



The Diocese of  
**Southwark**

**The Bishop of Southwark**

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To all Clergy in the Diocese of Southwark

Dear Brothers and Sisters in Christ,

### Important Changes to Marriage Law

I am enclosing a letter from Paul Morris, the Diocesan Registrar, setting out some significant changes to marriage preliminaries that are being made as a result of recent parliamentary legislation along with guidance issued by the Legal Office in Church House and other appropriate paperwork.

One of our significant responsibilities in welcoming and preparing couples for marriage is to guide them through the necessary legal preliminaries. This is not always easy or straightforward, but it is important that as part of our ministry we take these matters seriously and give them the attention they deserve. It is an old adage but a true one - ignorance of the law is no defence!

I am grateful all you do in this area of ministry as it is always a wonderful opportunity for teaching and engagement with the life of our communities of faith. By being well acquainted with the law I trust we will also be more effective in the marriage preparation we offer and so minister the grace of Christ to those who come within our care.

It is vital that you read these documents and act upon them, so I encourage you to do so.

I know the Registrar, Archdeacons and Surrogates stand ready to assist with any enquiries you might have and I encourage you to make use of them as necessary.

With the assurance of my prayers and blessing

The Rt Revd Christopher Chessun,  
Bishop of Southwark

## LEGAL CHANGES TO THE PROCEDURE FOR PUBLISHING BANNS OF MARRIAGE

The Church of England Marriage (Amendment) Measure is due to receive the Royal Assent on 19<sup>th</sup> December 2012. Section 2 of the Measure, which comes into force immediately when Royal Assent is given, makes some **important changes to the statutory procedure for publishing banns of marriage**. The clergy and others responsible for publishing banns need to be aware of these changes given the importance of banns being properly published.

The two changes that will take effect on 19<sup>th</sup> December are–

- **there will be statutory authority for the use of the form of words for the publication of banns contained in *Common Worship: Pastoral Services* (as an optional alternative to the form of words contained in the Book of Common Prayer)**
- **banns must be published on three Sundays at the ‘principal service’ (rather than as at present at ‘morning service’) and, as an option, they may additionally be published at any other service on those three Sundays.**

### Alternative form of words for banns

- From 19<sup>th</sup> December **there will be statutory authority for the alternative form of words for the publication of banns of marriage contained in Common Worship.**
  - The clergy and others responsible for publishing banns may then use either the form of words set out in the rubric at the beginning of the Form of the Solemnization of Matrimony contained in the Book of Common Prayer or they may use the form of words set out at paragraph 2 in “Notes to the Marriage Service” in *Common Worship: Pastoral Services*.
  - In some places the alternative form, as set out in *Common Worship*, has been in use for some time. There is no legal difficulty with marriages that have been solemnized following the publication of the banns in that form as the legal substance of the words is the same as the form contained in the Book of Common Prayer. However there will now be a statutory basis of the use of the alternative form.

### Services at which banns are to be published

**From Sunday 23<sup>rd</sup> December 2012** (the first Sunday after the legislation comes into force)–

- banns must be published on three Sundays preceding the solemnization of the marriage **during either (i) the principal service, or (ii) both the principal service and another service.**
  - The “**principal service**” is the service which, in the opinion of the member of the clergy (or other person responsible for publishing the banns), is likely to be attended by the greatest number of people who habitually attend public worship.

Most parishes have a service on Sundays which will clearly be the ‘principal service’. In many parishes this will be the morning service, or one of the morning services. But in some parishes it may be an evening service. If there is more than one service

on a Sunday it is for the person responsible for publishing the banns – usually a member of the clergy – to form a view as to which is likely to be attended by the greatest number of habitual worshippers. The banns must then be published at that service. (It does not matter, for the purposes of the legal requirement, that in the event a greater number of people unexpectedly attend a different service on the Sunday in question.)

- Provided that the banns are published at the “principal service”, they may (as an option) **additionally be published at another service** on the same Sunday.

So, for example, if the “principal service” is at 10.30 on Sunday morning the banns must be published at that service; but the couple might only attend an evening service, in which case the banns could additionally be published at the evening service.

If banns are published at both the “principal service” and at another service on the same Sunday, both of those publications are the same “time of asking”. So, for example, if, on the Sunday when the banns are first published, they are published at two different services, the person publishing the banns must say at both of those services, “this is the first time of asking”.

As in the past, banns must always be published on three Sundays prior to the solemnization of the marriage.

# THE IMMIGRATION ACT 2014

## CHANGES TO MARRIAGE LAW: NON-EEA NATIONALS

The Immigration Act 2014<sup>1</sup> makes important changes to the law relating to the marriage of persons from outside the European Economic Area ('EEA'). It is essential that all clergy and anyone else involved with the legal aspects of marriage in church (including any lay persons who publish banns) are aware of the new legal position.

