STATUTORY INSTRUMENTS

2015 No. 396

MARRIAGE, SCOTLAND
CIVIL PARTNERSHIP, SCOTLAND
IMMIGRATION

The Referral and Investigation of Proposed Marriages and Civil Partnerships (Scotland) Order 2015

Made - - - - 26th February 2015

Coming into force - - 1st March 2015

The Secretary of State makes this Order in exercise of the powers conferred by section 53(1), (2) and (3) and section 74(8)(c) and (d) of the Immigration Act 2014 ("the Act")(**1**).

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

Citation and commencement and transitional and saving provisions

1.—(1) This Order may be cited as the Referral and Investigation of Proposed Marriages and Civil Partnerships (Scotland) Order 2015.

(2) It comes into force on 1st March 2015.

(3) Article 2(1) and (3) and the amendments made by Schedules 1 and 3, and article 2(4) and Schedule 4 so far as those provisions relate to amendments to sections 48 and 50 of the Immigration Act 2014, apply only to proposed marriages and civil partnerships in respect of which notice is submitted under section 3(1) of the 1977 Act(**2**), or section 88 of the 2004 Act(**3**), after the day on which this Order comes into force.

(4) If, when this Order comes into force, subsections (2)(b) and (4) of section 18 of the 2014 Act(**4**) are not in force (for all purposes), the following provisions have effect, in relation to a proposed marriage in respect of which the notice under section 3(1) of the 1977 Act is submitted

(**1**) 2014 c. 22

(**2**) 1977 c. 15; 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 this Order.

(**3**) 2004 c. 33.

(**4**) 2014 asp 5.

before the date on which those subsections come into force (for all purposes), as if for "28 days" there were substituted "14 days"—

(a) sub-paragraphs (2) and (3) of paragraph 3 of Schedule 1A to the 1977 Act (as inserted by paragraph 3 of Schedule 1 to this Order),

(b) paragraph (ab) in the definition of "relevant statutory period" in section 62 of the Immigration Act 2014 (as amended by paragraph 4 of Schedule 4 to this Order)(**5**).

(5) If, when this Order comes into force, subsections (7)(b) and (8)(b)(ii) of section 24 of the 2014 Act are not in force (for all purposes), the following provisions have effect, in relation to a proposed civil partnership in respect of which the notice under section 88 of the 2004 Act is submitted before the date on which those subsections come into force (for all purposes), as if for "28 days" there were substituted "14 days"—

(a) sub-paragraph (1)(a) of paragraph 4 of Schedule 10A to the 2004 Act (as inserted by paragraph 3 of Schedule 3 to this Order),

(b) paragraph (bb) in the definition of "relevant statutory period" in section 62 of the Immigration Act 2014 (as amended by paragraph 4 of Schedule 4 to this Order).

(6) In this article—

"1977 Act" means the Marriage (Scotland) Act 1977;

"2004 Act" means the Civil Partnership Act 2004;

"2014 Act" means the Marriage and Civil Partnership (Scotland) Act 2014.

Extension of referral and investigation scheme

2.—(1) Schedule 1 (which amends the Marriage (Scotland) Act 1977) has effect.

(2) Schedule 2 (which amends the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004)(**6**) has effect.

(3) Schedule 3 (which amends the Civil Partnership Act 2004) has effect.

(4) Schedule 4 (which amends the Immigration Act 2014) has effect.

(5) Schedule 5 (which makes provision about the disclosure of information) has effect.

James Brokenshire
Minister of State
Home Office

26th February 2015

(**5**) Section 62 and the definition of "relevant statutory period" is also amended by paragraph 4 of Schedule 4 to the Referral and Investigation of Proposed Marriages and Civil Partnerships (Northern Ireland and Miscellaneous Provisions) Order 2015 (S.I. 2015/395).

(**6**) 2004 c. 19.

SCHEDULE 1 Article 2(1)

Amendments to the Marriage (Scotland) Act 1977

1. The Marriage (Scotland) Act 1977 is amended as follows.

2. After section 3 (notice of intention to marry) insert—

"**Additional information if party not relevant national**

3A.—(1) This section applies to a marriage notice submitted to a district registrar in accordance with section 3 if one, or each, of the parties to the proposed marriage is not a relevant national.

(2) But this section does not apply if the parties are in a qualifying civil partnership (within the meaning of section 5(6)(**7**)) with each other.

(3) For each party to the proposed marriage who is not a relevant national, the notice shall be accompanied by whichever of statements A, B or C is applicable to that person.

(4) Statement A is a statement that the person has the appropriate immigration status.

(5) Statement B is a statement that the person holds a relevant visa in respect of the proposed marriage.

(6) Statement C is a statement that the person neither—

(a) has the appropriate immigration status, nor

(b) holds a relevant visa in respect of the proposed marriage.

