

## UPCOMING CHANGES TO MARRIAGE LAW

**On 4 May 2021 and 1 July 2021 two important sets of changes to Marriage Law come into force. These changes effect all clergy of the Church in Wales.**

**This brief note provides details of the changes, and indicates where further information is available.**

### 4 MAY 2021 – CHANGES TO MARRIAGE REGISTRATION PROCESS

- 1) The current system of parish marriage registers, largely unchanged since 1837, is abolished with effect from 4 May 2021. It is replaced by a single electronic registration database, operated by the General Register Office ('GRO').
- 2) Instead of filling in the official marriage registers and a marriage certificate, clergy will be responsible for the completion of:
  - a. either a 'marriage document' (weddings by Banns or Licence) or 'marriage schedule' (weddings by Superintendent Registrar's Certificate); and
  - b. a new 'Marriage Service Register', which replaces the old marriage registers.
- 3) The Cleric who has solemnized the marriage will then be responsible for depositing the marriage document or marriage schedule with the local civil Register Office. The civil authorities then make arrangements for the issuing of a certificate to the couple.
- 4) The current Marriage Registers will all need to be closed and deposited with the register office. No wedding taking place on or after 4 May 2021 should be entered into the Marriage Registers. Clergy will cease to be responsible for issuing marriage certificates, whether on the date of the wedding, or at any point thereafter. The GRO will be issuing guidance about the logistics of closing and returning the Registers.
- 5) The current Marriage Registers will be replaced with a new 'Marriage Service Register'. This will be a simpler register of wedding services taken in a particular church. It will be an important historical record document, but will not be used for issuing certificates to couples (which becomes the responsibility of the civil authorities). The Marriage Service Register is currently in production, and further details about its content and distribution will follow.
- 6) The GRO is in the process of producing briefing and training materials, and clergy will be invited to a question and answer session with representatives of the GRO. This is being coordinated by St Padarns Institute.
- 7) A copy of the GRO's Clergy Newsletter, February 2021, is appended to this note, giving further details. Clergy would be well-advised to keep an eye on the GRO's Clergy Newsletter page <https://www.gov.uk/government/publications/clergy-newsletters> where these newsletters are first published.

## **I JULY 2021 – CHANGES TO ELIGIBILITY FOR BANNS/COMMON LICENCE**

- 8) Currently, UK Nationals, EU Nationals, EEA Nationals and Swiss Nationals are eligible to be married following the calling of banns or with a Common Licence. From 1 July 2021 the eligibility criteria will change, as a result of Brexit.
- 9) From 1 July 2021 marriage by banns or common licence will only be available where both the couple are one of the following:
  - a. UK Nationals
  - b. Irish Nationals
  - c. Holders of EU Settled or Pre-Settled Status
  - d. Applicants for EU Settled or Pre-Settled Status who applied before 30 June 2021 (and whose application awaits determination).
- 10) The Government has agreed transitional provisions. If, before 1 July 2021, any of the following steps have taken place, the marriage may proceed on the ‘old’ rules:
  - a. Banns have already been called on at least one Sunday;
  - b. Both parties to the marriage have made a formal written application (together with evidence of UK/EU/EEA/Swiss Nationality) to the relevant incumbent/priest-in-charge in all the relevant parishes to request the calling of banns;
  - c. A common licence has been granted;
  - d. An application for a common licence (together with evidence of UK/EU/EEA/Swiss Nationality) has been received by the relevant registry or surrogate;
  - e. One of the parties has sworn the oath required for a Common Licence before the relevant surrogate.
- 11) An online system is to be made available for clergy to check a person’s status under the EU Settlement Scheme.
- 12) A paper from the Faculty Office giving further details and guidance, is appended. This paper includes links to further guidance from the Home Office and a link to the online status checker.
- 13) We have requested that training materials for these changes are made available by GRO/Home Office in the same way as they have committed to provide training materials for the changes to registration. Again, distribution of training materials will be coordinated by St Padarns.

**Matthew J Chinery**  
Head of Legal Services  
1 March 2021- St David



# Clergy Newsletter

## Issue 10: February 2021

### Introduction

Welcome to the 10th edition of the newsletter for members of the clergy.

In this issue, you will find an update to issue 9 which provided an introduction and background to the forthcoming changes resulting from the Civil Partnerships, Marriages and Deaths (Registration etc.) Act 2019 in relation to the registration of marriages.

This newsletter will update you on the plans to implement the new system and will outline the support available in more detail.

**The Training and Business Improvement Team, General Register Office**

### The Civil Partnerships, Marriages and Deaths (Registration etc.) Act 2019

You will be aware from the last newsletter that the Act had successfully completed its passage through Parliament and attained Royal Assent on 26 March 2019.

