
DRAFT STATUTORY INSTRUMENTS

2015 No.

**The Proposed Marriages and Civil Partnerships
(Conduct of Investigations, etc.) Regulations 2015**

PART 2

Investigations

Introduction

3.—(1) An investigation⁽¹⁾ must be conducted in accordance with these Regulations.

(2) When carrying out an investigation the Secretary of State may make such enquiries as the Secretary of State thinks fit for the purpose of determining whether a proposed marriage or civil partnership is a sham.

(3) Without prejudice to the generality of paragraph (2), as part of an investigation a relevant party may be required to provide information or evidence about, in particular—

- (a) himself or herself (including his or her identity);
- (b) the other relevant party;
- (c) his or her relationship with the other relevant party;
- (d) his or her living arrangements and those of the other relevant party;
- (e) his or her future plans and those of the other relevant party.

Interviews: general

4.—(1) This regulation applies to interviews conducted by the Secretary of State in accordance with regulations 6 to 10.

(2) As part of an investigation the Secretary of State may require a relevant party to be interviewed.

(3) The Secretary of State may require a relevant party to be interviewed on his or her own, together with the other relevant party, or both.

(4) The Secretary of State may require an interview with a relevant party to take place—

- (a) where a relevant party is in the United Kingdom—
 - (i) in person at the relevant party's home;
 - (ii) in person at the other relevant party's home (if different);
 - (iii) in person at Home Office premises;
 - (iv) by telephone, by video-telecommunications link or over the internet (where the relevant party must be present at Home Office premises);

⁽¹⁾ “investigation” is defined by section 50(11) of the Immigration Act 2014 (c. 22).

- (v) by telephone, by video-telecommunications link or over the internet (where the relevant party may be elsewhere);
- (b) where a relevant party is outside the United Kingdom—
 - (i) in person at Home Office premises;
 - (ii) by telephone, by video-telecommunications link or over the internet (where the relevant party must be present at Home Office premises);
 - (iii) by telephone, by video-telecommunications link or over the internet (where the relevant party may be elsewhere).
- (5) A relevant party may also be required to attend an interview while he or she is detained.
- (6) A relevant party may be required to attend more than one interview.
- (7) Unless paragraph (8) or (9) applies, an interview must take place during normal office hours.
- (8) This paragraph applies where a relevant party (or, as the case may be, both relevant parties) agrees that an interview may take place outside normal office hours.
- (9) This paragraph applies where an interview is commenced and has been substantially completed during normal office hours.
- (10) Where paragraph (9) applies, the interview may continue outside normal office hours.
- (11) A relevant party may be accompanied at an interview by an appropriate legal representative.
- (12) A relevant party may also be accompanied at an interview by an interpreter (appointed by the relevant party).
- (13) A relevant party may not be accompanied at an interview by a person other than those mentioned in paragraphs (11) and (12) without the Secretary of State’s consent.
- (14) The Secretary of State must make a written record of an interview (“the record”).
- (15) The record must be completed during the interview and must constitute—
 - (a) a verbatim account of what has been said, or
 - (b) an account of the interview which adequately summarises it.
- (16) The record must be signed and dated by the person who made it.
- (17) If a relevant party requests one, the Secretary of State must provide him or her with a copy of that record.
- (18) In this regulation “appropriate legal representative” means a legal representative who is a qualified person within the meaning of section 82 of the Immigration and Asylum Act 1999⁽²⁾.

Arranging an interview

- 5.—(1) A relevant party may be required to contact the Secretary of State to arrange an interview.
- (2) A relevant party may be required to contact the Secretary of State by—
 - (a) telephoning the telephone number;
 - (b) sending a text message to the telephone number;
 - (c) sending an email to the Home Office or Foreign and Commonwealth Office email address;
or
 - (d) writing to the address,

(2) 1999 c. 33: section 82 defines a qualified person by reference to section 84. Relevant changes to section 82 have been made by section 186 of, and paragraphs 9 and 10 of Schedule 18 to, the Legal Services Act 2007 (“2007 Act”) (c. 29). Relevant changes to section 84 have been made by section 37 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) and section 186 of, and paragraphs 9 and 12 of Schedule 18 to, the 2007 Act.

specified in the section 48 notice or in any subsequent notification as mentioned in section 50(3) of the 2014 Act (“the notification”).

(3) A relevant party may be required to contact the Secretary of State within the time period specified in the section 48 notice or in the notification (which may not be less than a period of three working days beginning with the day on which the notice or the notification is given).

(4) A relevant party who contacts the Secretary of State in accordance with this regulation must make himself or herself reasonably available so that a date and time, being a date no later than the date specified in the section 48 notice or in the notification, can be agreed for an interview to take place.

