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## SCHEDULES

### SCHEDULE 4

#### REFERRAL OF PROPOSED MARRIAGES AND CIVIL PARTNERSHIPS IN ENGLAND AND WALES

##### PART 1

##### MARRIAGE

##### *Referral to Secretary of State*

8 After section 28G insert—

**“28H Referral of proposed marriage to Secretary of State**

- (1) On every occasion when notice of marriage is given under section 27, a superintendent registrar must decide whether or not each of the parties to the proposed marriage is an exempt person.
- (2) But this section does not apply if section 39A applies to the proposed marriage.
- (3) In making a decision under subsection (1) about a party to a proposed marriage, a superintendent registrar may rely on any advice given in relation to that decision by the Secretary of State.
- (4) In a case where—
  - (a) section 27E applies to the notice of marriage, and
  - (b) specified evidence required by section 28C(2) or (3) in relation to a party to the proposed marriage is not produced in accordance with that section,the superintendent registrar must decide that that party to the proposed marriage is not an exempt person.
- (5) If the superintendent registrar decides that either of the parties is not an exempt person, or that both of the parties are not exempt persons, the superintendent registrar must—
  - (a) refer the proposed marriage to the Secretary of State;
  - (b) notify the parties to the proposed marriage that the proposed marriage must be referred to the Secretary of State;
  - (c) give the parties to the proposed marriage prescribed information about—
    - (i) the effects of the referral;
    - (ii) the requirement under regulations under section 28D to notify the Secretary of State of changes of address.

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- (6) The superintendent registrar must act in accordance with regulations when complying with the duty in subsection (5)(a) to refer a proposed marriage to the Secretary of State.
- (7) Regulations may, in particular, make provision about—
  - (a) the form, manner or timing of the referral of a proposed marriage;
  - (b) information, photographs or evidence — or copies of any of those things — to be included with the referral of a proposed marriage.
- (8) Regulations are to be made by statutory instrument; and a statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) If the superintendent registrar refers the proposed marriage to the Secretary of State, this Act has effect in relation to the proposed marriage subject to the modifications in Schedule 3A.
- (10) In this section—
  - (a) a reference to a person being an exempt person has the same meaning as in section 49 of the Immigration Act 2014;
  - (b) “prescribed information” means information prescribed in regulations;
  - (c) “regulations” means regulations made by the Secretary of State after consulting the Registrar General.”.

#### **Commencement Information**

- I1** [Sch. 4 para. 8](#) in force at 20.10.2014 for specified purposes by [S.I. 2014/2771](#), [art. 3\(e\)](#)
- I2** [Sch. 4 para. 8](#) in force at 1.3.2015 in so far as not already in force by [S.I. 2015/371](#), [art. 2\(1\)\(f\)](#)

9 Before Schedule 4 insert—

### “SCHEDULE 3A

#### MODIFICATIONS IF PROPOSED MARRIAGE REFERRED UNDER SECTION 28H

##### *Introduction*

- 1 (1) These are the modifications subject to which this Act has effect if the superintendent registrar refers a proposed marriage to the Secretary of State.
- (2) In this Schedule—
  - “2014 Act” means the Immigration Act 2014;
  - “referred marriage” means the proposed marriage referred to the Secretary of State.

##### *No certificate to be issued until decision about investigation etc*

- 2 (1) The duty under section 31(2) to issue a certificate in respect of the referred marriage does not apply unless and until one of the following events occurs.
- (2) Event 1 occurs if—

