STATUTORY INSTRUMENTS

2015 No. 122

MARRIAGE
CIVIL PARTNERSHIP
IMMIGRATION

The Proposed Marriages and Civil Partnerships (Meaning of Exempt Persons and Notice) Regulations 2015

Made - - - -	*2nd February 2015*
Laid before Parliament	*5th February 2015*
Coming into force - -	*2nd March 2015*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 49(3) and (4), 61(1) and (2) and 74(8)(d) of the Immigration Act 2014(**1**) ("the Act").

In accordance with section 61(3) of the Act the Secretary of State has consulted the Registrar General for England and Wales before making these Regulations(**2**).

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Proposed Marriages and Civil Partnerships (Meaning of Exempt Persons and Notice) Regulations 2015.

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

(3) Regulations 5 to 7 extend to England and Wales only.

(**1**) 2014 c. 22.

(**2**) The definition of "Registrar General" in section 62 of the Immigration Act 2014 was amended to include the Registrars General for Scotland and Northern Ireland by paragraph 4 of Schedule 4 to the Referral and Investigation of Proposed Marriages and Civil Partnerships (Scotland) Order 2015 (S.I. 2015/396) in relation to the former and the Referral and Investigation of Proposed Marriages and Civil Partnerships (Northern Ireland and Miscellaneous Provisions) Order 2015 (S.I. 2015/395) in relation to the latter.

Interpretation

2. In these Regulations—

"1949 Act" means the Marriage Act 1949(**3**);

"1971 Act" means the Immigration Act 1971(**4**);

"2004 Act" means the Civil Partnership Act 2004(**5**);

"2014 Act" means the Immigration Act 2014;

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

PART 2

Exempt Persons

Persons exempt from immigration control

3.—(1) A person ("P") is exempt from immigration control if P—

(a) has the right of abode in the United Kingdom under section 2(1)(b) of the 1971 Act (Commonwealth citizens with a right of abode)(**6**),

(b) is exempt from the provisions of the 1971 Act by virtue of section 8(3) or (4) of that Act(**7**) (exceptions for seamen, aircrews and other special cases),

(c) subject to paragraph (2), is exempt from the provisions of the 1971 Act by virtue of the Immigration (Exemption from Control) Order 1972(**8**) ("the 1972 Order"), or

(d) is exempt from the provisions of the 1971 Act by virtue of section 20 of the State Immunity Act 1978(**9**) (heads of State).

(2) Sub-paragraph (c) of paragraph (1) does not apply to a person who is exempt from the provisions of the 1971 Act solely by virtue of article 5 of the 1972 Order.

Relevant visa

4.—(1) Subject to paragraph (2), the kinds of visa or other authorisation specified for the purpose of section 49(4) of the 2014 Act are—

(a) entry clearance or leave to enter as a visitor under the immigration rules for the purpose of marriage or civil partnership,

(b) entry clearance, leave to enter or leave to remain as a fiancé(e) or proposed civil partner under Appendix FM to the immigration rules,

(c) entry clearance, leave to enter or leave to remain as a fiancé(e) or proposed civil partner under Appendix Armed Forces to the immigration rules,

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(**3**) 1949 c. 76.
(**4**) 1971 c. 77.
(**5**) 2004 c. 33.
(**6**) Section 2 was substituted by section 39 of the British Nationality Act 1981 (c. 61) and subsection (2) was subsequently amended by section 3 of the Immigration Act 1988 (c. 14).
(**7**) Subsection (3) was amended by paragraph 2 of Schedule 4 to the British Nationality Act 1981 and section 4 of the Immigration Act 1988; subsection (3A) (which qualifies subsection (3)) was inserted by section 4 of the Immigration Act 1988 and substituted by section 6 of the Immigration and Asylum Act 1999 (c. 33); subsection (4) was amended by paragraph 2 of Schedule 4 to, the British Nationality Act 1981 and Part 2 of Schedule 1 to the Statute Law (Repeals) Act 1995 (c. 44).
(**8**) S.I. 1972/1613 as amended by S.I. 1975/617, S.I. 1977/693, S.I. 1982/1649, S.I. 1985/1809, S.I. 1997/1402, S.I. 1997/2207 and S.I. 2004/3171.
(**9**) 1978 c. 33.

(d) entry clearance, leave to enter or leave to remain as a fiancé(e) or proposed civil partner given outside the provisions of the immigration rules.

(2) A visa or other authorisation mentioned in paragraph (1) ("a relevant visa") is specified for the purpose of section 49(4) only if the relevant visa was given to a party in respect of a proposed marriage to, or (as the case may be) a proposed registration of a civil partnership with, the other party (whether or not the other party is named in the relevant visa).

(3) In this regulation—

"entry clearance" has the same meaning as in section 33 of the 1971 Act(**10**) (interpretation);

"immigration rules" means the rules laid down under section 3(2) of the 1971 Act (general provisions for regulation and control);

"leave to enter" or "leave to remain" means leave to enter, or remain in, the United Kingdom given in accordance with section 3 of the 1971 Act(**11**).

PART 3

Notices

Notices given by the Secretary of State to a party

5.—(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,

(b) the Proposed Marriages and Civil Partnerships (Conduct of Investigations, etc.) Regulations 2015(**12**),

(c) section 31(5EB) of the 1949 Act(**13**) (application to reduce waiting period), or

(d) section 12(5) of the 2004 Act(**14**) (application to shorten waiting period).

(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 (or, if the party's usual address is not in the United Kingdom, the party's UK contact address),

(d) sent by ordinary first or second class postal service ("ordinary post") to the party's usual address (or, if the party's usual address is not in the United Kingdom, the party's UK contact address),

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

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

(**10**) The definition of "entry clearance" was amended by section 39(6) of, and paragraph 2 of Schedule 4 to, the British Nationality Act 1981 (c. 61) and section 10 of, and paragraph 5 of the Schedule to, the Immigration Act 1988 (c. 14).

(**11**) Relevant amendments made to section 3 are as follows: subsection (1) was amended by section 39(6) of, and paragraphs 2 and 4 of Schedule 4 to, the British Nationality Act 1981 (c. 61), section 12 of, and paragraph 1 of Schedule 2 to, the Asylum and Immigration Act 1996 (c. 49), section 169 of, and paragraphs 43 and 44 of Schedule 14 to, the Immigration and Asylum Act 1999 (c. 33), sections 16 and 58 of, and the Schedule to, the UK Borders Act 2007 (c. 30) and section 50 of the Borders, Citizenship and Immigration Act 2009 (c. 11); and subsection (3) was amended by section 10 of, and paragraph 1 of the Schedule to, the Immigration Act 1988 (c. 14).

(**12**) S.I. 2015/397.

(**13**) Subsections (5EA) to (5EE) were inserted by paragraph 10 of Schedule 4 to the Immigration Act 2014 (c. 22).

(**14**) Subsections (5) to (8) were inserted by paragraph 23(3) of Schedule 4 to the Immigration Act 2014.