

SCHEDULE 5

Article 2(5)

Information

PART 1

General provisions

Interpretation

1. In this Schedule—

“1977 Act” means the Marriage (Scotland) Act 1977;

“2004 Act” means the Civil Partnership Act 2004;

“2014 Act” means the Immigration Act 2014(1);

“district registrar” is to be construed in accordance with section 7 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(2) and includes a senior registrar, an assistant registrar and an interim district registrar for a registration district;

“registration official” means—

- (a) the Registrar General for Scotland; or
- (b) a district registrar.

Limitations on powers

2. This Schedule does not authorise—

- (a) a disclosure, in contravention of any provisions of the Data Protection Act 1988(3), 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(4).

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.

(1) 2014 c. 22.

(2) 1965 c. 49; section 7 was amended by S.I. 1974/812 and section 7 of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14).

(3) 1998 c. 29.

(4) 2000 c. 23.

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 district registrar refers a proposed marriage to the Secretary of State under section 3F of the 1977 Act, or
 - (b) a district registrar refers a proposed civil partnership to the Secretary of State under section 88F 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;
 - (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 section 3F of the 1977 Act, or
 - (ii) the referral of proposed civil partnerships to the Secretary of State under section 88F 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⁽⁵⁾ (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⁽⁶⁾, and
 - (b) the content of any such report,
- (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 section 3 of the 1977 Act, or
 - (ii) notice of intention to enter civil partnership under section 88 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

⁽⁵⁾ 1999 c. 33.

⁽⁶⁾ Subsection (4) of section 24 was amended by S.I. 2008/678; subsection (5) was substituted and subsection (6) 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.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:
The Referral and Investigation of Proposed Marriages and Civil Partnerships (Scotland) Order 2015 No. 396

- (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.