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- (a) the Secretary of State gives the superintendent registrar the section 48 notice, and
  - (b) that notice is of a decision not to investigate whether the referred marriage is a sham.
- (3) Event 2 occurs if—
  - (a) the relevant statutory period ends, and
  - (b) the Secretary of State has not given the superintendent registrar the section 48 notice.
- (4) Event 3 occurs if—
  - (a) the Secretary of State gives the superintendent registrar the section 48 notice,
  - (b) that notice is of a decision to investigate whether the referred marriage is a sham,
  - (c) the Secretary of State gives the superintendent registrar the section 50 notice, and
  - (d) that notice is of a decision that both of the parties to the referred marriage have complied with the investigation.
- (5) Event 4 occurs if—
  - (a) the 70 day period ends, and
  - (b) the Secretary of State has not given the superintendent registrar the section 50 notice.
- (6) Event 5 occurs if the Secretary of State gives the superintendent registrar notice that the duty under section 31(2) is applicable.
- (7) The Secretary of State may give a notice for that purpose only if—
  - (a) the Secretary of State has given the superintendent registrar the section 48 notice,
  - (b) that notice is of a decision to investigate whether the referred marriage is a sham,
  - (c) the Secretary of State has given the superintendent registrar the section 50 notice, and
  - (d) that notice is of a decision that one or both of the parties to the referred marriage have not complied with the investigation.
- (8) This paragraph applies in addition to any other requirements applicable to the issue of the certificate.
- (9) This paragraph is subject to paragraph 4.
- (10) In this paragraph—
  - “70 day period” has the same meaning as in section 50 of the 2014 Act;
  - “relevant statutory period” has the same meaning as in section 48 of the 2014 Act;
  - “section 48 notice” means notice under section 48(7) of the 2014 Act;
  - “section 50 notice” means notice under section 50(7) of the 2014 Act.

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*Marriage to be investigated: extension of waiting period to 70 days*

- 3 (1) The modifications in this paragraph have effect if the Secretary of State gives the superintendent registrar notice under section 48(7) of the 2014 Act of a decision to investigate whether the referred marriage is a sham.
- (2) Section 31(2): the reference to the said period of 28 days has effect as a reference to the relevant 70 day period.
- (3) Section 31(4A)(a): the reference to the period of 28 days has effect as a reference to the relevant 70 day period.
- (4) Section 31(5A) and (5C): the reference to the 28 day period has effect as a reference to the relevant 70 day period.
- (5) Section 31(5B) does not apply.
- (6) Section 75(3)(a): the reference to 28 days has effect as a reference to 70 days (and the reference in section 31(5C) to 28 days has effect accordingly).
- (7) In this paragraph “relevant 70 day period” means the period—
  - (a) beginning the day after notice of the proposed marriage is entered in the marriage book in accordance with Part 3 of the Marriage Act 1949, or is entered in an approved electronic form by virtue of section 27(4A) of that Act, and
  - (b) ending at the end of the period of 70 days beginning with that day.

*Effect of reducing statutory period*

- 4 (1) This paragraph applies if—
  - (a) the Secretary of State gives notice under section 31(5EB) of the grant of an application made under section 31(5A) (reduction of statutory period) in relation to the referred marriage, and
  - (b) that notice is given at a time when the duty under section 31(2) to issue a certificate in respect of the referred marriage has not arisen in accordance with paragraph 2.
- (2) The duty under subsection 31(2) to issue a certificate in respect of the referred marriage arises on the giving of the notice, subject to any other requirements applicable to the issue of the certificate being met.
- (3) But the requirements of paragraph 2 are not applicable in such a case.
- (4) The Secretary of State is not prevented from deciding to conduct, conducting, or continuing, an investigation if a certificate in respect of the referred marriage is issued as mentioned in sub-paragraph (2).
- (5) But in such a case, nothing in the 2014 Act requires the Secretary of State to decide whether to conduct, to conduct, or to continue, an investigation.
- (6) In this paragraph “investigation” means an investigation, conducted following a decision by the Secretary of State under section 48 of the 2014 Act, whether a proposed marriage is a sham.”.

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#### Commencement Information

**I3**    [Sch. 4 para. 9](#) in force at 1.3.2015 by [S.I. 2015/371](#), [art. 2\(1\)\(f\)](#)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2014/2771 by [S.I. 2015/371 art. 78](#)
- specified provision(s) savings for earlier commencing SI 2014/2771 by [S.I. 2014/2928 art. 2](#) (Amendment already reflected in Appended Commentary in EXTOES for 2014 SI2771.)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 21(4A) inserted by [S.I. 2019/745 reg. 21\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 21(2)(3) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- s. 27(7) inserted by [S.I. 2019/745 reg. 21\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 21(2)(3) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- s. 70A(6A) inserted by [S.I. 2019/745 reg. 21\(7\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 21(7) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 3 para. 8A inserted by [2016 c. 19 Sch. 12 para. 16](#)