(5) Where an interview is to take place with a relevant party and the other relevant party, the relevant party may also be required to agree the date and time mentioned in paragraph (4), so far as practicable, on behalf of the other relevant party.

Interviews at a relevant party’s home

6.—(1) This regulation applies where a relevant party is required to attend an interview at his or her home or at the other relevant party’s home (if different).

(2) Subject to paragraphs (3) and (4), a relevant party must be given at least three working days written notice of the date, place and time of the interview.

(3) A relevant party (or, as the case may be, both relevant parties) may agree to an interview taking place with less than three working days notice.

(4) The notice mentioned in paragraph (3) need not be in writing.

(5) During an interview the Secretary of State may make observations about, and ask a relevant party about, his or her living arrangements, or, as the case may be, those of the other relevant party.

(6) A record of those observations and any response to them given by a relevant party must be recorded in writing and signed and dated by the person who made it.

(7) Where a relevant party and the other relevant party claim to cohabit, the Secretary of State may ask to see reasonable evidence of their cohabitation.

(8) A record of that evidence must be recorded in writing and signed and dated by the person who made it.

(9) If a relevant party requests one, the Secretary of State must provide him or her with a copy of the record mentioned in paragraph (6), or, as the case may be, paragraph (8).

(10) An interview under this regulation may not proceed unless at least two persons on behalf of the Secretary of State are present.

Interviews at Home Office premises in the United Kingdom

7.—(1) This regulation applies where a relevant party is required to attend an interview at Home Office premises in the United Kingdom whether that interview is to take place in person, by telephone, by video-telecommunications link or over the internet.

(2) Subject to paragraphs (3) and (4), a relevant party must be given at least three working days written notice of the date, place and time of the interview and how it is to be conducted.

(3) A relevant party (or, as the case may be, both relevant parties) may agree to an interview taking place with less than three working days notice.

(4) The notice mentioned in paragraph (3) need not be in writing.

(5) In this regulation and regulation 8 a reference to how an interview is to be conducted is a reference to whether—

- (a) it is to be conducted in person, by telephone, by video-telecommunications link or over the internet; and
- (b) where it is to be conducted by telephone, by video-telecommunications link or over the internet, it is to be two-way (that is to say, with just the relevant party) or three-way (with both the relevant party and the other relevant party), or both.

Interviews at Home Office premises outside the United Kingdom

8.—(1) This regulation applies where a relevant party is required to attend an interview at Home Office premises outside the United Kingdom whether that interview is to take place in person, by telephone, by video-telecommunications link or over the internet.

(2) A relevant party may be required to attend an interview at Home Office premises outside the United Kingdom where—

- (a) the relevant party is resident outside the United Kingdom; and
- (b) those Home Office premises are located within a reasonable travelling distance of the relevant party's place of residence (whether or not they are in the same country or territory).

(3) Subject to paragraphs (4) and (5), a relevant party must be given at least three working days written notice of the date, place and time of the interview and how it is to be conducted.

(4) A relevant party (or, as the case may be, both relevant parties) may agree to the interview taking place with less than three working days notice.

(5) The notice mentioned in paragraph (4) need not be in writing.

Interviews by telephone, etc.

9.—(1) This regulation applies where a relevant party (whether in or outside the United Kingdom) is required to attend an interview by telephone, by video-telecommunications link or over the internet (but is not required to be present at Home Office premises).

(2) Subject to paragraphs (3) and (4), a relevant party must be given at least three working days written notice of the date and time of the interview and how it is to be conducted.

(3) A relevant party (or, as the case may be, both relevant parties) may agree to the interview taking place with less than three working days notice.

(4) The notice mentioned in paragraph (3) need not be in writing.

(5) At the start of the interview—

- (a) the person conducting it must identify himself or herself (and anyone accompanying him or her) by reference to his or her name, position and place of work; and
- (b) the relevant party (and, as the case may be, the other relevant party) must confirm his or her identity by reference to his or her name, date of birth and nationality and to the Home Office reference on the section 48 notice given to him or her.

(6) Where the relevant party (or the other relevant party) is unable to confirm his or her identity as required by paragraph (5)(b), the Secretary of State may decide—

- (a) where the Secretary of State is otherwise satisfied that it is the relevant party (or, as the case may be, the other relevant party), to continue with the interview;
- (b) to rearrange the interview in accordance with this regulation or with regulation 6 or 7 (or, as the case may be, 8); or
- (c) that the relevant party (or, as the case may be, the other relevant party) has failed to comply with a specified requirement (see regulation 14).