(7) If the notice is accompanied by the statement referred to in the first column of an entry in this table, the notice shall also be accompanied by the information and photographs referred to in the second column of that entry (insofar as that entry is applicable to the parties to the proposed marriage)—

If the notice is accompanied by this statement.....	*...the notice shall also be accompanied by...*
Statement A (in respect of one or both of the parties to the proposed marriage)	For each party in respect of whom statement A is made, details of the particular immigration status which that party has
Statement B (in respect of one or both of the parties to the proposed marriage)	1. For each party, a specified photograph of that party 2. For each party in respect of whom statement B is made, details of the relevant visa which that party has
Statement C (in respect of one or both of the parties to the proposed marriage)	1. For each party, a specified photograph of that party 2. For each party, the usual address of that party 3. For each party who has previously used any name or names other than the person's name stated in the marriage notice, a statement of the other name or names

(**7**) Section 5(6) was inserted by section 8(3) of the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5).

If the notice is accompanied by this statement.....	*...the notice shall also be accompanied by...*
	4. For each party who currently uses, or has previously used, an alias or aliases, a statement of the alias or aliases

(8) If the notice is accompanied by more than one of statements A, B and C, subsection (7) shall be complied with in relation to each of those statements; but where the notice is accompanied by statements B and C, subsection (7) does not require the notice to be accompanied by more than one specified photograph of each party.

(9) If the notice is accompanied by statement C for a party to the proposed marriage—

(a) the notice may also be accompanied by a statement ("statement D") of that person's immigration position in the United Kingdom;

(b) if the notice is accompanied by statement D for a party to the proposed marriage, the person may provide the district registrar with details of his immigration position in the United Kingdom; and

(c) if any such details are provided, the district registrar shall record them.

(10) In this section and section 3B—

(a) a reference—

(i) to a person having the appropriate immigration status, or

(ii) to a person holding a relevant visa,

is to be construed in accordance with section 49 of the 2014 Act;

(b) a reference to the particular immigration status which a person has is a reference to the immigration status set out in any of paragraphs (a) to (c) of section 49(2) of that Act which the person has;

(c) a reference to a person's immigration position in the United Kingdom includes a reference to the person's not being entitled to be in the United Kingdom.

(11) In this section "specified photograph" means a photograph that is in accordance with regulations made by the Secretary of State under section 54(2) of, and paragraph 3 of Schedule 5 to, the 2014 Act (and for this purpose "photograph" includes other kinds of images).

Additional evidence if party not relevant national

3B.—(1) If a marriage notice to which section 3A(1) applies ("the notice") is accompanied by statement A (referred to in section 3A(4)) and accordingly is also accompanied by details of the particular immigration status which a party to the proposed marriage has, the notice shall also be accompanied by specified evidence of that status.

(2) If the notice is accompanied by statement B (referred to in section 3A(5)), the notice shall also be accompanied by specified evidence of the holding of the relevant visa by the party to the proposed marriage.

(3) If, in accordance with section 3A(7), the notice is accompanied by the usual address of a party to the proposed marriage, the notice shall also be accompanied by specified evidence that it is that party's usual address.

(4) If the notice is accompanied by statement D (referred to in section 3A(9)), the notice may also be accompanied by evidence of the person's immigration position in the United Kingdom.

(5) If subsection (1) or (2) applies to the notice, and the notice is not accompanied by the specified evidence required by that subsection, the notice shall be accompanied by—

(a) photographs and addresses of the kinds referred to in paragraphs 1 and 2 in the relevant entry in section 3A(7);

(b) as respects the usual address of each party that is provided in accordance with paragraph (a), specified evidence that the address provided is that party's usual address; and

(c) names and aliases of the kinds referred to in paragraphs 3 and 4 in the relevant entry in section 3A(7) (insofar as those paragraphs are applicable to the parties to the proposed marriage).

(6) In this section—

"relevant entry in section 3A(7)" means the second column of the last entry in the table in section 3A(7);

"specified evidence" means evidence that is in accordance with regulations made by the Secretary of State under section 54(2) of, and paragraph 3 of Schedule 5 to, the 2014 Act.

Declaration to accompany information and evidence

3C. Where the marriage notice is accompanied by—

(a) information provided in accordance with section 3A, and

(b) information and evidence provided in accordance with section 3B,

that information and evidence shall also be accompanied by a declaration in writing and signed by the party who makes it that the party believes all of the information and evidence accompanying the notice to be true.

Rejection of false information or evidence

3D.—(1) A district registrar may reject—

(a) any evidence relating to a party's nationality provided in accordance with section 3(4A)(**8**),

(b) any information or photograph provided under section 3A or 3B, or

(c) any evidence provided under section 3B,

if (in particular) the district registrar has reasonable grounds for suspecting that the information, photograph or evidence is false.

(2) If the district registrar rejects any information, photograph or evidence, the district registrar may proceed under this Act as if the rejected information, photograph or evidence had not been provided.

(3) This section does not limit the powers of district registrars to reject anything provided under any other enactment.

(4) In this section "enactment" includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament.

(**8**) Section 3(4A) was inserted by section 17 of the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5).