

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 2: Civil Partnership

Referral to Secretary of State

292. *Paragraph 24* inserts a new section 12A (referral of proposed civil partnership to Secretary of State) into the Civil Partnership Act 2004. This requires the registration authority, when notice of proposed civil partnership is given under section 8, to decide whether both parties to the proposed civil partnership are exempt persons under section 49(1) (unless the civil partnership is one to which Schedule 3 to the Civil Partnership Act 2004 applies because it is between former spouses, one of whom has changed sex). Where the registration authority decides that one or both of the parties is not an exempt person, they must refer the proposed civil partnership to the Secretary of State. The registration authority must also refer the proposed civil partnership if one or both of the parties is not a British citizen, EEA national or Swiss national and evidence required under new section 9A(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). The registration authority must also notify the parties that the proposed civil partnership must be referred to the Secretary of State, what this means and how they must notify the Secretary of State of any change in usual or UK contact address.
293. *Paragraph 25* inserts Schedule 3A (modifications if proposed civil partnership referred under section 12A) after Schedule 3 to the Civil Partnership Act 2004. This provides that the duty under section 14(1) on a registration authority to issue a civil partnership schedule does not apply unless and until one of five events occurs. Event 1 occurs where the Secretary of State has given the registration authority notice under section 48(8) 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 registration authority notice under section 48(8); event 3 occurs where the Secretary of State has given the registration authority notice under section 50(7) that the parties to the referred civil partnership have complied with the investigation; event 4 occurs where the 70 day period has ended and the Secretary of State has not given the registration authority notice under section 50(7); and event 5 occurs if the Secretary of State gives the registration authority notice that the duty under section 14(1) of the Civil Partnership Act 2004 applies.

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

294. *Paragraph 25* also extends the notice period to 70 days if the Secretary of State gives the registration authority notice under section 48(8) of a decision to investigate a referred civil partnership as a sham. Where a proposed civil partnership 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 registration authority of the reduced period, enabling the registration authority to issue a certificate in respect of the referred civil partnership under section 14(1) of the Civil Partnership Act 2004.