(7) In paragraph (2)—

- (a) the “time” of an interview means the 30 minute period within which an interview may start; and
- (b) a reference to how an interview is to be conducted is a reference to whether it is to be—
 - (i) conducted by telephone, by video-telecommunications link or over the internet; and
 - (ii) two-way (that is to say, with just the relevant party) or three-way (with both the relevant party and the other relevant party), or both.

Interviews while detained

10.—(1) This regulation applies where a relevant party is required to attend an interview while he or she is detained.

(2) Subject to paragraphs (3) and (4), a relevant party must be given at least three working days written notice of the date and time of the interview and how it is to be conducted.

(3) A relevant party may agree to an interview taking place with less than three working days notice.

(4) The notice mentioned in paragraph (3) need not be in writing.

(5) An interview may take place in person or by telephone; and a reference in this regulation to how an interview is to be conducted is a reference to whether it is to take place in person or by telephone.

(6) Subject to paragraph (7), regulations 7 and 9 do not apply where a relevant party is required to attend an interview under this regulation.

(7) Where a relevant party is interviewed by telephone—

- (a) paragraph (5) of regulation 9 applies as if the words “(and, as the case may be, the other relevant party)” in sub-paragraph (b) were omitted; and
- (b) paragraph (6) of that regulation applies as if—
 - (i) the words “(or the other relevant party)”;
 - (ii) the words “(or, as the case may be, the other relevant party)” in sub-paragraph (a);
 - (iii) the words from “or with” to the end in sub-paragraph (b); and
 - (iv) the words “(or, as the case may be, the other relevant party)” in sub-paragraph (c), were omitted.

Rearranging an interview

11.—(1) Where a relevant party is required to attend an interview in accordance with regulations 6 to 10 and the date or time for that interview is not (or where it was arranged in accordance with regulation 5, no longer) convenient for the relevant party or, as the case may be, the other relevant party, the Secretary of State may agree to rearrange the interview.

(2) Where the Secretary of State agrees to rearrange an interview the relevant party may be given less than three working days written notice of the rearranged interview (but, subject to paragraph (3), not less than 24 hours).

(3) A relevant party (or, as the case may be, both relevant parties) may agree to a rearranged interview taking place with less than 24 hours notice.

(4) The notice mentioned in paragraphs (2) and (3) need not be in writing.

Requirement to provide information, evidence or photographs

12.—(1) The Secretary of State may require a relevant party to provide information, evidence or photographs in accordance with this regulation.

(2) A relevant party may be required to provide information, evidence or photographs before, during or after an interview.

(3) But a requirement to provide information, evidence or photographs may also be imposed whether or not an interview is to take place or has taken place.

(4) Unless it is made at an interview, a requirement to provide information must be made in writing.

(5) A requirement to provide evidence or photographs must be imposed, or where it is made at an interview, followed up, in writing.

(6) Where a requirement to provide information, evidence or photographs is imposed, or as the case may be, followed up, in writing, it must—

- (a) include a description of the information, evidence or photographs that must be provided;
- (b) set out how the information, evidence or photographs must be provided, whether by sending the information, evidence or photographs to the Secretary of State or providing the information, evidence or photographs at an interview;
- (c) where the information, evidence or photographs is or are to be sent to the Secretary of State, include the address to which the information, evidence or photographs must be sent and the date by which the information, evidence or photographs must be received by the Secretary of State; and
- (d) where the evidence is in the form of a document—
 - (i) set out the circumstances in which a certified translation must also be provided; and
 - (ii) set out the circumstances in which a certified copy may be provided.

(7) In this regulation—

- (a) in paragraph (6)(c), “address” includes, where appropriate, an email address;
- (b) “certified translation” means a translation of the document provided which—
 - (i) is certified as a true and accurate translation by the person who translated it;
 - (ii) is signed and dated by that person; and
 - (iii) states his or her name and contact details;
- (c) “certified copy” means a copy of the original document which—
 - (i) is certified as a true copy of the original;
 - (ii) is signed and dated by the person who certifies it; and
 - (iii) states that person’s name, contact details and position or occupation.

(8) A document may not be certified by a person who is—

- (a) a family member of the relevant party or the other relevant party;
- (b) a person who lives with the relevant party or the other relevant party; or
- (c) the other relevant party.

Further provision about electronic documents

13.—(1) A relevant party may be required to provide evidence in the form of an electronic document by—

- (a) showing it, during an interview, to the Secretary of State who may—

- (i) make a note of its contents in the record mentioned in regulation 4;
 - (ii) photograph it;
 - (iii) request a “screenshot” of the document; or
- (b) where it is an email (or included in an email), forwarding it to a Home Office or Foreign and Commonwealth Office email account.