STATUTORY INSTRUMENTS

2015 No. 371 (C. 18)

IMMIGRATION

The Immigration Act 2014 (Commencement No. 4, Transitional and Saving Provisions and Amendment) Order 2015

Made - - - - 25th February 2015

The Secretary of State, in exercise of the powers conferred by sections 73(1) and 75(3) of the Immigration Act 2014(**1**), makes the following Order:

PART 1

Introduction and days appointed

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Immigration Act 2014 (Commencement No. 4, Transitional and Saving Provisions and Amendment) Order 2015.

(2) Article 7 comes into force on 2nd March 2015.

(3) Articles 8 and 9 come into force on 6th April 2015.

(4) In this Order—

"the Act" means the Immigration Act 2014;

"the Commencement Order" means the Immigration Act 2014 (Commencement No. 3, Transitional and Saving Provisions) Order 2014(**2**).

Provisions relating to marriage and civil partnership coming into force on 1st and 2nd March 2015

2.—(1) The day appointed for the coming into force of the following provisions of the Act is 1st March 2015—

(a) section 48 (decision whether to investigate)(**3**);

(**1**) 2014 c. 22.
(**2**) S.I. 2014/2771.
(**3**) Subject to Parliamentary approval, section 48 of the Immigration Act 2014 will be amended with effect from 1st March 2015 by the Referral and Investigation of Proposed Marriages and Civil Partnerships (Northern Ireland) Order 2015 ("Northern Ireland

(b) section 49 (exempt persons), for all remaining purposes;

(c) section 50 (conduct of investigation), for all remaining purposes(**4**);

(d) section 51 (investigations: supplementary), for all remaining purposes;

(e) section 52 (referral of proposed marriages and civil partnerships in England and Wales), for all remaining purposes;

(f) Schedule 4 (referral of proposed marriages and civil partnerships in England and Wales), for all remaining purposes;

(g) section 53 (extension of scheme to Scotland and Northern Ireland), for all remaining purposes;

(h) subsections (1) and (8) of section 54 (provision supplementing section 53), for all remaining purposes;

(i) section 55 (meaning of "sham marriage" and "sham civil partnership");

(j) section 58 (requirement as to giving of notice of marriage or civil partnership);

(k) section 73(6) (transitional and consequential provision) so far as necessary for the purpose of sub-paragraph (l);

(l) paragraph 66 of Schedule 9 (transitional provision relating to marriage and civil partnership).

(2) The day appointed for the coming into force of section 57 of the Act (solemnization of marriage according to rites of Church of England) is 2nd March 2015.

Other provisions coming into force on 1st March 2015

3. The day appointed for the coming into force of the following provisions of the Act is 1st March 2015—

(a) section 73(6) (transitional and consequential provision) so far as necessary for the purpose of sub-paragraph (b);

(b) paragraph 19 of Schedule 9 (power to require provision of physical data with certain immigration applications).

Provisions coming into force on 6th April 2015

4. The day appointed for the coming into force of the following provisions of the Act is 6th April 2015—

(a) section 18 (review of certain deportation decisions by Special Immigration Appeals Commission);

(b) section 65 (persons unable to acquire citizenship: natural father not married to mother).

PART 2

Transitional and saving provisions

Marriage and civil partnership: transitional provisions

5.—(1) Notwithstanding the commencement of section 57 of the Act—

Order") and the Referral and Investigation of Proposed Marriages and Civil Partnerships (Scotland) Order 2015 ("Scotland Order").

(**4**) Subject to Parliamentary approval, section 50(11) will be amended by the Northern Ireland Order and the Scotland Order.

(a) section 5(3) of the 1949 Act(**5**) (methods of authorising marriages) does not apply to a person to whom paragraph (2) or (3) applies,

(b) subsections (1C) and (1D) of section 16 of the 1949 Act(**6**) (provisions as to common licences) do not apply to a person to whom paragraph (3) applies.

(2) This paragraph applies to a person to be married who was granted a common licence on or before 1st March 2015 in respect of that marriage.

(3) This paragraph applies to a person to be married who made an application in writing (including by email) for a common licence in respect of that marriage which was received on or before 1st March 2015 by—

(a) a person having authority to grant such a licence, or

(b) the office of the ecclesiastical judge out of which the licence is to issue.

(4) In this article—

"1949 Act" means the Marriage Act 1949,

"common licence" has the same meaning as in that Act (see section 5).

