Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Proposed Marriages and Civil Partnerships (Conduct of Investigations, etc.) 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. 397

MARRIAGE
CIVIL PARTNERSHIP
IMMIGRATION

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

Made - - - - 26th February 2015

Coming into force - - 1st March 2015

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 50(1), (5), (9), (10), 51(1)(d), (3), (4), (5) and 74(8)(d) of the Immigration Act 2014 ("the Act") [F1].

In accordance with section 74(2) of the Act a draft of these Regulations has been laid before and approved by resolution of each House of Parliament.

F1 2014 c. 22.

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Proposed Marriages and Civil Partnerships (Conduct of Investigations, etc.) Regulations 2015.

(2) They come into force on 1st March 2015.

Interpretation

2.—(1) In these Regulations—

"2014 Act" means the Immigration Act 2014;

"bank holiday" means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 [F2] in the part of the United Kingdom in which a relevant party is resident, unless a

relevant party is not resident in the United Kingdom in which case it means a day which is a bank holiday under that Act in any part of the United Kingdom;

"detained" means detained—

(a) under the Immigration Act 1971 [F3], under section 62 of the Nationality, Immigration and Asylum Act 2002 [F4] or under section 36 of the UK Borders Act 2007 [F5], or

(b) in a prison or other place to which the Prison Act 1952 [F6], the Prisons (Scotland) Act 1989 [F7] or the Prisons Act (Northern Ireland) 1953 [F8] applies;

"Home Office premises" means—

(a) in relation to premises in the United Kingdom, premises used by Home Office staff for the purposes of Home Office business, and

(b) in relation to premises outside the United Kingdom, premises used by Home Office staff or **[**[F9]Foreign, Commonwealth and Development Office**]** staff for the purposes of Home Office business,

whether or not those premises are also used for other purposes;

"normal office hours", in relation to when an interview may take place means—

(a) where a relevant party is in the United Kingdom, the hours between 9.00 am and 6.00 pm on a working day,

(b) where a relevant party is in a country or territory outside the United Kingdom, such hours as are normally regarded as normal office hours on a day which is normally regarded as a working day in that country or territory;

"specified requirement" has the meaning given by regulation 14;

"working day" (other than in paragraph (b) of the definition of "normal office hours") means a day other than a Saturday, a Sunday, Good Friday, Christmas day or a bank holiday.

(2) In these Regulations a reference to evidence, where that is in the form of a document, means (subject to paragraph (3) and regulation 12(6)(d)) the original document, and "document" means anything in which information of any description is recorded or stored.

(3) Where the document is an electronic document, it means the record which is accessible to the relevant party whether on a mobile device, other handheld device or personal computer.

F2 1971 c. 80.
F3 1971 c. 77; provision for detention is made by paragraph 16 of Schedule 2 and paragraph 2 of Schedule 3 to that Act. Amendments have been made to those provisions but those amendments are not relevant to these Regulations,
F4 2002 c. 41; changes have been made to section 62 but they are not relevant to these Regulations.
F5 2007 c. 30.
F6 1952 c. 52.
F7 1989 c. 45.
F8 1953 c. 18 (NI)
F9 Words in reg. 2(1) substituted (30.9.2020) by The Transfer of Functions (Secretary of State for Foreign, Commonwealth and Development Affairs) Order 2020 (S.I. 2020/942), art. 1(2), **Sch. para. 22(a)**

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PART 2

Investigations

Introduction

3.—(1) An investigation [F10] 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.

F10 "investigation" is defined by section 50(11) of the Immigration Act 2014 (c. 22).

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);

(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 [F11].

F11 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.

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 **[**[F12]Foreign, Commonwealth and Development Office**]** email address; or

(d) writing to the address,

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.

F12 Words in reg. 5(2)(c) substituted (30.9.2020) by The Transfer of Functions (Secretary of State for Foreign, Commonwealth and Development Affairs) Order 2020 (S.I. 2020/942), art. 1(2), **Sch. para. 22(b)**

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.