed marriage or civil partnership referred to the Secretary of State is a sham, as defined by section 55. (That definition refers to sections 24 and 24A of the 1999 Act, which are amended by section 56.)
220. *Subsection (3)* prevents the Secretary of State from conducting an investigation unless the conditions set out in subsection (4) (Condition A) and subsection (5) (Condition B) are met.
221. *Subsection (4)* provides that Condition A is met if the Secretary of State is satisfied that one or both parties to the proposed marriage or civil partnership is not an exempt person, as defined by section 49.
222. *Subsection (5)* provides that Condition B is met if the Secretary of State has reasonable grounds for suspecting the proposed marriage or civil partnership is a sham.
223. *Subsection (6)* requires that, in deciding whether to conduct an investigation, the Secretary of State has regard to any guidance published by the Secretary of State for that purpose.
224. *Subsection (7)* requires the Secretary of State to give notice of the decision whether to conduct an investigation to both parties to the proposed marriage and to the superintendent registrar who referred it.
225. *Subsection (8)* requires the Secretary of State to give notice of the decision whether to conduct an investigation to both parties to the proposed civil partnership and to the registration authority who referred it and, if different, the registration authority responsible for issuing the civil partnership schedule.
226. *Subsection (9)* requires the Secretary of State to make and give notice of the decision whether to conduct an investigation within the 28-day period for giving notice of marriage following civil preliminaries for which section 31 of the 1949 Act (as amended by paragraph 10 of Schedule 4) will provide, or within the 28-day period for giving

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

notice of civil partnership for which section 11 of the Civil Partnership Act 2004 (as amended by paragraph 22 of Schedule 4) will provide.