6. The amendments made by section 58 of the Act apply only to proposed marriages and civil partnerships in respect of which notice under section 27 of the Marriage Act 1949 or under section 8 of the Civil Partnership Act 2004(**7**) is given on or after 2nd March 2015.

PART 3

Amendment of the Commencement Order and revocation of the Immigration Act 2014 (Transitional and Saving Provisions) Order 2014

Amendments coming into force on 2nd March 2015

7.—(1) The Commencement Order is amended as follows.

(2) In article 9, for "11" (in the first place it occurs) substitute "11(1) and (1A)".

(3) After article 11(1) insert—

"(1A) The persons referred to in article 9 are a person ("P3") who makes an application on or after 2nd March 2015 for leave to remain—

(a) as a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 Migrant;

(b) as the partner of a Tier 1 Migrant or (as the case may be) Tier 2 Migrant or Tier 5 Migrant under paragraph 319C or 319E of the immigration rules; or

(c) as the child of a Tier 1 Migrant or (as the case may be) Tier 2 Migrant or Tier 5 Migrant under paragraph 319H or 319J of the immigration rules."

(4) In article 11(2)—

(a) after "P2" in the first place it occurs insert "or (as the case may be) P3"; and

(b) after "paragraph (1)" on both occasions where it occurs, insert "or (1A)".

(5) In article 11(3), after "P2" insert "or (as the case may be) P3".

(**5**) 1949 c. 76; section 5(3) is inserted by section 57 of the Immigration Act 2014. There are other amendments to section 5 but they are not relevant to this Order.

(**6**) Subsections (1C) and (1D) are also inserted by section 57 of the Immigration Act 2014. There are other amendments to section 16 but they are not relevant to this Order.

(**7**) 2004 c. 33; subsections (1) and (4) were amended by S.I. 2005/2000; subsection (4) was also amended by, and subsection (5A) inserted by, paragraphs 18 and 19 of Schedule 4 to the Immigration Act 2014.

(6) In article 11(5)—

(a) in sub-paragraph (d), for ““Leave to enter the United Kingdom”” substitute ““leave to enter””;

(b) in sub-paragraph (e), for ““Leave to remain in the United Kingdom”” substitute ““leave to remain””;

(c) for sub-paragraph (i) substitute—

“(i) “Tier 1 Migrant”, “Tier 2 Migrant”, “Tier 4 Migrant” and “Tier 5 Migrant” have the same meaning as provided in the immigration rules.”

Amendments coming into force on 6th April 2015

8.—(1) The Commencement Order is amended as follows.

(2) For article 9 substitute—

“**9.**—(1) Notwithstanding the commencement of the relevant provisions, the saved provisions continue to have effect and the relevant provisions do not have effect so far as they relate to the following decisions of the Secretary of State—

(a) a decision made on or after 6th April 2015 to refuse an application to vary leave to enter or remain made before 20th October 2014 where the person was seeking leave to remain as a Tier 4 Migrant or as the family member of a Tier 4 Migrant and where the result of that decision is that the applicant has no leave to enter or remain;

(b) a decision made on or after 6th April 2015 to refuse an application to vary leave to enter or remain made before 2nd March 2015 where the person was seeking leave to remain as a Tier 1 Migrant or (as the case may be), Tier 2 Migrant or Tier 5 Migrant or as the family member of a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 Migrant and where the result of that decision is that the applicant has no leave to enter or remain;

(c) a decision made on or after 6th April 2015 (so far as that is not a decision mentioned in sub-paragraph (a) or (b)) to refuse an application made before 6th April 2015, where that decision is—

(i) to refuse leave to enter;

(ii) to refuse entry clearance;

(iii) to refuse a certificate of entitlement under section 10 of the 2002 Act(**8**);

(iv) to refuse to vary a person’s leave to enter or remain and where the result of that decision is that the person has no leave to enter or remain;

unless that decision is also a refusal of an asylum, protection or human rights claim.

(d) a decision made before 6th April 2015 in relation to which, immediately before 6th April 2015, an appeal could have been brought or was pending under the saved provisions.

(2) In paragraph (1)—

(a) an application as the family member of a Tier 4 Migrant means an application under paragraph 319C or 319H of the immigration rules;

(**8**) 2002 c. 41; section 10 was amended by sections 50, 52 and 61 of and Schedules 2 and 3 to the Immigration, Asylum and Nationality Act 2006.