The Act provides for the modernisation of marriage registration for the first time since 1837, by introducing a marriage schedule system and registration in an electronic register. The process will move away from the current paper register introducing a more secure system for keeping marriage records, that is also more efficient and simpler to administer and amend, if necessary, in the future.

The regulations which will make the required amendments to the Marriage Act 1949 have been laid in Parliament today 22 February 2021, and subject to approval, will come into force on 4 May 2021.

# **How will this impact the work and responsibilities as a member of the Clergy?**

## **What won't change:**

- You will still be required to ensure couples meet the requirements to marry in your building.
- You will still be required to ensure couples complete the relevant preliminaries, i.e.: the calling of banns, issue of common or special licence or, where required, the prior attendance of the couple at the relevant register office to give their notices of marriage in the correct timescale.
- You will still be required to conduct pre-marriage checks and confirm that the details contained on the marriage document or marriage schedule are correct before the marriage proceeds.
- The marriage will still be performed by Church of England or Church in Wales rites.
- You will still use registration ink to complete the marriage schedule.

## **What will change:**

- You will be required to create a marriage document or obtain the marriage schedule prior to the date of marriage.
- You will no longer complete the formal register for the marriages you solemnize (There will still be a register kept by you for the records of your church).
- You will no longer issue the legal marriage certificates.
- The completed marriage document or marriage schedule must be returned to the register office for the registration to take place in the electronic marriage register before a certificate can be issued.
- You will no longer need to complete quarterly returns for marriages which take place in your building.
- You will no longer be responsible for corrections in marriage registers. After the changes are introduced, all corrections to marriage entries will be carried out by the registration officers or GRO.
- The electronic register will also allow for the names of parents of the couple (mother / father / parent) to be included in the marriage entry instead of only their fathers' names as is currently the case.

## **What happens next?**

In the coming weeks we will provide you with training materials and instructions for the new procedures which will support you as we move to the new marriage schedule system. The support material will also include a step by step guide of the new processes and a frequently asked questions document.

The first of the support materials will be available shortly.

There will also be an opportunity to attend a question and answer session with GRO representatives prior to the implementation of the marriage schedule system.

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If you have any comments about this newsletter, please contact [GROCasework@gro.gov.uk](mailto:GROCasework@gro.gov.uk)



## The Faculty Office of the Archbishop of Canterbury

### Changes to the requirements for EEA Nationals to marry in the UK from 1<sup>st</sup> July 2021

#### Background

Following the UK's exit from the EU and the end of the transition period on the 31<sup>st</sup> December 2020, EU free movement ended meaning that EEA citizens and their family members will require permission to enter and remain in the UK. EEA citizens and their family members lawfully resident in the UK before the end of the transition period on 31 December 2020 are required to regularise their immigration status by making an application to the EU Settlement Scheme (EUSS) for Settled Status (or Pre-Settled Status if they have not been resident in the UK for at least 5 years before making the application) before the end of the grace period on 30 June 2021. EUSS status may be granted to any nationality provided they meet the eligibility and suitability requirements of the EU Settlement Scheme.

At the end of the grace period, an EEA citizen who wishes to marry in the Church of England (CofE) or Church in Wales (CiW) and who does not hold Settled Status or Pre-Settled Status under the EUSS will no longer be permitted to be married after the calling of Banns or the issue of a Common Marriage Licence but instead they will have to give notice of their intention to marry at a register office and be issued with a Superintendent Registrar's Certificate (SRC). This means that EEA citizens who do not hold Settled or Pre-Settled Status will be treated the same as all other foreign nationals have been since 2<sup>nd</sup> March 2015 when the sham marriage referral and investigation scheme came into being. Irish citizens will continue to be exempt from the EUSS and will be free to enter the UK without permission and to marry after Banns or by Licence.

#### What do the changes mean for Anglican weddings?

Any wedding taking place in the CofE/CiW on or after the 1<sup>st</sup> July 2021 where either or both of the parties are non-UK/Irish nationals and who do not have Settled Status or Pre-Settled Status under the EUSS will only be able to take place on the authority of an SRC (or a Special Licence – see below). It will be illegal for the wedding to take place after the calling of Banns or by Common Marriage Licence unless the Banns have been started or the Common Licence arranged before 1<sup>st</sup> July 2021 (see below for further detail on the Transitional Provisions). As these changes are likely to result in a significant increase in Anglican weddings where an SRC is required, all register offices in England & Wales will be designated for the purpose of giving notice and a couple in scope of the scheme will be required to give notice together and in person at a register office in the district where one or both of the parties reside. EEA citizens travelling to the UK in order to marry will require a mandatory marriage visitor visa issued through the British embassy in the country where they normally reside before coming to the UK.

