
Changes to legislation: Immigration Act 2014, Cross Heading: Referral to Secretary of State is up to date with all changes known to be in force on or before 02 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 4

REFERRAL OF PROPOSED MARRIAGES AND CIVIL PARTNERSHIPS IN ENGLAND AND WALES

PART 2

CIVIL PARTNERSHIP

Referral to Secretary of State

24 After section 12 insert—

“12A Referral of proposed civil partnership to Secretary of State

- (1) On every occasion when notice of proposed civil partnership is given under section 8, the registration authority must decide whether or not each of the parties to the proposed civil partnership is an exempt person.
- (2) But this section does not apply if Schedule 3 applies to the proposed civil partnership.
- (3) In making a decision under subsection (1) about a party to a proposed civil partnership, a registration authority may rely on any advice given in relation to that decision by the Secretary of State.
- (4) In a case where—
 - (a) section 8A applies to the notice of proposed civil partnership, and
 - (b) specified evidence required by section 9A(2) or (3) in relation to a party to the proposed civil partnership is not produced in accordance with that section,the registration authority must decide that that party to the proposed civil partnership is not an exempt person.
- (5) If the registration authority decides that either of the parties is not an exempt person, or that both of the parties are not exempt persons, the registration authority must—
 - (a) refer the proposed civil partnership to the Secretary of State;
 - (b) notify the parties to the proposed civil partnership that the proposed civil partnership must be referred to the Secretary of State;
 - (c) give the parties to the proposed civil partnership prescribed information about—
 - (i) the effects of the referral;
 - (ii) the requirement under regulations under section 9B to notify the Secretary of State of changes of address.

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- (6) The registration authority must act in accordance with regulations when complying with the duty in subsection (5)(a) to refer a proposed civil partnership 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 civil partnership;
 - (b) information, photographs or evidence — or copies of any of those things — to be included with the referral of a proposed civil partnership.
- (8) If the registration authority refers the proposed civil partnership to the Secretary of State, this Act has effect in relation to the proposed civil partnership subject to the modifications in Schedule 3A.
- (9) 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. 24 in force at 20.10.2014 for specified purposes by S.I. 2014/2771, art. 3(e)
I2 Sch. 4 para. 24 in force at 1.3.2015 in so far as not already in force by S.I. 2015/371, art. 2(1)(f)

25 After Schedule 3 insert—

“SCHEDULE
3A

MODIFICATIONS IF PROPOSED CIVIL PARTNERSHIP REFERRED UNDER SECTION 12A

Introduction

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

No civil partnership schedule to be issued until decision about investigation etc

- 2 (1) The duty under section 14(1) to issue a civil partnership schedule in respect of the referred civil partnership does not apply unless and until one of the following events occurs.

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- (2) Event 1 occurs if—
 - (a) the Secretary of State gives the registration authority or authorities the section 48 notice, and
 - (b) that notice is of a decision not to investigate whether the referred civil partnership is a sham.
- (3) Event 2 occurs if—
 - (a) the relevant statutory period ends, and
 - (b) the Secretary of State has not given the registration authority or authorities the section 48 notice.
- (4) Event 3 occurs if—
 - (a) the Secretary of State gives the registration authority or authorities the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
 - (c) the Secretary of State gives the registration authority or authorities the section 50 notice, and
 - (d) that notice is of a decision that both of the parties to the referred civil partnership 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 registration authority or authorities the section 50 notice.
- (6) Event 5 occurs if the Secretary of State gives the registration authority or authorities notice that the duty under section 14(1) is applicable.
- (7) The Secretary of State may give a notice for that purpose only if—
 - (a) the Secretary of State has given the registration authority or authorities the section 48 notice,
 - (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
 - (c) the Secretary of State has given the registration authority or authorities the section 50 notice, and
 - (d) that notice is of a decision that one or both of the parties to the referred civil partnership have not complied with the investigation.
- (8) This paragraph applies in addition to any other requirements applicable to the issue of the civil partnership schedule.
- (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(8) of the 2014 Act;

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“section 50 notice” means notice under section 50(7) of the 2014 Act.

Civil partnership 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 registration authority notice under section 48(8) of the 2014 Act of a decision to investigate whether the referred civil partnership is a sham.
- (2) Section 11(b): the reference to the period of 28 days has effect as a reference to the relevant 70 day period.
- (3) But, for the purposes of section 10, the waiting period is not extended by sub-paragraph (2).
- (4) In this paragraph “relevant 70 day period” means the period—
- (a) beginning the day after notice of the proposed civil partnership is recorded in the register in accordance with section 8(5), and
 - (b) ending at the end of the period of 70 days beginning with that day.

Effect of shortening waiting period

- 4 (1) This paragraph applies if—
- (a) the Secretary of State gives notice under section 12(5) of the grant of an application made under section 12(1) (power to shorten the waiting period) in relation to the referred civil partnership, and
 - (b) that notice is given at a time when the duty under section 14(1) to issue a civil partnership schedule in respect of the referred civil partnership has not arisen in accordance with paragraph 2.
- (2) The duty under section 14(1) to issue a civil partnership schedule in respect of the referred civil partnership arises on the giving of the notice under section 12(5), subject to any other requirements applicable to the issue of the schedule 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 schedule in respect of the referred civil partnership 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, 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 civil partnership is a sham.”.

Commencement Information

I3 Sch. 4 para. 25 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](#)