Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Sham Marriage and Civil Partnership (Scotland and Northern Ireland) (Administrative) Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2015 No. 404

MARRIAGE, SCOTLAND
MARRIAGE, NORTHERN IRELAND
CIVIL PARTNERSHIP, SCOTLAND
CIVIL PARTNERSHIP, NORTHERN IRELAND
IMMIGRATION

The Sham Marriage and Civil Partnership (Scotland and Northern Ireland) (Administrative) Regulations 2015

Made - - - -	*26th February 2015*
Laid before Parliament	*27th February 2015*
Coming into force - -	*2nd March 2015*

The Secretary of State has extended the referral and investigation scheme to proposed marriages and civil partnerships under the law of Scotland and Northern Ireland by orders made under section 53 of the Immigration Act 2014 ("the Act") [F1].

Accordingly, the Secretary of State makes the following Regulations in exercise of the powers conferred by sections 54(2) and (3) and 74(8)(d) of, and Schedule 5 to, the Act.

In accordance with section 54(7) of the Act, the Secretary of State has consulted the Registrar General for Scotland and the Registrar General for Northern Ireland before making these Regulations.

F1 2014 c. 22; the Referral and Investigation of Proposed Marriages and Civil Partnerships (Northern Ireland and Miscellaneous Provisions) Order 2015 (S.I. 2015/395) and the Referral and Investigation of Proposed Marriages and Civil Partnerships (Scotland) Order 2015 (S.I. 2015/396) (respectively in these footnotes the "Northern Ireland Order" and the "Scotland Order").

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Sham Marriage and Civil Partnership (Scotland and Northern Ireland) (Administrative) Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Sham Marriage and Civil Partnership (Scotland and Northern Ireland) (Administrative) Regulations 2015.

(2) They come into force on 2nd March 2015.

(3) These Regulations extend to Scotland and Northern Ireland only.

Interpretation

2.—(1) In these Regulations—

"1971 Act" means the Immigration Act 1971 [F2],

"1977 Act" means the Marriage (Scotland) Act 1977 [F3],

"2003 Order" means the Marriage (Northern Ireland) Order 2003 [F4],

"2004 Act" means the Civil Partnership Act 2004 [F5],

"2014 Act" means the Immigration Act 2014,

"2015 Regulations" means the Proposed Marriages and Civil Partnerships (Conduct of Investigations, etc) Regulations 2015 [F6],

"biometric immigration document" has the same meaning as in section 5(1)(a) of the UK Borders Act 2007 [F7],

"district registrar" in relation to a proposed marriage or civil partnership under the law of Scotland, means a district registrar to whom notice of intention to marry or of proposed civil partnership may be submitted,

"notice" in relation to a notice submitted or (as the case may be) given by a party of their intention to marry or of their proposed civil partnership, means—

(a) in relation to a proposed marriage under the law of Scotland, notice submitted under section 3(1) of the 1977 Act [F8];

(b) in relation to a proposed civil partnership under the law of Scotland, notice submitted under section 88 of the 2004 Act;

(c) in relation to a proposed marriage under the law of Northern Ireland, notice given under Article 3(1) of the 2003 Order;

(d) in relation to a proposed civil partnership under the law of Northern Ireland, notice given under section 139 of the 2004 Act,

"party" means a party to a proposed marriage or civil partnership and "other party" is to be construed accordingly,

"passport" includes any other document designed to serve the same purpose as a passport and which satisfactorily establishes the holder's identity and citizenship,

"registrar" in relation to a proposed marriage or civil partnership under the law of Northern Ireland, means a registrar to whom notice of intention to marry or of proposed civil partnership may be given.

(2) In these Regulations—

(a) a reference to a passport (unless the contrary intention appears) is a reference to a valid passport,

(b) a reference to a party's usual address is a reference to that party's usual address notified in accordance with—

(i) in the case of a proposed marriage under the law of Scotland, section 3A(7) or 3B(5) of the 1977 Act [F9] or regulation 11,

(ii) in the case of a proposed civil partnership under the law of Scotland, section 88A(6) or 88B(5) of the 2004 Act [F10] or regulation 11,

(iii) in the case of a proposed marriage under the law of Northern Ireland, Article 3A(6) or 3B(5) of the 2003 Order [F11] or regulation 11,

(iv) in the case of a proposed civil partnership under the law of Northern Ireland, section 139A(6) or 139B(5) of the 2004 Act [F12] or regulation 11.

F2 1971 c. 77.
F3 1977 c. 15.
F4 S.I. 2003/413 (N.I. 3).
F5 2004 c. 33.
F6 S.I. 2015/397.
F7 2007 c. 30.
F8 Section 3(1) was amended by section 2 of, and paragraph 3 of Schedule 2 to, the Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16); paragraph 43 of Schedule 28 to the Civil Partnership Act 2004 (c. 33); section 50 of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14); and sections 3 and 8 of the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5). Other amendments have been made to section 3 but they are not relevant to these Regulations.
F9 Sections 3A and 3B are inserted by paragraph 2 of Schedule 1 to the Scotland Order.
F10 Sections 88A and 88B are inserted by paragraph 2 of Schedule 3 to the Scotland Order.
F11 Articles 3A and 3B are inserted by paragraph 3 of Schedule 1 to the Northern Ireland Order.
F12 Sections 139A and 139B are inserted by paragraph 2 of Schedule 3 to the Northern Ireland Order.