What this means for clergy is that they will be required to check that couples are either UK or Irish Nationals (ideally by seeing an in-date Passport) or that any other national has Settled Status or Pre-Settled Status under the EUSS before agreeing to call Banns of Marriage. Surrogates for Marriage and others responsible for the issue of Common Licences will also need to check. Note that it is possible for a non-EEA citizen to have been granted Settled Status if they are a family member of an EEA citizen.

How do clergy and others check whether a person has Settled Status or Pre-Settled Status? The answer is that there is a simple to use online status checker tool. A person with EUSS status is required to share their status through the online EUSS status checker tool. The holder must request a six digit ‘share code’ to provide to the member of the clergy either before or at their initial appointment to give notice to marry. The person’s name, date of birth and code will be used to confirm that the person has been granted EUSS status.

The six digit share code would be requested on the ‘view and prove your settled or pre-settled status page’ on GOV.UK at: <https://www.gov.uk/view-prove-immigration-status>. The member of the clergy would then need to input the person’s name, date of birth and code into the EUSS online status checker tool on the ‘check someone’s settled or pre-settled status’ page on GOV.UK’: <https://www.gov.uk/view-prove-immigration-status>. The result will display details of the person, including a photograph, to enable clergy to confirm that the person does have the required status.

#### **Transitional arrangements**

Transitional arrangements are in place for couples who will be affected by the changes but who have already started marriage preliminaries before 1 July 2021. Couples marrying following Anglican ecclesiastical preliminaries will not be required to obtain an SRC if any one of the following applies:

- Banns of marriage have been published on at least one Sunday before 1st July 2021 in at least one of the parishes where they are required to be called;
- both parties have given notice to the incumbent or priest-in-charge for the calling of Banns of marriage in all of the required parishes before 1st July 2021 together with evidence that they were, at that time, relevant nationals (ie a UK/Irish/other EEA/Swiss National);
- a Common Licence for the marriage was granted before 1st July 2021;
- an application for a Common Licence was received but not determined by 1st July 2021, and such application included evidence that the parties were at that time relevant nationals; or
- one of the parties has sworn the oath required for a Common Licence before a person with authority to grant the licence.

Where a couple fall within one of the above transitional provisions on 1<sup>st</sup> July 2021, they will be able to marry whilst that preliminary remains valid (ie within three months of the final calling of the Banns or the issue of the Common Licence). If the authority of the preliminary expires before the marriage is solemnised, the couple will need to give notice again, together, at a designated register office in the district where one or both of the parties resides to obtain SRCs – Banns cannot be re-called nor a Common Licence re-issued.

#### **Couples resident abroad**

Where a couple are normally resident abroad and either of them are non-UK/Irish nationals without an EUSS status, then in order to marry in a CofE/CiW church which is licensed for marriages after 1<sup>st</sup> July 2021 they would need to apply for SRCs (unless they already have a Common Licence before the 1<sup>st</sup> July under the Transitional Arrangements).

They would both need to be resident in England or Wales for the minimum qualifying residence period for an SRC (ie seven clear days, not counting the day of arrival in the England or Wales) before they can give notice to marry at the register office of the registration district where they have been residing. As is the case with all SRCs, there is then a 28 day waiting period (which can be extended up to 70 days

if the application is referred under the sham marriage scheme) before the SRCs are issued. The couple do not need to be resident during the notice period but may need to be available for an interview if called upon as part of the referral.

If the couple already have a Qualifying Connection with the parish where the wedding is to take place, their pre-notice residence period can be in any registration district in England or Wales and their notice would be given in the register office of that district. However, if they do not have a pre-existing Qualifying Connection then their period of residence must be in the parish where the wedding is due to take place and give notice in the registration district which covers that parish in order to qualify for an SRC to be married in the parish church.

#### **Special Licences**

The changes do not affect Special Marriage Licences issued through the Faculty Office and these will continue to be available to permit the marriage of couples regardless of their nationality or EUSS status. However, in accordance with the policy which we have adopted since the March 2015 changes came into force, we will not issue a Special Licence in circumstances where another legal preliminary is available ie, where the marriage is to take place in a CofE/CiW place of worship which is ordinarily licensed for marriages and in which the couple have the legal right to marry.

#### **Further Information**

The Home Office have issued a guidance document which contains more detail and which [can be viewed here](#). Clergy or couples with enquiries about their specific circumstances should contact their Diocesan Registry or the Faculty Office for further guidance if needed.

#### **The Faculty Office**

22 February 2021