1. **With effect from 2<sup>nd</sup> March 2015, where one or both of the parties to an intended marriage is a non-EEA national the parties will each have to obtain a superintendent registrar's certificate ('SRC') to authorise the marriage (unless an Archbishop's special licence has been granted). It will cease to be lawful for the marriage of a non-EEA national to be solemnized after the publication of banns of matrimony or on the authority of a common licence.** This is subject to transitional arrangements described in paragraph 13.
2. For these purposes, **EEA nationals** are British citizens and nationals of the following states: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Republic of Ireland, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland. Anyone else must be treated as a **non-EEA national**.
3. When application is made for banns to be published, all couples should be asked to provide specified evidence<sup>2</sup> that both of them are EEA nationals. The Government has not yet made the Regulations specifying the forms of evidence that will be acceptable for this purpose but they are likely to include a UK passport, an EEA passport or an EEA identity card. If the parties cannot provide specified evidence that they are both EEA nationals they will each need to obtain an SRC.
4. Similarly, when application is made for a common licence, all couples will have to provide specified evidence that they are both EEA nationals. Again, if they cannot do so they will each need to obtain an SRC.
5. An application for SRCs must be made by the couple giving notice of the proposed marriage together in person at a designated register office<sup>3</sup> unless each party who is a non-EEA national is exempt from immigration control (i.e. has a right of abode in the UK or is in a special category, e.g. foreign diplomats), in which case notice must be given at the parties' local register office. Both parties must have been resident for at least 7 days in a registration district in England or Wales before the day on which they give notice.
6. The couple should always contact the minister of the church where they wish to marry before giving notice at the register office. This will enable the minister and the parties to establish the nature of the parties' entitlement, if any, to marry in the church (e.g. residence, electoral roll membership, qualifying connection). It will also mean that arrangements can be made for the marriage preparation required by Canon B 30.
7. When attending at the register office or designated register office to give notice, each party will need to provide evidence of their name, date of birth, nationality and place of residence and may also be required to provide additional information, evidence or photographs. They may also need to provide details of the church or chapel where they intend to marry and of their entitlement to marry there. They should check with the register office what documents and other information they will need to bring with them.
8. There is a **28 day waiting period** following the giving of the notice. The waiting period may be extended as described in the following paragraph.
9. Every notice of a proposed marriage involving a non-EEA national who has limited or no immigration status in the UK, or who does not provide specified evidence that they are exempt from the scheme, will be referred by the superintendent registrar to the Home Office. Where the Home Office has reasonable grounds to suspect that a proposed marriage which has been referred

to it is a sham, it will be able to extend the waiting period to **70 days** in order to investigate whether the proposed marriage is genuine. If the couple do not co-operate with the investigation SRCs will not be issued.

10. The Registrar General and the Secretary of State will have powers to reduce the notice period where they are satisfied that there are compelling reasons to do so because of exceptional circumstances of the case, e.g. where a member of HM Forces is departing on active service.
11. On the expiry of the waiting period, and subject to the parties having co-operated with any investigation, a superintendent registrar will be able to issue an SRC to each party to authorise their marriage in any church or chapel in which they could, if they were both EEA nationals, marry after banns or on the authority of a common licence. This will now include the church of a parish where a party has a 'qualifying connection' under the Church of England Marriage Measure 2008. An SRC is valid for a period of 12 months from the date on which notice of the proposed marriage was given at the register office.
12. **The fact that an SRC has been issued is not conclusive as to whether a marriage is to be considered genuine, even in relation to immigration issues.** The Home Office will not investigate every case where a referral of a proposed marriage has been made, and even if it has done so, further information may come to the notice of the clergy. If any member of the clergy has reasonable grounds for suspecting that an intended marriage is being entered into solely in order to obtain an immigration advantage and that the parties do not intend to live together as husband and wife, the member of the clergy involved should not proceed with the marriage and should report the matter to their diocesan registrar without delay. **Any member of the clergy who thinks that he or she has been subjected to threats or any other improper pressure in connection with an intended marriage should immediately report the matter to the police and their diocesan registrar.**
13. **Transitional arrangements** will apply to marriages in respect of which a common licence has been granted or applied for in writing before 2<sup>nd</sup> March 2015. Where that is the case, the marriage in question can lawfully be solemnized after 2<sup>nd</sup> March in reliance on a common licence (provided that it is solemnized within three months of the date on which the licence is granted). Applications for common licences to enable marriages to take place under these transitional arrangements will continue to be dealt with under the special procedures that have been in operation since the House of Bishops guidance on the marriage of non-EEA nationals<sup>4</sup> was issued in 2011.
14. **The Archbishop of Canterbury's Special Licence** will continue to be available to authorise marriages according to the rites of the Church of England, and will continue to be necessary where a couple does not have a legal right to be married in a particular parish church or where the building itself is not licensed for marriages, including school and college chapels, cathedrals, etc. For further information see [www.facultyoffice.org.uk](http://www.facultyoffice.org.uk).
15. A Special Licence will also continue to be necessary for Anglican marriages to take place in a hospital or hospice or at home, where there is urgent medical necessity and where no other preliminary is available.

*This note replaces the guidance on the marriage of non-EEA nationals issued by the House of Bishops on 11<sup>th</sup> April 2011 which has been superseded by the changes introduced by the Immigration Act 2014.*

The Legal Office  
Church House, Westminster

18<sup>th</sup> December 2014

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<sup>1</sup> See sections 57 and 58 and Schedule 4.

<sup>2</sup> The evidence in the case of an application for banns or for a common licence must be evidence that is in accordance with Regulations made under section 28G of the Marriage Act 1949.

<sup>3</sup> Details of designated register offices can be found here: <https://www.gov.uk/government/publications/designated-register-offices-in-england-and-wales>.

<sup>4</sup> Available here: <https://www.churchofengland.org/media/1228433/house%20of%20bishops%20guidance.pdf>.