

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

Schedule 4: Referral of proposed marriages and civil partnerships in England and Wales

Part 1: Marriage

Referral to Secretary of State

265. *Paragraph 8* inserts a new section 28H (referral of proposed marriage to Secretary of State) in the 1949 Act. This requires the superintendent registrar, when notice of marriage is given under section 27 of the 1949 Act, to decide whether both parties to the proposed marriage are exempt persons under section 49(1) (unless the marriage is one to which section 39A of the 1949 Act applies because it is a marriage between former civil partners, one of whom has changed sex). Where the superintendent registrar decides that one or both of the parties is not an exempt person, the registrar must refer the proposed marriage to the Secretary of State. The registrar must also refer the marriage if one or both of the parties is not a British citizen, EEA national or Swiss national and evidence required under new section 28C(2) or (3) has not been provided. They must do so in accordance with regulations about the form, manner and timing of the referral (and the information to be included with it) made by the Secretary of State (after consulting the Registrar General), subject to the negative resolution procedure. The superintendent registrar must also notify the parties that the proposed marriage must be referred to the Secretary of State, what this means and of any requirements in regulations under new section 28D about notifying the Secretary of State of any change in usual or UK contact address.
266. *Paragraph 9* inserts Schedule 3A (modifications if proposed marriage referred under section 28H) before Schedule 4 to the 1949 Act. This provides that the duty placed on the superintendent registrar under section 31(2) of the 1949 Act to issue a certificate for marriage does not apply unless and until one of five events occurs. Event 1 occurs where the Secretary of State has given the superintendent registrar notice under section 48(7) of a decision not to investigate; event 2 occurs where the statutory 28 day period has ended and the Secretary of State has not given the superintendent registrar notice under section 48(7); event 3 occurs where the Secretary of State has given the superintendent registrar notice under section 50(7) that the parties to the referred marriage have complied with the investigation; event 4 occurs where the 70 day period has ended and the Secretary of State has not given the superintendent registrar notice under section 50(7); and event 5 occurs if the Secretary of State gives the superintendent registrar notice that the duty under section 31(2) of the 1949 Act applies.

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

267. *Paragraph 9* also extends the notice period to 70 days if the Secretary of State gives the superintendent registrar notice under section 48(7) of a decision to investigate whether a referred marriage is a sham. Where a proposed marriage is referred to the Secretary of State, the statutory notice period (whether 28 or 70 days) can be shortened by the Secretary of State in exceptional circumstances, in which case the Secretary of State must notify the applicant and the superintendent registrar of the reduced period, enabling the superintendent registrar to issue a certificate in respect of the referred marriage under section 31(2) of the 1949 Act.