Retention and copying of evidence

3.—(1) This regulation applies where evidence is supplied to the Secretary of State by a party under these Regulations or the 2015 Regulations.

(2) The Secretary of State may—

(a) retain the evidence,

(b) copy the evidence,

(c) dispose of the evidence,

in such manner as the Secretary of State thinks appropriate.

(3) In this regulation "evidence" includes—

(a) a photograph or other image,

(b) any evidence rejected by the Secretary of State under regulation 13.

(4) This regulation is without prejudice to any other power the Secretary of State has in respect of such evidence (including powers to share it or disclose information contained in it).

PART 2

Notices

Notices given by the Secretary of State to a party

4.—(1) This regulation applies to a notice required to be given by the Secretary of State to a party under—

(a) Part 4 of the 2014 Act, or

(b) the 2015 Regulations.

(2) A notice to which this regulation applies may be—

(a) given by hand to the party or the party's representative,

(b) sent by fax to the party or the party's representative,

(c) sent by postal service in which delivery or receipt is recorded ("recorded delivery") to the party's usual address,

(d) sent by ordinary first or second class postal service ("ordinary post") to the party's usual address,

(e) sent by recorded delivery to the party's representative,

(f) sent by ordinary post to the party's representative,

(g) sent by email to the party or the party's representative,

(h) sent by document exchange to the party's, or the party's representative's, document exchange number or address,

(i) sent by courier to the party's usual address,

(j) sent by courier to the party's representative.

(3) But a notice may not be given under sub-paragraph (b), (g) or (h) of paragraph (2) unless a fax number, or (as the case may be) email address or document exchange number or address, has been provided by the party or the party's representative for that purpose.

(4) Where—

(a) both parties have the same usual address or the same representative, and

(b) the Secretary of State is required to give notice to both parties at the same time under a provision mentioned in paragraph (1),

the notices may be included in the same envelope addressed to both parties and sent to that address or that representative in accordance with sub-paragraphs (c) to (f) or (h) to (j) of paragraph (2).

(5) In this regulation a reference to a party's "representative" is a reference to a representative authorised by the party to accept notice given in accordance with this regulation on the party's behalf.

Notices given by the Secretary of State to registrars and district registrars

5.—(1) This regulation applies to a notice required to be given by the Secretary of State—

(a) in the case of a proposed marriage or civil partnership under the law of Scotland, to a district registrar under—

(i) Part 4 of the 2014 Act,

(ii) paragraph 2(6) of Schedule 1A to the 1977 Act [F13], or

(iii) paragraph 2(6) of Schedule 10A to the 2004 Act [F14]; and

(b) in the case of a proposed marriage or civil partnership under the law of Northern Ireland, to a registrar under—

(i) Part 4 of the 2014 Act,

(ii) paragraph 2(6) of Schedule 2 to the 2003 Order [F15], or

(iii) paragraph 2(6) of Schedule 13A to the 2004 Act [F16].

(2) A notice to which this regulation applies may be—

(a) given by hand,

(b) sent by email to an email address notified for that purpose,

(c) otherwise transmitted electronically in an agreed form,

(d) sent by postal service in which delivery or receipt is recorded to an address notified for that purpose ("the notified address"),

(e) sent by ordinary first or second class postal service to the notified address,

(f) sent by courier to the notified address.

(3) In paragraph (2)—

"agreed" means agreed between the district registrar or (as the case may be) the registrar and the Secretary of State,

"notified" means notified to the Secretary of State by the district registrar or (as the case may be) the registrar.

F13 Schedule 1A applies to "referred marriages" by virtue of section 3F. Both section 3F and Schedule 1A are inserted by paragraph 2 of Schedule 1 to the Scotland Order.

F14 Schedule 10A applies to "referred civil partnerships" by virtue of section 88F. Both section 88F and Schedule 10A are inserted by paragraph 2 of Schedule 3 to the Scotland Order.

F15 Schedule 2 applies to "referred marriages" by virtue of Article 3E. Both Article 3E and Schedule 2 are inserted by paragraph 3 of Schedule 1 to the Northern Ireland Order.

F16 Schedule 13A applies to "referred civil partnerships" by virtue of section 139E. Both section 139E and Schedule 13A are inserted by paragraph 2 of Schedule 3 to the Northern Ireland Order.

Presumptions about receipt of notice

6.—(1) Where a notice is given in accordance with regulation 4 or 5, it is presumed to have been received by the person to whom it is given (unless the contrary is proved)—

(a) where the notice is sent by postal service within the United Kingdom—

(i) on the second day after it was sent by postal service in which delivery or receipt is recorded, and

(ii) in the ordinary course of post if it was sent by ordinary first or second class post,

(b) where the notice is sent by document exchange, on the next working day after the day it was sent,

(c) where the notice is given by hand or sent by fax, email or courier (subject to sub-paragraph (d)), on the day it was given or (as the case may be) sent,

(d) where the notice is sent by courier outside the United Kingdom, on the second day after the day it was sent, and

(e) where the notice is transmitted electronically under paragraph 2(c) of regulation 5, on the day after the day on which it was transmitted.